

Union Calendar No. 44108TH CONGRESS
1ST SESSION**H. R. 1350****[Report No. 108-77]**

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2003

Mr. CASTLE (for himself, Mr. BOEHNER, Mr. BALLENGER, Mr. MCKEON, Mr. SAM JOHNSON of Texas, Mr. GREENWOOD, Mr. DEMINT, Mrs. BIGGERT, Mr. TIBERI, Mr. KELLER, Mr. WILSON of South Carolina, and Mr. COLE) introduced the following bill; which was referred to the Committee on Education and the Workforce

APRIL 29, 2003

Additional sponsors: Mr. EHLERS, Mr. LATOURETTE, Mr. PUTNAM, Mr. KENNEDY of Minnesota, Mr. GILLMOR, Mr. BURGESS, Mr. GORDON, and Mr. BELL

APRIL 29, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on March 19, 2003]

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Improving Education*
 5 *Results for Children With Disabilities Act of 2003”.*

6 **TITLE I—GENERAL PROVISIONS**

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

9 *Sections 601 through 603 of the Individuals with Dis-*
 10 *abilities Education Act (20 U.S.C. 1400–1402) are amend-*
 11 *ed to read as follows:*

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

14 *“(a) SHORT TITLE.—This Act may be cited as the ‘In-*
 15 *dividuals with Disabilities Education Act’.*

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

“PART A—GENERAL PROVISIONS

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

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

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

“Sec. 606. Employment of individuals with disabilities.

“Sec. 607. Requirements for prescribing regulations.

“Sec. 608. State administration.

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

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

“Sec. 612. State eligibility.

“Sec. 613. Local educational agency eligibility.

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

- “Sec. 615. *Procedural safeguards.*
- “Sec. 616. *Monitoring, enforcement, withholding, and judicial review.*
- “Sec. 617. *Administration.*
- “Sec. 618. *Program information.*
- “Sec. 619. *Preschool grants.*

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

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

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

- “Sec. 651. *Findings.*

“SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

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

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

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

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

- “Sec. 671. *Purposes.*
- “Sec. 672. *Parent training and information centers.*
- “Sec. 673. *Community parent resource centers.*
- “Sec. 674. *Technical assistance for parent training and information centers.*

“Sec. 675. Technology development, demonstration, and utilization; and media services.

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

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-sufficiency*
9 *for individuals with disabilities.*

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

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

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

4 “(A) having high expectations for such chil-
5 dren and ensuring their access to the general
6 education curriculum in the regular classroom to
7 the maximum extent possible in order—

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

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

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

20 “(C) coordinating this Act with other local,
21 State, and Federal school improvement efforts,
22 including efforts under the Elementary and Sec-
23 ondary Education Act of 1965, in order to en-
24 sure that children with disabilities benefit from
25 such efforts and that special education can be-

1 *come a service for such children rather than a*
2 *place where they are sent;*

3 “(D) *supporting high-quality, intensive pro-*
4 *fessional development for personnel who work*
5 *with children with disabilities;*

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

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

15 “(G) *supporting the development and use of*
16 *technology, including assistive technology devices*
17 *and services, to maximize accessibility for chil-*
18 *dren with disabilities.*

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

1 *disabilities in order to improve results for such chil-*
2 *dren and to ensure equal protection of the law.*

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

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

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

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

16 *“(D) With such changing demographics, recruit-*
17 *ment efforts for special education personnel should*
18 *focus on increasing the participation of minorities in*
19 *the teaching profession in order to provide appro-*
20 *priate role models with sufficient knowledge to ad-*
21 *dress the special education needs of these students.*

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

1 “(B) *Studies have documented apparent discrep-*
2 *ancies in the levels of referral and placement of lim-*
3 *ited English proficient children in special education.*

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

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

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

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

20 “(D) *In the 1998–99 school year, African Amer-*
21 *ican children represented just 14.8 percent of the pop-*
22 *ulation aged 6 through 21, but comprised 20.2 percent*
23 *of all children with disabilities.*

24 “(E) *Studies have found that schools with pre-*
25 *dominantly Caucasian students and teachers have*

1 *placed disproportionately high numbers of their mi-*
2 *nority students into special education.*

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

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

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

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

22 *“(B) to ensure that the rights of children with*
23 *disabilities and parents of such children are protected;*
24 *and*

1 “(C) to assist States, localities, educational serv-
2 ice agencies, and Federal agencies to provide for the
3 education of all children with disabilities;

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

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

16 “(4) to assess, and ensure the effectiveness of, ef-
17 forts to educate children with disabilities.

18 **“SEC. 602. DEFINITIONS.**

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

20 “(1) *ASSISTIVE TECHNOLOGY DEVICE*.—The term
21 ‘assistive technology device’ means any item, piece of
22 equipment, or product system, whether acquired com-
23 mercially off the shelf, modified, or customized, that
24 is used to increase, maintain, or improve functional
25 capabilities of a child with a disability.

1 “(2) *ASSISTIVE TECHNOLOGY SERVICE.*—The
2 term ‘assistive technology service’ means any service
3 that directly assists a child with a disability in the
4 selection, acquisition, or use of an assistive technology
5 device. Such term includes—

6 “(A) the evaluation of the needs of such
7 child, including a functional evaluation of the
8 child in the child’s customary environment;

9 “(B) purchasing, leasing, or otherwise pro-
10 viding for the acquisition of assistive technology
11 devices by such child;

12 “(C) selecting, designing, fitting, custom-
13 izing, adapting, applying, maintaining, repair-
14 ing, or replacing of assistive technology devices;

15 “(D) coordinating and using other thera-
16 pies, interventions, or services with assistive
17 technology devices, such as those associated with
18 existing education and rehabilitation plans and
19 programs;

20 “(E) training or technical assistance for
21 such child, or, where appropriate, the family of
22 such child; and

23 “(F) training or technical assistance for
24 professionals (including individuals providing
25 education and rehabilitation services), employ-

1 *ers, or other individuals who provide services to,*
2 *employ, or are otherwise substantially involved*
3 *in the major life functions of such child.*

4 “(3) *CHILD WITH A DISABILITY.*—

5 “(A) *IN GENERAL.*—*The term ‘child with a*
6 *disability’ means a child—*

7 “(i) *with mental retardation, hearing*
8 *impairments (including deafness), speech or*
9 *language impairments, visual impairments*
10 *(including blindness), serious emotional dis-*
11 *turbance (hereinafter referred to as ‘emo-*
12 *tional disturbance’), orthopedic impair-*
13 *ments, autism, traumatic brain injury,*
14 *other health impairments, or specific learn-*
15 *ing disabilities; and*

16 “(ii) *who, by reason thereof, needs spe-*
17 *cial education and related services.*

18 “(B) *CHILD AGED 3 THROUGH 9.*—*The term*
19 *‘child with a disability’ for a child aged 3*
20 *through 9 or any subset of that age range, in-*
21 *cluding ages 3 through 5, may, at the discretion*
22 *of the State and the local educational agency, in-*
23 *clude a child—*

24 “(i) *experiencing developmental delays,*
25 *as defined by the State and as measured by*

1 *appropriate diagnostic instruments and*
2 *procedures, in one or more of the following*
3 *areas: physical development, cognitive devel-*
4 *opment, communication development, social*
5 *or emotional development, or adaptive de-*
6 *velopment; and*

7 *“(ii) who, by reason thereof, needs spe-*
8 *cial education and related services.*

9 *“(4) EDUCATIONAL SERVICE AGENCY.—The term*
10 *‘educational service agency’—*

11 *“(A) means a regional public multiservice*
12 *agency—*

13 *“(i) authorized by State law to de-*
14 *velop, manage, and provide services or pro-*
15 *grams to local educational agencies; and*

16 *“(ii) recognized as an administrative*
17 *agency for purposes of the provision of spe-*
18 *cial education and related services provided*
19 *within public elementary and secondary*
20 *schools of the State; and*

21 *“(B) includes any other public institution*
22 *or agency having administrative control and di-*
23 *rection over a public elementary or secondary*
24 *school.*

1 “(5) *ELEMENTARY SCHOOL*.—*The term ‘elemen-*
2 *tary school’ means a nonprofit institutional day or*
3 *residential school that provides elementary education,*
4 *as determined under State law.*

5 “(6) *EQUIPMENT*.—*The term ‘equipment’ in-*
6 *cludes—*

7 “(A) *machinery, utilities, and built-in*
8 *equipment and any necessary enclosures or*
9 *structures to house such machinery, utilities, or*
10 *equipment; and*

11 “(B) *all other items necessary for the func-*
12 *tioning of a particular facility as a facility for*
13 *the provision of educational services, including*
14 *items such as instructional equipment and nec-*
15 *essary furniture; printed, published, and audio-*
16 *visual instructional materials; telecommuni-*
17 *cations, sensory, and other technological aids*
18 *and devices; and books, periodicals, documents,*
19 *and other related materials.*

20 “(7) *EXCESS COSTS*.—*The term ‘excess costs’*
21 *means those costs that are in excess of the average an-*
22 *nuual per-student expenditure in a local educational*
23 *agency during the preceding school year for an ele-*
24 *mentary or secondary school student, as may be ap-*

1 *appropriate, and which shall be computed after deduct-*
2 *ing—*

3 “(A) *amounts received—*

4 “(i) *under part B of this title;*

5 “(ii) *under part A of title I of the Ele-*
6 *mentary and Secondary Education Act of*
7 *1965; and*

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

9 “(B) *any State or local funds expended for*
10 *programs that would qualify for assistance under*
11 *any of the provisions of law described in sub-*
12 *paragraph (A).*

13 “(8) *FREE APPROPRIATE PUBLIC EDUCATION.—*

14 *The term ‘free appropriate public education’ means*
15 *special education and related services that—*

16 “(A) *have been provided at public expense,*
17 *under public supervision and direction, and*
18 *without charge;*

19 “(B) *meet the standards of the State edu-*
20 *cational agency;*

21 “(C) *include an appropriate preschool, ele-*
22 *mentary, or secondary school education in the*
23 *State involved; and*

1 “(D) are provided in conformity with the
2 individualized education program required
3 under section 614(d).

4 “(9) *HIGHLY QUALIFIED*.—The term ‘highly
5 qualified’ has the same meaning as that term in sec-
6 tion 9101 of the *Elementary and Secondary Edu-*
7 *cation Act of 1965*.

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

10 “(11) *INDIAN TRIBE*.—The term ‘Indian tribe’
11 means any Federal or State Indian tribe, band,
12 rancheria, pueblo, colony, or community, including
13 any Alaska Native village or regional village corpora-
14 tion (as defined in or established under the *Alaska*
15 *Native Claims Settlement Act*).

16 “(12) *INDIVIDUALIZED EDUCATION PROGRAM*.—
17 The term ‘individualized education program’ or ‘IEP’
18 means a written statement for each child with a dis-
19 ability that is developed, reviewed, and revised in ac-
20 cordance with section 614(d).

21 “(13) *INDIVIDUALIZED FAMILY SERVICE PLAN*.—
22 The term ‘individualized family service plan’ has the
23 meaning given such term in section 636.

24 “(14) *INFANT OR TODDLER WITH A DIS-*
25 *ABILITY*.—The term ‘infant or toddler with a dis-

1 *ability’ has the meaning given such term in section*
2 *632.*

3 “(15) *INSTITUTION OF HIGHER EDUCATION.*—
4 *The term ‘institution of higher education’—*

5 “(A) *has the meaning given that term in*
6 *subsection (a) or (b) of section 101 of the Higher*
7 *Education Act of 1965; and*

8 “(B) *also includes any community college*
9 *receiving funding from the Secretary of the Inte-*
10 *rior under the Tribally Controlled Community*
11 *College Assistance Act of 1978.*

12 “(16) *LOCAL EDUCATIONAL AGENCY.*—

13 “(A) *The term ‘local educational agency’*
14 *means a public board of education or other pub-*
15 *lic authority legally constituted within a State*
16 *for either administrative control or direction of,*
17 *or to perform a service function for, public ele-*
18 *mentary or secondary schools in a city, county,*
19 *township, school district, or other political sub-*
20 *division of a State, or for such combination of*
21 *school districts or counties as are recognized in*
22 *a State as an administrative agency for its pub-*
23 *lic elementary or secondary schools.*

24 “(B) *The term includes—*

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

3 “(ii) any other public institution or
4 agency having administrative control and
5 direction of a public elementary or sec-
6 ondary school.

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

20 “(17) NATIVE LANGUAGE.—The term ‘native lan-
21 guage’, when used with reference to an individual of
22 limited English proficiency, means the language nor-
23 mally used by the individual, or, in the case of a
24 child, the language normally used by the parents of
25 the child.

1 “(18) *NONPROFIT*.—The term ‘nonprofit’, as ap-
2 plied to a school, agency, organization, or institution,
3 means a school, agency, organization, or institution
4 owned and operated by one or more nonprofit cor-
5 porations or associations no part of the net earnings
6 of which inures, or may lawfully inure, to the benefit
7 of any private shareholder or individual.

8 “(19) *OUTLYING AREA*.—The term ‘outlying
9 area’ means the United States Virgin Islands, Guam,
10 American Samoa, and the Commonwealth of the
11 Northern Mariana Islands.

12 “(20) *PARENT*.—The term ‘parent’—

13 “(A) includes a legal guardian; and

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

18 “(21) *PARENT ORGANIZATION*.—The term ‘par-
19 ent organization’ has the meaning given that term in
20 section 672(g).

21 “(22) *PARENT TRAINING AND INFORMATION CEN-*
22 *TER*.—The term ‘parent training and information
23 center’ means a center assisted under sections 672
24 and 673.

1 “(23) *RELATED SERVICES*.—The term ‘related
2 services’ means transportation, and such develop-
3 mental, corrective, and other supportive services (in-
4 cluding speech-language pathology and audiology
5 services, psychological services, physical and occupa-
6 tional therapy, recreation, including therapeutic
7 recreation, social work services, counseling services,
8 including rehabilitation counseling, orientation and
9 mobility services, and medical services, except that
10 such medical services shall be for diagnostic and eval-
11 uation purposes only) as may be required to assist a
12 child with a disability to benefit from special edu-
13 cation, and includes the early identification and as-
14 sessment of disabling conditions in children.

15 “(24) *SECONDARY SCHOOL*.—The term ‘sec-
16 ondary school’ means a nonprofit institutional day or
17 residential school that provides secondary education,
18 as determined under State law, except that it does not
19 include any education beyond grade 12.

20 “(25) *SECRETARY*.—The term ‘Secretary’ means
21 the Secretary of Education.

22 “(26) *SPECIAL EDUCATION*.—The term ‘special
23 education’ means specially designed instruction, at no
24 cost to parents, to meet the unique needs of a child
25 with a disability, including—

1 “(A) *instruction conducted in the classroom,*
2 *in the home, in hospitals and institutions, and*
3 *in other settings; and*

4 “(B) *instruction in physical education.*

5 “(27) *SPECIFIC LEARNING DISABILITY.—*

6 “(A) *IN GENERAL.—The term ‘specific*
7 *learning disability’ means a disorder in one or*
8 *more of the basic psychological processes involved*
9 *in understanding or in using language, spoken*
10 *or written, which disorder may manifest itself in*
11 *imperfect ability to listen, think, speak, read,*
12 *write, spell, or do mathematical calculations.*

13 “(B) *DISORDERS INCLUDED.—Such term*
14 *includes such conditions as perceptual disabili-*
15 *ties, brain injury, minimal brain dysfunction,*
16 *dyslexia, and developmental aphasia.*

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

23 “(28) *STATE.—The term ‘State’ means each of*
24 *the 50 States, the District of Columbia, the Common-*
25 *wealth of Puerto Rico, and each of the outlying areas.*

1 “(29) *STATE EDUCATIONAL AGENCY.*—*The term*
2 ‘*State educational agency*’ *means the State board of*
3 *education or other agency or officer primarily respon-*
4 *sible for the State supervision of public elementary*
5 *and secondary schools, or, if there is no such officer*
6 *or agency, an officer or agency designated by the Gov-*
7 *ernor or by State law.*

8 “(30) *SUPPLEMENTARY AIDS AND SERVICES.*—
9 *The term ‘supplementary aids and services’ means*
10 *aids, services, and other supports that are provided in*
11 *regular education classes or other education-related*
12 *settings to enable children with disabilities to be edu-*
13 *cated with nondisabled children to the maximum ex-*
14 *tent appropriate in accordance with section*
15 *612(a)(5).*

16 “(31) *TRANSITION SERVICES.*—*The term ‘transi-*
17 *tion services’ means a coordinated set of activities for*
18 *a child with a disability that—*

19 “(A) *is designed within a results-oriented*
20 *process, that is focused on improving the aca-*
21 *demically and developmentally achievement of the*
22 *child with a disability to facilitate the child’s*
23 *move from school to post-school activities, includ-*
24 *ing post-secondary education, vocational train-*
25 *ing, integrated employment (including supported*

1 *employment), continuing and adult education,*
2 *adult services, independent living, or community*
3 *participation;*

4 *“(B) is based upon the individual child’s*
5 *needs, taking into account the child’s skills, pref-*
6 *erences, and interests; and*

7 *“(C) includes instruction, related services,*
8 *community experiences, the development of em-*
9 *ployment and other post-school adult living ob-*
10 *jectives, and, when appropriate, acquisition of*
11 *daily living skills and functional vocational*
12 *evaluation.*

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

14 *“(a) ESTABLISHMENT.—There shall be, within the Of-*
15 *fice of Special Education and Rehabilitative Services in the*
16 *Department of Education, an Office of Special Education*
17 *Programs, which shall be the principal agency in such De-*
18 *partment for administering and carrying out this Act and*
19 *other programs and activities concerning the education of*
20 *children with disabilities.*

21 *“(b) DIRECTOR.—The Office established under sub-*
22 *section (a) shall be headed by a Director who shall be se-*
23 *lected by the Secretary and shall report directly to the As-*
24 *stant Secretary for Special Education and Rehabilitative*
25 *Services.*

1 “(c) *VOLUNTARY AND UNCOMPENSATED SERVICES.*—
2 *Notwithstanding section 1342 of title 31, United States*
3 *Code, the Secretary is authorized to accept voluntary and*
4 *uncompensated services in furtherance of the purposes of*
5 *this Act.*”.

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

8 *Sections 605 through 607 of the Individuals with Dis-*
9 *abilities Education Act (20 U.S.C. 1404–1406) are amend-*
10 *ed to read as follows:*

11 ***“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION***
12 ***OR ALTERATION OF FACILITIES.***

13 “(a) *IN GENERAL.*—*If the Secretary determines that*
14 *a program authorized under this Act would be improved*
15 *by permitting program funds to be used to acquire appro-*
16 *priate equipment, or to construct new facilities or alter ex-*
17 *isting facilities, the Secretary is authorized to allow the use*
18 *of those funds for those purposes.*

19 “(b) *COMPLIANCE WITH CERTAIN REGULATIONS.*—
20 *Any construction of new facilities or alteration of existing*
21 *facilities under subsection (a) shall comply with the require-*
22 *ments of—*

23 “(1) *appendix A of part 36 of title 28, Code of*
24 *Federal Regulations (commonly known as the ‘Ameri-*

1 *cans with Disabilities Accessibility Guidelines for*
2 *Buildings and Facilities’); or*

3 “(2) *appendix A of part 101–19.6 of title 41,*
4 *Code of Federal Regulations (commonly known as the*
5 *‘Uniform Federal Accessibility Standards’).*

6 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**
7 **ITIES.**

8 *“The Secretary shall ensure that each recipient of as-*
9 *sistance under this Act makes positive efforts to employ and*
10 *advance in employment qualified individuals with disabil-*
11 *ities, particularly as teachers, related services personnel,*
12 *early intervention providers, and administrators, in pro-*
13 *grams assisted under this Act.*

14 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**
15 **TIONS.**

16 *“(a) IN GENERAL.—The Secretary may issue regula-*
17 *tions under this Act only to the extent that such regulations*
18 *are reasonably necessary to ensure that there is compliance*
19 *with the specific requirements of this Act.*

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

23 *“(1) violate or contradict any provision of this*
24 *Act; and*

1 “(2) procedurally or substantively lessen the pro-
2 tections provided to children with disabilities under
3 this Act, as embodied in regulations in effect on July
4 20, 1983 (particularly as such protections relate to
5 parental consent to initial evaluation or initial place-
6 ment in special education, least restrictive environ-
7 ment, related services, timelines, attendance of evalua-
8 tion personnel at individualized education program
9 meetings, or qualifications of personnel), except to the
10 extent that such regulation reflects the clear and un-
11 equivocal intent of the Congress in legislation.

12 “(c) *PUBLIC COMMENT PERIOD.*—The Secretary shall
13 provide a public comment period of at least 60 days on
14 any regulation proposed under part B or part C of this
15 Act on which an opportunity for public comment is other-
16 wise required by law.

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

20 “(1) would violate or contradict any provision of
21 this Act; or

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

1 “(e) *CORRESPONDENCE FROM DEPARTMENT OF EDU-*
2 *CATION DESCRIBING INTERPRETATIONS OF THIS PART.—*

3 “(1) *IN GENERAL.—The Secretary shall, on a*
4 *quarterly basis, publish in the Federal Register, and*
5 *widely disseminate to interested entities through var-*
6 *ious additional forms of communication, a list of cor-*
7 *respondence from the Department of Education re-*
8 *ceived by individuals during the previous quarter*
9 *that describes the interpretations of the Department of*
10 *Education of this Act or the regulations implemented*
11 *pursuant to this Act.*

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

15 “(A) *identify the topic addressed by the cor-*
16 *respondence and shall include such other sum-*
17 *mary information as the Secretary determines to*
18 *be appropriate; and*

19 “(B) *ensure that all such correspondence is*
20 *issued, where applicable, in compliance with sec-*
21 *tion 553 of title 5, United States Code.*

22 “(f) *EXPLANATION AND ASSURANCES.—Any written*
23 *response by the Secretary under subsection (e) regarding a*
24 *policy, question, or interpretation under this Act shall in-*

1 *clude an explanation in the written response that the re-*
2 *sponse—*

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

6 “(2) *is provided as informal guidance and rep-*
7 *resents only the interpretation by the Department of*
8 *Education of the applicable statutory or regulatory*
9 *requirements in the context of the specific facts pre-*
10 *sented in the original question.”.*

11 ***SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABIL-***
12 ***ITIES EDUCATION ACT.***

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

16 ***“SEC. 608. STATE ADMINISTRATION.***

17 “(a) *RULEMAKING.—Each State that receives funds*
18 *under this Act shall—*

19 “(1) *ensure that any State rules, regulations,*
20 *and policies relating to this Act conform to the pur-*
21 *poses of this Act; and*

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

1 *ction Act to children having conditions described in*
2 *section 602(a)(3) of such Act using the terms “emo-*
3 *tional disturbance”, “other health impairments”, and*
4 *“specific learning disability”; and*

5 *(2) the degree to which these definitions and*
6 *evaluation processes conform to scientific, peer-re-*
7 *viewed research.*

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

12 **SEC. 106. ADDITIONAL GAO STUDY AND REPORT.**

13 *(a) IN GENERAL.—The Comptroller General of the*
14 *United States shall conduct a study on existing or devel-*
15 *oping professional development programs for special edu-*
16 *cation personnel delivered through the use of technology and*
17 *distance learning.*

18 *(b) REPORT.—Not later than 2 years after the date*
19 *of the enactment of this Act, the Comptroller General of the*
20 *United States shall submit a report containing the findings*
21 *from the study conducted under subsection (a) to the Com-*
22 *mittee on Education and the Workforce of the House of Rep-*
23 *resentatives and the Committee on Health, Education,*
24 *Labor, and Pensions of the Senate.*

1 **SEC. 107. STUDY ON LIMITED ENGLISH PROFICIENT STU-**
 2 **DENTS.**

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

7 (b) *REPORT.*—*Not later than 2 years after the date*
 8 *of the enactment of the Improving Education Results for*
 9 *Children With Disabilities Act of 2003, the Comptroller*
 10 *General of the United States shall submit a report con-*
 11 *taining the findings from the study conducted under sub-*
 12 *section (a) to the Committee on Education and the Work-*
 13 *force of the House of Representatives and the Committee*
 14 *on Health, Education, Labor, and Pensions of the Senate.*

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

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

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

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

24 **“(a) GRANTS TO STATES.—**

25 **“(1) PURPOSE OF GRANTS.—***The Secretary shall*
 26 *make grants to States and the outlying areas, and*

1 *provide funds to the Secretary of the Interior, to as-*
2 *assist them to provide special education and related*
3 *services to children with disabilities in accordance*
4 *with this part.*

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

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

11 “(i) *aged 3 through 5 if the State is el-*
12 *igible for a grant under section 619; and*

13 “(ii) *aged 6 through 21; multiplied by*

14 “(B) *40 percent of the average per-pupil ex-*
15 *penditure in public elementary and secondary*
16 *schools in the United States.*

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

24 “(b) *OUTLYING AREAS.—*

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

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

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

16 “(d) *ALLOCATIONS TO STATES.*—

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

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

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

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

12 *“(A)(i) Except as provided in subparagraph*
13 *(B), the Secretary shall allocate—*

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

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

23 *“(III) 15 percent of those remaining*
24 *funds to States on the basis of their relative*

1 *populations of children described in sub-*
2 *clause (II) who are living in poverty.*

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

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

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

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

16 “(I) *the sum of—*

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

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

25 “(II) *the sum of—*

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

3 “(bb) that amount multiplied
4 by the percentage by which the in-
5 crease in the funds appropriated
6 from the preceding fiscal year ex-
7 ceeds 1.5 percent; or

8 “(III) the sum of—

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

11 “(bb) that amount multiplied
12 by 90 percent of the percentage
13 increase in the amount appro-
14 priated from the preceding fiscal
15 year.

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

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

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

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

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

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

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

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

21 “(B)(i) *If the amount available for alloca-*
22 *tions is equal to or less than the amount allo-*
23 *cated to the States for fiscal year 1999, each*
24 *State shall be allocated the amount it received*
25 *for fiscal year 1999.*

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

4 “(e) STATE-LEVEL ACTIVITIES.—

5 “(1) IN GENERAL.—

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

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

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

20 “(ii) the rate of inflation, as measured
21 by the percentage increase, if any, from the
22 preceding fiscal year in the Consumer Price
23 Index For All Urban Consumers, published
24 by the Bureau of Labor Statistics of the De-
25 partment of Labor.

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

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

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

7 “(2) STATE ADMINISTRATION.—

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

14 “(i) each State may use not more than
15 20 percent of the maximum amount it may
16 retain under paragraph (1)(A) for any fis-
17 cal year or \$500,000 (adjusted by the cumu-
18 lative rate of inflation since fiscal year
19 1998, as measured by the percentage in-
20 crease, if any, in the Consumer Price Index
21 For All Urban Consumers, published by the
22 Bureau of Labor Statistics of the Depart-
23 ment of Labor), whichever is greater; and

24 “(ii) each outlying area may use up to
25 5 percent of the amount it receives under

1 *this section for any fiscal year or \$35,000*
2 *(adjusted by the cumulative rate of inflation*
3 *since fiscal year 1998, as measured by the*
4 *percentage increase, if any, in the Con-*
5 *sumer Price Index For All Urban Con-*
6 *sumers, published by the Bureau of Labor*
7 *Statistics of the Department of Labor),*
8 *whichever is greater.*

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

13 *“(3) HIGH COST SPECIAL EDUCATION AND RE-*
14 *LATED SERVICES.—Each State may use not more*
15 *than 4 percent of the maximum amount it may re-*
16 *tain under paragraph (1)(A) for any fiscal year to es-*
17 *tablish and implement cost or risk sharing funds,*
18 *consortia, or cooperatives to assist local educational*
19 *agencies in providing high cost special education and*
20 *related services.*

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

1 “(A) Support and direct services, including
2 technical assistance and personnel development
3 and training.

4 “(B) Administrative costs of monitoring
5 and complaint investigation.

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

11 “(D) To assist local educational agencies in
12 meeting personnel shortages.

13 “(E) Activities at the State and local levels
14 to meet the performance goals established by the
15 State under section 612(a)(15) and to support
16 implementation of the State plan under subpart
17 1 of part D if the State receives funds under that
18 subpart.

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

22 “(G) To develop and maintain a com-
23 prehensive, coordinated, prereferral educational
24 support system for students in kindergarten
25 through grade 12 (with a particular emphasis on

1 *students in kindergarten through grade 3) who*
2 *are not enrolled in special education but who*
3 *need additional academic and behavioral sup-*
4 *port to succeed in a general education environ-*
5 *ment.*

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

10 *“(I) For subgrants to local educational*
11 *agencies for the purposes described in paragraph*
12 *(5)(A).*

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

1 *ational agencies identified as being in need of im-*
2 *provement under section 1116 of the Elementary and*
3 *Secondary Education Act of 1965 on the basis, in*
4 *whole or in part, of the assessment results of the*
5 *disaggregated subgroup of students with disabilities,*
6 *including providing professional development to spe-*
7 *cial and regular education teachers, based on scientif-*
8 *ically based research to improve educational instruc-*
9 *tion.*

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

13 *“(i) the maximum amount the State was al-*
14 *lowed to retain under paragraph (1)(A) for the*
15 *prior fiscal year, or for fiscal year 1998, 25 per-*
16 *cent of the State’s allocation for fiscal year 1997*
17 *under this section; multiplied by*

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

1 “(6) *REPORT ON USE OF FUNDS.*—As part of the
2 information required to be submitted to the Secretary
3 under section 612, each State shall annually de-
4 scribe—

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

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

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

15 “(f) *SUBGRANTS TO LOCAL EDUCATIONAL AGEN-*
16 *CIES.*—

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

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

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

12 “(B) *ALLOCATION OF REMAINING FUNDS.*—
13 *After making allocations under subparagraph*
14 *(A), the State shall—*

15 “(i) *allocate 85 percent of any remain-*
16 *ing funds to those agencies on the basis of*
17 *the relative numbers of children enrolled in*
18 *public and private elementary and sec-*
19 *ondary schools within the agency’s jurisdic-*
20 *tion; and*

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

1 “(3) *REALLOCATION OF FUNDS.*—If a State edu-
2 *cat*ional agency determines that a local educational
3 agency is adequately providing a free appropriate
4 public education to all children with disabilities re-
5 siding in the area served by that agency with State
6 and local funds, the State educational agency may re-
7 allocate any portion of the funds under this part that
8 are not needed by that local agency to provide a free
9 appropriate public education to other local edu-
10 cational agencies in the State that are not adequately
11 providing special education and related services to all
12 children with disabilities residing in the areas they
13 serve.

14 “(g) *DEFINITIONS.*—For the purpose of this section—

15 “(1) the term ‘average per-pupil expenditure in
16 public elementary and secondary schools in the
17 United States’ means—

18 “(A) without regard to the source of
19 funds—

20 “(i) the aggregate current expenditures,
21 during the second fiscal year preceding the
22 fiscal year for which the determination is
23 made (or, if satisfactory data for that year
24 are not available, during the most recent
25 preceding fiscal year for which satisfactory

1 *data are available) of all local educational*
2 *agencies in the 50 States and the District of*
3 *Columbia); plus*

4 “(ii) *any direct expenditures by the*
5 *State for the operation of those agencies; di-*
6 *vided by*

7 “(B) *the aggregate number of children in*
8 *average daily attendance to whom those agencies*
9 *provided free public education during that pre-*
10 *ceding year; and*

11 “(2) *the term ‘State’ means each of the 50 States,*
12 *the District of Columbia, and the Commonwealth of*
13 *Puerto Rico.*

14 “(h) *USE OF AMOUNTS BY SECRETARY OF THE INTE-*
15 *RIOR.—*

16 “(1) *PROVISION OF AMOUNTS FOR ASSIST-*
17 *ANCE.—*

18 “(A) *IN GENERAL.—The Secretary of Edu-*
19 *cation shall provide amounts to the Secretary of*
20 *the Interior to meet the need for assistance for*
21 *the education of children with disabilities on res-*
22 *ervations aged 5 to 21, inclusive, enrolled in ele-*
23 *mentary and secondary schools for Indian chil-*
24 *dren operated or funded by the Secretary of the*
25 *Interior. The amount of such payment for any*

1 *fiscal year shall be equal to 80 percent of the*
2 *amount allotted under subsection (c) for that fis-*
3 *cal year. Of the amount described in the pre-*
4 *ceding sentence—*

5 *“(i) 80 percent shall be allocated to*
6 *such schools by July 1 of that fiscal year;*
7 *and*

8 *“(ii) 20 percent shall be allocated to*
9 *such schools by September 30 of that fiscal*
10 *year.*

11 *“(B) CALCULATION OF NUMBER OF CHIL-*
12 *DREN.—In the case of Indian students aged 3 to*
13 *5, inclusive, who are enrolled in programs affili-*
14 *ated with the Bureau of Indian Affairs (hereafter*
15 *in this subsection referred to as ‘BIA’) schools*
16 *and that are required by the States in which*
17 *such schools are located to attain or maintain*
18 *State accreditation, and which schools have such*
19 *accreditation prior to the date of enactment of*
20 *the Individuals with Disabilities Education Act*
21 *Amendments of 1991, the school shall be allowed*
22 *to count those children for the purpose of dis-*
23 *tribution of the funds provided under this para-*
24 *graph to the Secretary of the Interior. The Sec-*
25 *retary of the Interior shall be responsible for*

1 *meeting all of the requirements of this part for*
2 *these children, in accordance with paragraph*
3 *(2).*

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

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

14 “(A) *demonstrates that the Department of*
15 *the Interior meets the appropriate requirements,*
16 *as determined by the Secretary of Education, of*
17 *sections 612 (including monitoring and evalua-*
18 *tion activities) and 613;*

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

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

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

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

1 *peutic measures, and (where appropriate) equip-*
2 *ment and medical or personal supplies as needed*
3 *for a child to remain in school or a program);*
4 *and*

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

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

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

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

1 *cation and related services for children with dis-*
2 *abilities aged 3 through 5 on reservations served*
3 *by elementary and secondary schools for Indian*
4 *children operated or funded by the Department*
5 *of the Interior. The amount of such payments*
6 *under subparagraph (B) for any fiscal year shall*
7 *be equal to 20 percent of the amount allotted*
8 *under subsection (c).*

9 *“(B) DISTRIBUTION OF FUNDS.—The Sec-*
10 *retary of the Interior shall distribute the total*
11 *amount of the payment under subparagraph (A)*
12 *by allocating to each tribe or tribal organization*
13 *an amount based on the number of children with*
14 *disabilities ages 3 through 5 residing on reserva-*
15 *tions as reported annually, divided by the total*
16 *of those children served by all tribes or tribal or-*
17 *ganizations.*

18 *“(C) SUBMISSION OF INFORMATION.—To re-*
19 *ceive a payment under this paragraph, the tribe*
20 *or tribal organization shall submit such figures*
21 *to the Secretary of the Interior as required to de-*
22 *termine the amounts to be allocated under sub-*
23 *paragraph (B). This information shall be com-*
24 *plied and submitted to the Secretary of Edu-*
25 *cation.*

1 “(D) *USE OF FUNDS.*—*The funds received*
2 *by a tribe or tribal organization shall be used to*
3 *assist in child find, screening, and other proce-*
4 *dures for the early identification of children aged*
5 *3 through 5, parent training, and the provision*
6 *of direct services. These activities may be carried*
7 *out directly or through contracts or cooperative*
8 *agreements with the BIA, local educational agen-*
9 *cies, and other public or private nonprofit orga-*
10 *nizations. The tribe or tribal organization is en-*
11 *couraged to involve Indian parents in the devel-*
12 *opment and implementation of these activities.*
13 *The above entities shall, as appropriate, make re-*
14 *ferences to local, State, or Federal entities for the*
15 *provision of services or further diagnosis.*

16 “(E) *ANNUAL REPORT.*—*To be eligible to re-*
17 *ceive a grant pursuant to subparagraph (A), the*
18 *tribe or tribal organization shall provide to the*
19 *Secretary of the Interior an annual report of ac-*
20 *tivities undertaken under this paragraph, in-*
21 *cluding the number of contracts and cooperative*
22 *agreements entered into, the number of children*
23 *contacted and receiving services for each year,*
24 *and the estimated number of children needing*
25 *services during the year following the one in*

1 *which the report is made. The Secretary of the*
2 *Interior shall include a summary of this infor-*
3 *mation on an annual basis in the report to the*
4 *Secretary of Education required under this sub-*
5 *section. The Secretary of Education may require*
6 *any additional information from the Secretary*
7 *of the Interior.*

8 “(F) *PROHIBITIONS.*—*None of the funds al-*
9 *located under this paragraph may be used by the*
10 *Secretary of the Interior for administrative pur-*
11 *poses, including child count and the provision of*
12 *technical assistance.*

13 “(4) *PLAN FOR COORDINATION OF SERVICES.*—
14 *The Secretary of the Interior shall develop and imple-*
15 *ment a plan for the coordination of services for all*
16 *Indian children with disabilities residing on reserva-*
17 *tions covered under this Act. Such plan shall provide*
18 *for the coordination of services benefiting these chil-*
19 *dren from whatever source, including tribes, the In-*
20 *dian Health Service, other BIA divisions, and other*
21 *Federal agencies. In developing the plan, the Sec-*
22 *retary of the Interior shall consult with all interested*
23 *and involved parties. It shall be based on the needs*
24 *of the children and the system best suited for meeting*
25 *those needs, and may involve the establishment of co-*

1 *operative agreements between the BIA, other Federal*
2 *agencies, and other entities. The plan shall also be*
3 *distributed upon request to States, State and local*
4 *educational agencies, and other agencies providing*
5 *services to infants, toddlers, and children with dis-*
6 *abilities, to tribes, and to other interested parties.*

7 *“(5) ESTABLISHMENT OF ADVISORY BOARD.—To*
8 *meet the requirements of section 612(a)(22), the Sec-*
9 *retary of the Interior shall establish, under the BIA,*
10 *an advisory board composed of individuals involved*
11 *in or concerned with the education and provision of*
12 *services to Indian infants, toddlers, children, and*
13 *youth with disabilities, including Indians with dis-*
14 *abilities, Indian parents or guardians of such chil-*
15 *dren, teachers, service providers, State and local edu-*
16 *cational officials, representatives of tribes or tribal or-*
17 *ganizations, representatives from State Interagency*
18 *Coordinating Councils under section 641 in States*
19 *having reservations, and other members representing*
20 *the various divisions and entities of the BIA. The*
21 *chairperson shall be selected by the Secretary of the*
22 *Interior. The advisory board shall—*

23 *“(A) assist in the coordination of services*
24 *within the BIA and with other local, State, and*
25 *Federal agencies in the provision of education*

1 *for infants, toddlers, and children with disabili-*
2 *ties;*

3 “(B) *advise and assist the Secretary of the*
4 *Interior in the performance of the Secretary’s re-*
5 *responsibilities described in this subsection;*

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

11 “(D) *provide assistance and disseminate in-*
12 *formation on best practices, effective program co-*
13 *ordination strategies, and recommendations for*
14 *improved educational programming for Indian*
15 *infants, toddlers, and children with disabilities;*
16 *and*

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

19 “(6) *ANNUAL REPORTS.—*

20 “(A) *IN GENERAL.—The advisory board es-*
21 *tablished under paragraph (5) shall prepare and*
22 *submit to the Secretary of the Interior and to the*
23 *Congress an annual report containing a descrip-*
24 *tion of the activities of the advisory board for the*
25 *preceding year.*

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

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

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

9 “(2) \$13,374,398,000 for fiscal year 2005;

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

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

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

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

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

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

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

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

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

1 “(1) *FREE APPROPRIATE PUBLIC EDUCATION.*—

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

8 “(B) *LIMITATION.*—*The obligation to make*
9 *a free appropriate public education available to*
10 *all children with disabilities does not apply with*
11 *respect to children—*

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

19 “(ii) *aged 18 through 21 to the extent*
20 *that State law does not require that special*
21 *education and related services under this*
22 *part be provided to children with disabil-*
23 *ities who, in the educational placement*
24 *prior to their incarceration in an adult cor-*
25 *rectional facility—*

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

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

7 “(2) *FULL EDUCATIONAL OPPORTUNITY GOAL.*—
8 *The State has established a goal of providing full edu-*
9 *cational opportunity to all children with disabilities*
10 *and a detailed timetable for accomplishing that goal.*

11 “(3) *CHILD FIND.*—

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

22 “(B) *CONSTRUCTION.*—*Nothing in this Act*
23 *requires that children be classified by their dis-*
24 *ability so long as each child who has a disability*
25 *listed in section 602 and who, by reason of that*

1 *disability, needs special education and related*
2 *services is regarded as a child with a disability*
3 *under this part.*

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

10 “(5) *LEAST RESTRICTIVE ENVIRONMENT.—*

11 “(A) *IN GENERAL.—To the maximum ex-*
12 *tent appropriate, children with disabilities, in-*
13 *cluding children in public or private institutions*
14 *or other care facilities, are educated with chil-*
15 *dren who are not disabled, and special classes,*
16 *separate schooling, or other removal of children*
17 *with disabilities from the regular educational en-*
18 *vironment occurs only when the nature or sever-*
19 *ity of the disability of a child is such that edu-*
20 *cation in regular classes with the use of supple-*
21 *mentary aids and services cannot be achieved*
22 *satisfactorily.*

23 “(B) *ADDITIONAL REQUIREMENT.—*

24 “(i) *IN GENERAL.—If the State uses a*
25 *funding mechanism by which the State dis-*

1 *tributes State funds on the basis of the type*
2 *of setting in which a child is served, the*
3 *funding mechanism does not result in place-*
4 *ments that violate the requirements of sub-*
5 *paragraph (A).*

6 *“(ii) ASSURANCE.—If the State does*
7 *not have policies and procedures to ensure*
8 *compliance with clause (i), the State shall*
9 *provide the Secretary an assurance that it*
10 *will revise the funding mechanism as soon*
11 *as feasible to ensure that such mechanism*
12 *does not result in such placements.*

13 *“(6) PROCEDURAL SAFEGUARDS.—*

14 *“(A) IN GENERAL.—Children with disabili-*
15 *ties and their parents are afforded the proce-*
16 *dural safeguards required by section 615.*

17 *“(B) ADDITIONAL PROCEDURAL SAFE-*
18 *GUARDS.—Procedures to ensure that testing and*
19 *evaluation materials and procedures utilized for*
20 *the purposes of evaluation and placement of chil-*
21 *dren with disabilities for services under this Act*
22 *will be selected and administered so as not to be*
23 *racially or culturally discriminatory. Such ma-*
24 *terials or procedures shall be provided and ad-*
25 *ministered in the child’s native language or*

1 *mode of communication, unless it clearly is not*
2 *feasible to do so, and no single procedure shall*
3 *be the sole criterion for determining an appro-*
4 *priate educational program for a child.*

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

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

11 “(9) *TRANSITION FROM PART C TO PRESCHOOL*
12 *PROGRAMS.*—*Children participating in early inter-*
13 *vention programs assisted under part C, and who will*
14 *participate in preschool programs assisted under this*
15 *part, experience a smooth and effective transition to*
16 *those preschool programs in a manner consistent with*
17 *section 637(a)(8). By the third birthday of such a*
18 *child, an individualized education program or, if con-*
19 *sistent with section 636(d), an individualized family*
20 *service plan, has been developed and is being imple-*
21 *mented for the child. The local educational agency*
22 *will participate in transition planning conferences*
23 *arranged by the designated lead agency under section*
24 *637(a)(8).*

25 “(10) *CHILDREN IN PRIVATE SCHOOLS.*—

1 “(A) *CHILDREN ENROLLED IN PRIVATE*
2 *SCHOOLS BY THEIR PARENTS.*—

3 “(i) *IN GENERAL.*—*To the extent con-*
4 *sistent with the number and location of*
5 *children with disabilities in the State who*
6 *are enrolled by their parents in private ele-*
7 *mentary and secondary schools in the area*
8 *served by such agency, provision is made*
9 *for the participation of those children in the*
10 *program assisted or carried out under this*
11 *part by providing for such children special*
12 *education and related services in accordance*
13 *with the following requirements, unless the*
14 *Secretary has arranged for services to those*
15 *children under subsection (f):*

16 “(I) *Amounts to be expended for*
17 *the provision of those services (includ-*
18 *ing direct services to parentally-placed*
19 *children) by a local educational agency*
20 *shall be equal to a proportionate*
21 *amount of Federal funds made avail-*
22 *able under this part.*

23 “(II) *In calculating the propor-*
24 *tionate share of Federal funds, the local*
25 *educational agency, after timely and*

1 *meaningful consultation with rep-*
2 *resentatives of children with disabil-*
3 *ities parentally-placed in private*
4 *schools as described in clause (iii),*
5 *shall conduct a thorough and complete*
6 *child-find process to determine the*
7 *number of parentally-placed children*
8 *with disabilities attending private*
9 *schools located in the district.*

10 *“(III) Such services may be pro-*
11 *vided to children with disabilities on*
12 *the premises of private, including reli-*
13 *gious, schools, to the extent consistent*
14 *with law.*

15 *“(IV) State and local funds may*
16 *supplement and in no case shall sup-*
17 *plant the proportionate amount of*
18 *Federal funds required to be expended*
19 *under this paragraph.*

20 *“(V) Each local educational agen-*
21 *cy maintains in its records and pro-*
22 *vides to the State educational agency*
23 *the number of children evaluated under*
24 *this paragraph, the number of children*
25 *determined to be children with disabil-*

1 *ities, and the number of children*
2 *served under this subsection.*

3 “(ii) *CHILD-FIND REQUIREMENT.—*

4 *“(I) IN GENERAL.—The require-*
5 *ments of paragraph (3) of this sub-*
6 *section (relating to child find) shall*
7 *apply with respect to children with*
8 *disabilities in the State who are en-*
9 *rolled in private, including religious,*
10 *elementary and secondary schools.*

11 *“(II) EQUITABLE PARTICIPA-*
12 *TION.—The child-find process must be*
13 *designed to ensure the equitable par-*
14 *ticipation of parentally-placed private*
15 *school children and an accurate count*
16 *of such children.*

17 *“(III) ACTIVITIES.—In carrying*
18 *out this clause, the local educational*
19 *agency, or where applicable, the State*
20 *educational agency, shall undertake ac-*
21 *tivities similar to those activities un-*
22 *dertaken for its public school children.*

23 *“(IV) COST.—The cost of carrying*
24 *out this clause, including individual*
25 *evaluations, may not be considered in*

1 *determining whether a local education*
2 *agency has met its obligations under*
3 *clause (i).*

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

9 “(iii) *CONSULTATION.*—*To ensure*
10 *timely and meaningful consultation, a local*
11 *educational agency, or where appropriate, a*
12 *state educational agency, shall consult with*
13 *representatives of children with disabilities*
14 *parentally-placed in private schools during*
15 *the design and development of special edu-*
16 *cation and related services for these children*
17 *including—*

18 “(I) *the child-find process and*
19 *how parentally-placed private school*
20 *children suspected of having a dis-*
21 *ability can participate equitably, in-*
22 *cluding how parents, teachers, and pri-*
23 *vate school officials will be informed of*
24 *the process;*

1 “(II) the determination of the pro-
2 portionate share of Federal funds
3 available to serve parentally-placed
4 private school children with disabilities
5 under this paragraph, including the
6 determination of how those funds were
7 calculated;

8 “(III) the consultation process
9 among the district, private school offi-
10 cials, and parents of parentally-placed
11 private school children with disabilities
12 including how such process will oper-
13 ate throughout the school year to en-
14 sure that parentally-placed children
15 with disabilities identified through the
16 child find process can meaningfully
17 participate in special education and
18 related services; and

19 “(IV) how, where, and by whom
20 special education and related services
21 will be provided for parentally-placed
22 private school children, including a
23 discussion of alternate service delivery
24 mechanisms, how such services will be
25 apportioned if funds are insufficient to

1 *serve all children, and how and when*
2 *these decisions will be made.*

3 “(iv) COMPLIANCE.—

4 “(I) IN GENERAL.—A private
5 *school official shall have the right to*
6 *complain to the State educational*
7 *agency that the local educational agen-*
8 *cy did not engage in consultation that*
9 *was meaningful and timely, or did not*
10 *give due consideration to the views of*
11 *the private school official.*

12 “(II) PROCEDURE.—If the private
13 *school official wishes to complain, the*
14 *official shall provide the basis of the*
15 *noncompliance with this section by the*
16 *local educational agency to the State*
17 *educational agency, and the local edu-*
18 *catinal agency shall forward the ap-*
19 *propriate documentation to the State*
20 *educational agency. If the private*
21 *school official is dissatisfied with the*
22 *decision of the State educational agen-*
23 *cy, such official may complain to the*
24 *Secretary by providing the basis of the*
25 *noncompliance with this section by the*

1 *local educational agency to the Sec-*
2 *retary, and the State educational agen-*
3 *cy shall forward the appropriate docu-*
4 *mentation to the Secretary.*

5 “(v) *PROVISION OF SERVICES.—*

6 “(I) *DIRECTLY OR THROUGH CON-*
7 *TRACTS.—An agency may provide spe-*
8 *cial education and related services di-*
9 *rectly or through contracts with public*
10 *and private agencies, organizations,*
11 *and institutions.*

12 “(II) *SECULAR, NEUTRAL, NON-*
13 *IDEOLOGICAL.—Special education and*
14 *related services, including materials*
15 *and equipment, shall be secular, neu-*
16 *tral, and nonideological.*

17 “(vi) *PUBLIC CONTROL OF FUNDS.—*

18 “(I) *IN GENERAL.—The control of*
19 *funds used to provide special education*
20 *and related services under this section,*
21 *and title to materials, equipment, and*
22 *property purchased with those funds,*
23 *shall be in a public agency for the uses*
24 *and purposes provided in this Act, and*

1 *a public agency shall administer the*
2 *funds and property.*

3 “(II) *PROVISION OF SERVICES.—*

4 *The provision of services under this Act*
5 *shall be provided—*

6 “(aa) *by employees of a pub-*
7 *lic agency; or*

8 “(bb) *through contract by the*
9 *public agency with an individual,*
10 *association, agency, organization,*
11 *or other entity.*

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

14 “(i) *IN GENERAL.—Children with dis-*
15 *abilities in private schools and facilities are*
16 *provided special education and related serv-*
17 *ices, in accordance with an individualized*
18 *education program, at no cost to their par-*
19 *ents, if such children are placed in, or re-*
20 *ferred to, such schools or facilities by the*
21 *State or appropriate local educational agen-*
22 *cy as the means of carrying out the require-*
23 *ments of this part or any other applicable*
24 *law requiring the provision of special edu-*

1 *cation and related services to all children*
2 *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 schools*
6 *and facilities meet standards that apply to*
7 *State and local educational agencies and*
8 *that children so served have all the rights*
9 *they would have if served by such agencies.*

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

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

24 “(ii) *REIMBURSEMENT FOR PRIVATE*
25 *SCHOOL PLACEMENT.—If the parents of a*

1 *child with a disability, who previously re-*
2 *ceived special education and related services*
3 *under the authority of a public agency, en-*
4 *roll the child in a private elementary or sec-*
5 *ondary school without the consent of or re-*
6 *ferral by the public agency, a court or a*
7 *hearing officer may require the agency to*
8 *reimburse the parents for the cost of that en-*
9 *rollment if the court or hearing officer finds*
10 *that the agency had not made a free appro-*
11 *priate public education available to the*
12 *child in a timely manner prior to that en-*
13 *rollment.*

14 *“(iii) LIMITATION ON REIMBURSE-*
15 *MENT.—The cost of reimbursement described*
16 *in clause (ii) may be reduced or denied—*

17 *“(I) if—*

18 *“(aa) at the most recent IEP*
19 *meeting that the parents attended*
20 *prior to removal of the child from*
21 *the public school, the parents did*
22 *not inform the IEP Team that*
23 *they were rejecting the placement*
24 *proposed by the public agency to*
25 *provide a free appropriate public*

1 *education to their child, including*
2 *stating their concerns and their*
3 *intent to enroll their child in a*
4 *private school at public expense;*
5 *or*

6 *“(bb) 10 business days (in-*
7 *cluding any holidays that occur*
8 *on a business day) prior to the re-*
9 *moval of the child from the public*
10 *school, the parents did not give*
11 *written notice to the public agen-*
12 *cy of the information described in*
13 *division (aa);*

14 *“(II) if, prior to the parents’ re-*
15 *moval of the child from the public*
16 *school, the public agency informed the*
17 *parents, through the notice require-*
18 *ments described in section 615(b)(7), of*
19 *its intent to evaluate the child (includ-*
20 *ing a statement of the purpose of the*
21 *evaluation that was appropriate and*
22 *reasonable), but the parents did not*
23 *make the child available for such eval-*
24 *uation; or*

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

4 “(iv) EXCEPTION.—Notwithstanding
5 the notice requirement in clause (iii)(I), the
6 cost of reimbursement—

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

9 “(aa) the school prevented the
10 parent from providing such no-
11 tice;

12 “(bb) the parents had not re-
13 ceived notice, pursuant to section
14 615, of the notice requirement in
15 clause (iii)(I); or

16 “(cc) compliance with clause
17 (iii)(I) would likely result in
18 physical harm to the child; and

19 “(II) may, in the discretion of a
20 court or a hearing officer, not be re-
21 duced or denied for failure to provide
22 such notice if—

23 “(aa) the parent is illiterate
24 or cannot write in English; or

1 “(bb) compliance with clause
2 (iii)(I) would likely result in seri-
3 ous emotional harm to the child.

4 “(11) STATE EDUCATIONAL AGENCY RESPON-
5 SIBLE FOR GENERAL SUPERVISION.—

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

8 “(i) the requirements of this part are
9 met; and

10 “(ii) all educational programs for chil-
11 dren with disabilities in the State, includ-
12 ing all such programs administered by any
13 other State or local agency—

14 “(I) are under the general super-
15 vision of individuals in the State who
16 are responsible for educational pro-
17 grams for children with disabilities;
18 and

19 “(II) meet the educational stand-
20 ards of the State educational agency.

21 “(B) LIMITATION.—Subparagraph (A) shall
22 not limit the responsibility of agencies in the
23 State other than the State educational agency to
24 provide, or pay for some or all of the costs of, a

1 *free appropriate public education for any child*
2 *with a disability in the State.*

3 “(C) *EXCEPTION.—Notwithstanding sub-*
4 *paragraphs (A) and (B), the Governor (or an-*
5 *other individual pursuant to State law), con-*
6 *sistent with State law, may assign to any public*
7 *agency in the State the responsibility of ensuring*
8 *that the requirements of this part are met with*
9 *respect to children with disabilities who are con-*
10 *victed as adults under State law and incarcer-*
11 *ated in adult prisons.”.*

12 (3) *Paragraphs (13) through (22) of section 612(a) of*
13 *the Individuals with Disabilities Education Act (20 U.S.C.*
14 *1412(a)(13)–(22)) are amended to read as follows:*

15 “(13) *PROCEDURAL REQUIREMENTS RELATING*
16 *TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The*
17 *State educational agency will not make a final deter-*
18 *mination that a local educational agency is not eligi-*
19 *ble for assistance under this part without first afford-*
20 *ing that agency reasonable notice and an opportunity*
21 *for a hearing.*

22 “(14) *PERSONNEL STANDARDS.—*

23 “(A) *IN GENERAL.—The State educational*
24 *agency has established and maintains standards*
25 *to ensure that personnel necessary to carry out*

1 *this part are appropriately and adequately pre-*
2 *pared and trained.*

3 “(B) *STANDARDS DESCRIBED.*—*Such stand-*
4 *ards shall—*

5 “(i) *ensure that special education*
6 *teachers who teach in core academic subjects*
7 *are highly qualified in those subjects;*

8 “(ii) *be consistent with any State-ap-*
9 *proved or State-recognized certification, li-*
10 *censing, registration, or other comparable*
11 *requirements that apply to the professional*
12 *discipline in which those personnel are pro-*
13 *viding special education or related services*
14 *in order to ensure that such individuals are*
15 *qualified to provide such services; and*

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

24 “(C) *INNOVATIVE STRATEGIES FOR PROFES-*
25 *SIONAL DEVELOPMENT.*—*The State educational*

1 *agency encourages the development and use of re-*
2 *search-based innovative strategies, such as strate-*
3 *gies using technology, peer networks, and dis-*
4 *tance learning, to deliver intensive professional*
5 *development programs for special and regular*
6 *education teachers, administrators, principals,*
7 *and related services personnel that—*

8 *“(i) improve educational results for*
9 *students with disabilities; and*

10 *“(ii) are both cost-effective and easily*
11 *accessible.*

12 *“(15) PERFORMANCE GOALS AND INDICATORS.—*

13 *The State—*

14 *“(A) has established goals for the perform-*
15 *ance of children with disabilities in the State*
16 *that—*

17 *“(i) promote the purposes of this Act,*
18 *as stated in section 601(d);*

19 *“(ii) are the same as the State’s defini-*
20 *tion of adequate yearly progress, including*
21 *the State’s objectives for progress by chil-*
22 *dren with disabilities, under section*
23 *1111(b)(2)(C) of the Elementary and Sec-*
24 *ondary Education Act of 1965;*

1 “(iii) address dropout rates, as well as
2 such other factors as the State may deter-
3 mine; and

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

7 “(B) has established performance indicators
8 the State will use to assess progress toward
9 achieving those goals described in subparagraph
10 (A), including measurable annual objectives for
11 progress by children with disabilities under sec-
12 tion 1111(b)(2)(C) of the Elementary and Sec-
13 ondary Education Act of 1965; and

14 “(C) will annually report to the Secretary
15 and the public on the progress of the State, and
16 of children with disabilities in the State, toward
17 meeting the goals established under subpara-
18 graph (A), which may include elements of the re-
19 ports required under section 1111(h) of the Ele-
20 mentary and Secondary Education Act of 1965.

21 “(16) PARTICIPATION IN ASSESSMENTS.—

22 “(A) IN GENERAL.—(i) All children with
23 disabilities are included in all general State and
24 district-wide assessment programs, including as-
25 sessments described under title I of the Elemen-

1 *tary and Secondary Education Act of 1965, with*
2 *appropriate accommodations, where necessary*
3 *and as indicated in their respective individual-*
4 *ized education programs.*

5 “(i) *The State (or, in the case of a district-*
6 *wide assessment, the local educational agency)*
7 *has developed and implemented guidelines for the*
8 *provision of accommodations described in clause*
9 *(i).*

10 “(iii) *The State (or, in the case of a dis-*
11 *trict-wide assessment the local educational agen-*
12 *cy)—*

13 “(I) *has developed and implemented*
14 *guidelines for the participation of children*
15 *with disabilities in alternate assessments for*
16 *those children who cannot participate in*
17 *regular assessments under clause (i); and*

18 “(II) *conducts those alternate assess-*
19 *ments.*

20 “(B) *REPORTS.—The State educational*
21 *agency (or, in the case of a district-wide assess-*
22 *ment, the local educational agency) makes avail-*
23 *able to the public, and reports to the public with*
24 *the same frequency and in the same detail as it*

1 *reports on the assessment of nondisabled chil-*
2 *dren, the following:*

3 “(i) *The number of children with dis-*
4 *abilities participating in regular assess-*
5 *ments, and the number of those children*
6 *who were provided accommodations in*
7 *order to participate in those assessments.*

8 “(ii) *The number of children with dis-*
9 *abilities participating in alternate assess-*
10 *ments.*

11 “(iii) *The performance of children with*
12 *disabilities on regular assessments and on*
13 *alternate assessments (if the number of chil-*
14 *dren with disabilities participating in those*
15 *assessments is sufficient to yield statis-*
16 *tically reliable information and reporting*
17 *that information would not reveal person-*
18 *ally identifiable information about an indi-*
19 *vidual student), compared with the achieve-*
20 *ment of all children, including children*
21 *with disabilities, on those assessments.*

22 “(17) *DISPUTE RESOLUTION.—The State has in*
23 *effect systems of mediation and voluntary binding ar-*
24 *bitration pursuant to section 615(e).*

1 “(18) *SUPPLEMENTATION OF STATE, LOCAL, AND*
2 *OTHER FEDERAL FUNDS.—*

3 “(A) *EXPENDITURES.—Funds paid to a*
4 *State under this part will be expended in accord-*
5 *ance with all the provisions of this part.*

6 “(B) *PROHIBITION AGAINST COMMING-*
7 *GLING.—Funds paid to a State under this part*
8 *will not be commingled with State funds.*

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

1 *retary concurs with the evidence provided by the*
2 *State.*

3 “(19) *MAINTENANCE OF STATE FINANCIAL SUP-*
4 *PORT.—*

5 “(A) *IN GENERAL.—The State does not re-*
6 *duce the amount of State financial support for*
7 *special education and related services for chil-*
8 *dren with disabilities, or otherwise made avail-*
9 *able because of the excess costs of educating those*
10 *children, below the amount of that support for*
11 *the preceding fiscal year.*

12 “(B) *REDUCTION OF FUNDS FOR FAILURE*
13 *TO MAINTAIN SUPPORT.—The Secretary shall re-*
14 *duce the allocation of funds under section 611 for*
15 *any fiscal year following the fiscal year in which*
16 *the State fails to comply with the requirement of*
17 *subparagraph (A) by the same amount by which*
18 *the State fails to meet the requirement.*

19 “(C) *WAIVERS FOR EXCEPTIONAL OR UN-*
20 *CONTROLLABLE CIRCUMSTANCES.—The Secretary*
21 *may waive the requirement of subparagraph (A)*
22 *for a State, for one fiscal year at a time, if the*
23 *Secretary determines that—*

24 “(i) *granting a waiver would be equi-*
25 *table due to exceptional or uncontrollable*

1 *circumstances such as a natural disaster or*
2 *a precipitous and unforeseen decline in the*
3 *financial resources of the State; or*

4 “(ii) *the State meets the standard in*
5 *paragraph (18)(C) of this section for a*
6 *waiver of the requirement to supplement,*
7 *and not to supplant, funds received under*
8 *this part.*

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

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

1 “(21) *STATE ADVISORY PANEL.*—

2 “(A) *IN GENERAL.*—*The State has estab-*
3 *lished and maintains an advisory panel for the*
4 *purpose of providing policy guidance with re-*
5 *spect to special education and related services for*
6 *children with disabilities in the State.*

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

15 “(i) *parents of children with disabil-*
16 *ities (ages birth through 26);*

17 “(ii) *individuals with disabilities;*

18 “(iii) *teachers;*

19 “(iv) *representatives of institutions of*
20 *higher education that prepare special edu-*
21 *cation and related services personnel;*

22 “(v) *State and local education officials;*

23 “(vi) *administrators of programs for*
24 *children with disabilities;*

1 “(vii) representatives of other State
2 agencies involved in the financing or deliv-
3 ery of related services to children with dis-
4 abilities;

5 “(viii) representatives of private
6 schools and public charter schools;

7 “(ix) at least one representative of a
8 vocational, community, or business organi-
9 zation concerned with the provision of tran-
10 sition services to children with disabilities;
11 and

12 “(x) representatives from the State ju-
13 venile and adult corrections agencies.

14 “(C) SPECIAL RULE.—A majority of the
15 members of the panel shall be individuals with
16 disabilities or parents of children with disabil-
17 ities ages birth through 26.

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

19 “(i) advise the State educational agen-
20 cy of unmet needs within the State in the
21 education of children with disabilities;

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

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

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

9 “(v) advise the State educational agen-
10 cy in developing and implementing policies
11 relating to the coordination of services for
12 children with disabilities.

13 “(22) *SUSPENSION AND EXPULSION RATES.*—

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

20 “(i) among local educational agencies
21 in the State; or

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

24 “(B) *REVIEW AND REVISION OF POLICIES.*—

25 *If such discrepancies are occurring, the State*

1 *educational agency reviews and, if appropriate,*
2 *revises (or requires the affected State or local*
3 *educational agency to revise) its policies, proce-*
4 *dures, and practices relating to the development*
5 *and implementation of IEPs, the use of positive*
6 *behavioral interventions and supports, and pro-*
7 *cedural safeguards, to ensure that such policies,*
8 *procedures, and practices comply with this Act.”.*

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

12 “(23) *INSTRUCTIONAL MATERIALS.—*

13 “(A) *IN GENERAL.—The State adopts the*
14 *national instructional materials accessibility*
15 *standard for the purposes of providing instruc-*
16 *tional materials to blind persons or other persons*
17 *with print disabilities in a timely manner after*
18 *the publication of the standard by the Secretary*
19 *in the Federal Register.*

20 “(B) *PURCHASE REQUIREMENT.—Not later*
21 *than 2 years after the date of the enactment of*
22 *the Improving Education Results for Children*
23 *With Disabilities Act of 2003, the State edu-*
24 *cational agency, when purchasing instructional*
25 *materials for use in public elementary and sec-*

1 *ondary schools within the State, requires the*
2 *publisher of the instructional materials, as a*
3 *part of any purchase agreement that is made, re-*
4 *newed, or revised, to prepare and supply elec-*
5 *tronic files containing the contents of the in-*
6 *structional materials using the national instruc-*
7 *tional materials accessibility standard.*

8 *“(C) DEFINITION.—For purposes of this*
9 *paragraph, the term ‘instructional materials’*
10 *means printed textbooks and related core mate-*
11 *rials that are written and published primarily*
12 *for use in elementary school and secondary*
13 *school instruction and are required by a State*
14 *educational agency or local educational agency*
15 *for use by pupils in the classroom.*

16 *“(24) OVERIDENTIFICATION AND*
17 *DISPROPORTIONALITY.—The State has in effect, con-*
18 *sistent with the purposes of this Act and with section*
19 *618, policies and procedures designed to prevent the*
20 *overidentification or disproportionate representation*
21 *by race and ethnicity of children as children with dis-*
22 *abilities, including the identification of children as*
23 *children with disabilities in accordance with a par-*
24 *ticular impairment described in section 602(3).*

1 “(25) *PROHIBITION ON PSYCHOTROPIC MEDICA-*
2 *TION.—The State educational agency develops and*
3 *implements policies and procedures prohibiting school*
4 *personnel from requiring a child to obtain a prescrip-*
5 *tion for substances covered by section 202(c) of the*
6 *Controlled Substances Act (21 U.S.C. 812(c)) as a*
7 *condition of attending school or receiving services.”.*

8 **(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF**
9 **FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERV-**
10 **ICES.—Section 612(b) of the Individuals with Disabilities**
11 **Education Act (20 U.S.C. 1412(b)) is amended to read as**
12 **follows:**

13 “(b) *STATE EDUCATIONAL AGENCY AS PROVIDER OF*
14 *FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERV-*
15 *ICES.—If the State educational agency provides free appro-*
16 *priate public education to children with disabilities, or pro-*
17 *vides direct services to such children, such agency—*

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

21 “(2) *may use amounts that are otherwise avail-*
22 *able to such agency under this part to serve those chil-*
23 *dren without regard to section 613(a)(2)(A)(i) (relat-*
24 *ing to excess costs).”.*

1 (c) *EXCEPTION FOR PRIOR STATE PLANS.*—Section
2 612(c) of the *Individuals with Disabilities Education Act*
3 (20 U.S.C. 1412(c)) is amended to read as follows:

4 “(c) *EXCEPTION FOR PRIOR STATE PLANS.*—

5 “(1) *IN GENERAL.*—If a State has on file with
6 the Secretary policies and procedures that dem-
7 onstrate that such State meets any requirement of
8 subsection (a), including any policies and procedures
9 filed under this part as in effect before the effective
10 date of the *Improving Education Results for Children*
11 *With Disabilities Act of 2003*, the Secretary shall con-
12 sider such State to have met such requirement for
13 purposes of receiving a grant under this part.

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

22 “(3) *MODIFICATIONS REQUIRED BY THE SEC-*
23 *RETARY.*—If, after the effective date of the *Improving*
24 *Education Results for Children With Disabilities Act*
25 *of 2003*, the provisions of this Act are amended (or

1 *the regulations developed to carry out this Act are*
2 *amended), or there is a new interpretation of this Act*
3 *by a Federal court or a State’s highest court, or there*
4 *is an official finding of noncompliance with Federal*
5 *law or regulations, the Secretary may require a State*
6 *to modify its application only to the extent necessary*
7 *to ensure the State’s compliance with this part.”.*

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

11 *“(d) APPROVAL BY THE SECRETARY.—*

12 *“(1) IN GENERAL.—If the Secretary determines*
13 *that a State is eligible to receive a grant under this*
14 *part, the Secretary shall notify the State of that deter-*
15 *mination.*

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

20 *“(A) with reasonable notice; and*

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

22 *(e) ASSISTANCE UNDER OTHER FEDERAL PRO-*
23 *GRAMS.—Section 612(e) of the Individuals with Disabilities*
24 *Education Act (20 U.S.C. 1412(e)) is amended to read as*
25 *follows:*

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

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

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

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

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

15 “(1) *CONSISTENCY WITH STATE POLICIES.—The*
 16 *local educational agency, in providing for the edu-*
 17 *cation of children with disabilities within its jurisdic-*
 18 *tion, has in effect policies, procedures, and programs*
 19 *that are consistent with the State policies and proce-*
 20 *dures established under section 612.*

21 “(2) *USE OF AMOUNTS.—*

22 “(A) *IN GENERAL.—Amounts provided to*
 23 *the local educational agency under this part*
 24 *shall be expended in accordance with the appli-*
 25 *cable provisions of this part and—*

1 “(i) shall be used only to pay the excess
2 costs of providing special education and re-
3 lated services to children with disabilities;

4 “(ii) shall be used to supplement State,
5 local, and other Federal funds and not to
6 supplant such funds; and

7 “(iii) shall not be used, except as pro-
8 vided in subparagraphs (B) and (C), to re-
9 duce the level of expenditures for the edu-
10 cation of children with disabilities made by
11 the local educational agency from local
12 funds below the level of those expenditures
13 for the preceding fiscal year.

14 “(B) EXCEPTION.—Notwithstanding the re-
15 striction in subparagraph (A)(iii), a local edu-
16 cational agency may reduce the level of expendi-
17 tures where such reduction is attributable to—

18 “(i) the voluntary departure, by retire-
19 ment or otherwise, or departure for just
20 cause, of special education personnel;

21 “(ii) a decrease in the enrollment of
22 children with disabilities;

23 “(iii) the termination of the obligation
24 of the agency, consistent with this part, to
25 provide a program of special education to a

1 particular child with a disability that is an
2 exceptionally costly program, as determined
3 by the State educational agency, because the
4 child—

5 “(I) has left the jurisdiction of the
6 agency;

7 “(II) has reached the age at which
8 the obligation of the agency to provide
9 a free appropriate public education to
10 the child has terminated; or

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

13 “(iv) the termination of costly expendi-
14 tures for long-term purchases, such as the
15 acquisition of equipment or the construction
16 of school facilities.

17 “(C) TREATMENT OF FEDERAL FUNDS IN
18 CERTAIN FISCAL YEARS.—

19 “(i) Notwithstanding clauses (ii) and
20 (iii) of subparagraph (A), for any fiscal
21 year for which amounts appropriated to
22 carry out section 611 exceeds
23 \$4,100,000,000, a local educational agency
24 may treat as local funds, for the purpose of
25 such clauses, up to 20 percent of the amount

1 of funds it receives under this part that ex-
2 ceeds the amount it received under this part
3 for the previous fiscal year.

4 “(ii) If a local educational agency
5 chooses to use the authority under clause (i),
6 then the agency shall use those local funds
7 to provide additional funding for programs
8 under the Elementary and Secondary Edu-
9 cation Act of 1965, including, but not lim-
10 ited to, programs that address student
11 achievement, comprehensive school reform,
12 literacy, teacher quality and professional
13 development, school safety, before- and after-
14 school learning opportunities.

15 “(iii) Notwithstanding clause (i), if a
16 State educational agency determines that a
17 local educational agency is unable to estab-
18 lish and maintain programs of free appro-
19 priate public education that meet the re-
20 quirements of subsection (a), the State edu-
21 cational agency shall prohibit the local edu-
22 cational agency from treating funds re-
23 ceived under this part as local funds under
24 clause (i) for that fiscal year, but only if it

1 is authorized to do so by the State constitu-
2 tion or a State statute.

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

12 “(i) the number of children with dis-
13 abilities participating in the schoolwide
14 program; multiplied by

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

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

20 “(3) *PERSONNEL DEVELOPMENT.*—The local edu-
21 cational agency shall ensure that all personnel nec-
22 essary to carry out this part are appropriately and
23 adequately prepared, consistent with the requirements
24 of section 612 of this Act and section 1119 of the Ele-
25 mentary and Secondary Education Act of 1965.

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

6 “(A) *SERVICES AND AIDS THAT ALSO BEN-*
7 *EFIT NONDISABLED CHILDREN.*—*For the costs of*
8 *special education and related services and sup-*
9 *plementary aids and services provided in a reg-*
10 *ular class or other education-related setting to a*
11 *child with a disability in accordance with the*
12 *individualized education program of the child,*
13 *even if one or more nondisabled children benefit*
14 *from such services.*

15 “(B) *PREREFERRAL SERVICES.*—*To develop*
16 *and implement a system of comprehensive co-*
17 *ordinated prereferral education support services*
18 *in accordance with subsection (f).*

19 “(C) *HIGH COST EDUCATION AND RELATED*
20 *SERVICES.*—*To establish and implement cost or*
21 *risk sharing funds, consortia, or cooperatives for*
22 *the agency itself, or for local educational agen-*
23 *cies working in consortium of which the local*
24 *educational agency is a part, to pay for high*
25 *cost special education and related services.*

1 “(D) *CASE MANAGEMENT AND ADMINISTRA-*
2 *TION.—To purchase appropriate technology for*
3 *record keeping, data collection, and related case*
4 *management activities of teachers and related*
5 *services personnel who are providing services de-*
6 *scribed in the individualized education program*
7 *of children with disabilities necessary to the im-*
8 *plementation of those case management activi-*
9 *ties.*

10 “(E) *SUPPLEMENTAL EDUCATIONAL SERV-*
11 *ICES FOR CHILDREN WITH DISABILITIES IN*
12 *SCHOOLS DESIGNATED FOR IMPROVEMENT.—For*
13 *the reasonable additional expenses (as deter-*
14 *mined by the local educational agency) of any*
15 *necessary accommodations to allow children with*
16 *disabilities who are being educated in a school*
17 *identified for school improvement under section*
18 *1116(b) of the Elementary and Secondary Edu-*
19 *cation Act of 1965 (20 U.S.C. 6316(b)) to be pro-*
20 *vided supplemental educational services under*
21 *section 1116(e) of such Act on an equitable basis.*

22 “(5) *TREATMENT OF CHARTER SCHOOLS AND*
23 *THEIR STUDENTS.—In carrying out this part with re-*
24 *spect to charter schools that are public schools of the*

1 *local educational agency, the local educational agen-*
2 *cy—*

3 “(A) *serves children with disabilities at-*
4 *tending those schools in the same manner as it*
5 *serves children with disabilities in its other*
6 *schools, including providing supplemental and*
7 *related services on site at the charter school when*
8 *the local educational agency has a policy or*
9 *practice of providing those services on site to its*
10 *other schools; and*

11 “(B) *provides funds under this part to those*
12 *schools on the same basis as it provides those*
13 *funds to its other public schools (including, at*
14 *the option of such agency, proportional distribu-*
15 *tion based on relative enrollment of children*
16 *with disabilities at such charter schools), and at*
17 *the same time as such agency distributes other*
18 *Federal funds to those schools, consistent with the*
19 *State’s charter law.*

20 “(6) *PURCHASE OF INSTRUCTIONAL MATE-*
21 *RIALS.—Not later than 2 years after the date of the*
22 *enactment of the Improving Education Results for*
23 *Children With Disabilities Act of 2003, the local edu-*
24 *cational agency, when purchasing instructional mate-*
25 *rials for use in public elementary and secondary*

1 *schools within the local educational agency, requires*
2 *the publisher of the instructional materials, as a part*
3 *of any purchase agreement that is made, renewed, or*
4 *revised, to prepare and supply electronic files con-*
5 *taining the contents of the instructional materials*
6 *using the national instructional materials accessi-*
7 *bility standard described in section 612(a)(23).*

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

17 “(8) *PUBLIC INFORMATION.—The local edu-*
18 *cational agency shall make available to parents of*
19 *children with disabilities and to the general public all*
20 *documents relating to the eligibility of such agency*
21 *under this part.*

22 “(9) *RECORDS REGARDING MIGRATORY CHIL-*
23 *DREN WITH DISABILITIES.—The local educational*
24 *agency shall cooperate in the Secretary’s efforts under*
25 *section 1308 of the Elementary and Secondary Edu-*

1 *cation Act of 1965 (20 U.S.C. 6398) to ensure the*
2 *linkage of records pertaining to migratory children*
3 *with a disability for the purpose of electronically ex-*
4 *changing, among the States, health and educational*
5 *information regarding such children.*

6 *“(b) EXCEPTION FOR PRIOR LOCAL PLANS.—*

7 *“(1) IN GENERAL.—If a local educational agency*
8 *or State agency has on file with the State educational*
9 *agency policies and procedures that demonstrate that*
10 *such local educational agency, or such State agency,*
11 *as the case may be, meets any requirement of sub-*
12 *section (a), including any policies and procedures*
13 *filed under this part as in effect before the effective*
14 *date of the Improving Education Results for Children*
15 *With Disabilities Act of 2003, the State educational*
16 *agency shall consider such local educational agency or*
17 *State agency, as the case may be, to have met such*
18 *requirement for purposes of receiving assistance under*
19 *this part.*

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

1 *modifications as the local educational agency deems*
2 *necessary.*

3 “(3) *MODIFICATIONS REQUIRED BY STATE EDU-*
4 *CATIONAL AGENCY.—If, after the date of the enact-*
5 *ment of the Improving Education Results for Chil-*
6 *dren With Disabilities Act of 2003, the provisions of*
7 *this Act are amended (or the regulations developed to*
8 *carry out this Act are amended), or there is a new*
9 *interpretation of this Act by Federal or State courts,*
10 *or there is an official finding of noncompliance with*
11 *Federal or State law or regulations, the State edu-*
12 *cational agency may require a local educational agen-*
13 *cy to modify its application only to the extent nec-*
14 *essary to ensure the local educational agency’s com-*
15 *pliance with this part or State law.*

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

25 “(d) *LOCAL EDUCATIONAL AGENCY COMPLIANCE.—*

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

13 “(2) *ADDITIONAL REQUIREMENT.*—*Any State*
14 *agency or local educational agency in receipt of a no-*
15 *tice described in paragraph (1) shall, by means of*
16 *public notice, take such measures as may be necessary*
17 *to bring the pendency of an action pursuant to this*
18 *subsection to the attention of the public within the ju-*
19 *risdiction of such agency.*

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

1 “(e) *JOINT ESTABLISHMENT OF ELIGIBILITY.*—

2 “(1) *JOINT ESTABLISHMENT.*—

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

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

19 “(2) *AMOUNT OF PAYMENTS.*—*If a State edu-*
20 *cational agency requires the joint establishment of eli-*
21 *gibility under paragraph (1), the total amount of*
22 *funds made available to the affected local educational*
23 *agencies shall be equal to the sum of the payments*
24 *that each such local educational agency would have*

1 *received under section 611(f) if such agencies were eli-*
2 *gible for such payments.*

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

6 “(A) *adopt policies and procedures that are*
7 *consistent with the State’s policies and proce-*
8 *dures under section 612(a); and*

9 “(B) *be jointly responsible for implementing*
10 *programs that receive assistance under this part.*

11 “(4) *REQUIREMENTS FOR EDUCATIONAL SERVICE*
12 *AGENCIES.*—

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

18 “(i) *not apply to the administration*
19 *and disbursement of any payments received*
20 *by that educational service agency; 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) *PREREFERRAL SERVICES.*—

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

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

22 “(A) *Professional development (which may*
23 *be provided by entities other than local edu-*
24 *cational agencies) for teachers to enable them to*
25 *deliver scientifically based academic and behav-*

1 *ioral interventions, including scientifically based*
2 *literacy instruction.*

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

6 “(C) *Providing behavioral evaluations and*
7 *services and supports, including positive behav-*
8 *ioral interventions and supports.*

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

12 “(4) *REPORTING.—Each local educational agen-*
13 *cy that develops and maintains comprehensive coordi-*
14 *nated prereferral educational support services under*
15 *this subsection shall annually report to the State edu-*
16 *cational agency on—*

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

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

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

1 “(A) *IN GENERAL.*—*Comprehensive coordi-*
2 *nated prereferral educational support services*
3 *provided under this subsection may be aligned*
4 *with activities funded by, and carried out under,*
5 *the Elementary and Secondary Education Act of*
6 *1965, such as the Reading First program under*
7 *subpart 1 of part B of title I of such Act, the*
8 *Early Reading First program under subpart 2 of*
9 *part B of title I of such Act, reading and math*
10 *supports under part A of title I of such Act, and*
11 *behavior intervention supports, that improve re-*
12 *sults for children with disabilities.*

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

18 “(g) *DIRECT SERVICES BY THE STATE EDUCATIONAL*
19 *AGENCY.*—

20 “(1) *IN GENERAL.*—*A State educational agency*
21 *shall use the payments that would otherwise have been*
22 *available to a local educational agency or to a State*
23 *agency to provide special education and related serv-*
24 *ices directly to children with disabilities residing in*
25 *the area served by that local agency, or for whom that*

1 *State agency is responsible, if the State educational*
2 *agency determines that the local education agency or*
3 *State agency, as the case may be—*

4 *“(A) has not provided the information need-*
5 *ed to establish the eligibility of such agency*
6 *under this section;*

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

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

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

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

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

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

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

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

1 *adopts such a policy, and the child transfers from one school*
 2 *to another, the transmission of any of the child's records*
 3 *must include both the child's current individualized edu-*
 4 *cation program and any such statement of current or pre-*
 5 *vious disciplinary action that has been taken against the*
 6 *child."*

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

10 *Section 614 of the Individuals with Disabilities Edu-*
 11 *cation Act (20 U.S.C. 1414) is amended to read as follows:*

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

15 *"(a) EVALUATIONS, PARENTAL CONSENT, AND RE-*
 16 *EVALUATIONS.—*

17 *"(1) INITIAL EVALUATIONS.—*

18 *"(A) IN GENERAL.—A State educational*
 19 *agency, other State agency, or local educational*
 20 *agency shall conduct a full and individual ini-*
 21 *tial evaluation, in accordance with this para-*
 22 *graph and subsection (b), before the initial pro-*
 23 *vision of special education and related services to*
 24 *a child with a disability under this part.*

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

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

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

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

15 “(D) *PARENTAL CONSENT.*—

16 “(i) *IN GENERAL.*—

17 “(I) *CONSENT FOR INITIAL EVAL-*
18 *UATION.*—*The agency proposing to*
19 *conduct an initial evaluation to deter-*
20 *mine if the child qualifies as a child*
21 *with a disability as defined in section*
22 *602(3)(A) or 602(3)(B) shall obtain in-*
23 *formed consent from the parent of such*
24 *child before conducting the evaluation.*
25 *Parental consent for evaluation shall*

1 *not be construed as consent for place-*
2 *ment for receipt of special education*
3 *and related services.*

4 “(II) *CONSENT FOR SERVICES.*—

5 *An agency that is responsible for mak-*
6 *ing a free appropriate public education*
7 *available to a child with a disability*
8 *under this part shall seek to obtain in-*
9 *formed consent from the parent of such*
10 *child before providing special edu-*
11 *cation and related services to the child.*

12 “(ii) *ABSENCE OF CONSENT.*—

13 “(I) *FOR INITIAL EVALUATION.*—

14 *If the parent of such child does not*
15 *provide consent for an initial evalua-*
16 *tion under clause (i)(I), or the parent*
17 *fails to respond to a request to provide*
18 *the consent, the local educational agen-*
19 *cy may pursue the initial evaluation of*
20 *the child through the procedures de-*
21 *scribed in section 615, except to the ex-*
22 *tent inconsistent with State law relat-*
23 *ing to such parental consent.*

24 “(II) *FOR SERVICES.*—*If the par-*

25 *ent of such child does not provide con-*

1 *sent for services under clause (i)(II), or*
2 *the parent fails to respond to a request*
3 *to provide the consent, the local edu-*
4 *cational agency shall not provide spe-*
5 *cial education and related services to*
6 *the child through the procedures de-*
7 *scribed in section 615.*

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

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

19 “(bb) *the local educational*
20 *agency shall not be considered to*
21 *be in violation of any requirement*
22 *under this part (including the re-*
23 *quirement to make available a*
24 *free appropriate public education*
25 *to the child) with respect to the*

1 *lack of an initial evaluation of the*
2 *child, an IEP meeting with re-*
3 *spect to the child, or the develop-*
4 *ment of an IEP under this section*
5 *for the child.*

6 “(E) *RULE OF CONSTRUCTION.*—*The screen-*
7 *ing of a student by a teacher or specialist to de-*
8 *termine appropriate instructional strategies for*
9 *curriculum implementation shall not be consid-*
10 *ered to be an evaluation for eligibility for special*
11 *education and related services.*

12 “(2) *REEVALUATIONS.*—

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

17 “(i) *if the local educational agency de-*
18 *termines that the educational needs, includ-*
19 *ing improved academic achievement, of the*
20 *child warrant a reevaluation; or*

21 “(ii) *if the child’s parent or teacher re-*
22 *quests a reevaluation.*

23 “(B) *LIMITATION.*—*A reevaluation con-*
24 *ducted under subparagraph (A) shall occur—*

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

4 “(ii) at least once every three years,
5 unless the parent and the local educational
6 agency agree that a reevaluation is unneces-
7 sary.

8 “(b) *EVALUATION PROCEDURES.*—

9 “(1) *NOTICE.*—The local educational agency
10 shall provide notice to the parent of a child with a
11 disability, in accordance with subsections (b)(3),
12 (b)(4), and (c) of section 615, that describes any eval-
13 uation procedures such agency proposes to conduct.

14 “(2) *CONDUCT OF EVALUATION.*—In conducting
15 the evaluation, the local educational agency shall—

16 “(A) use multiple up-to-date measures and
17 assessments to gather relevant functional, devel-
18 opmental, and academic information, including
19 information provided by the parent, to assist in
20 determining—

21 “(i) whether the child is a child with
22 a disability; and

23 “(ii) the content of the child’s individ-
24 ualized education program, including infor-
25 mation related to enabling the child to be

1 *involved in and progress in the general edu-*
2 *cation curriculum or, for preschool children,*
3 *to participate in appropriate activities;*

4 “(B) *not use any single measure or assess-*
5 *ment as the sole criterion for determining wheth-*
6 *er a child is a child with a disability or deter-*
7 *mining an appropriate educational program for*
8 *the child; and*

9 “(C) *use technically sound instruments that*
10 *may assess the relative contribution of cognitive*
11 *and behavioral factors, in addition to physical*
12 *or developmental factors.*

13 “(3) *ADDITIONAL REQUIREMENTS.—Each local*
14 *educational agency shall ensure that—*

15 “(A) *assessments and other evaluation*
16 *measures used to assess a child under this sec-*
17 *tion—*

18 “(i) *are selected and administered so*
19 *as not to be discriminatory on a racial or*
20 *cultural basis;*

21 “(ii) *are provided and administered, to*
22 *the extent practicable, in the language and*
23 *form most likely to yield accurate academic*
24 *and developmental data;*

1 “(iii) are used for the purposes for
2 which the assessments or measures are valid
3 and reliable;

4 “(iv) are administered by trained and
5 knowledgeable personnel; and

6 “(v) are administered in accordance
7 with any instructions provided by the pro-
8 ducer of such tests;

9 “(B) the child is assessed in all areas of sus-
10 pected disability; and

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

15 “(4) DETERMINATION OF ELIGIBILITY AND EDU-
16 CATIONAL NEED.—Upon completion of the adminis-
17 tration of assessments and other evaluation meas-
18 ures—

19 “(A) the determination of whether the child
20 is a child with a disability as defined in section
21 602(3) and the educational needs of the child
22 shall be made by a team of qualified profes-
23 sionals and the parent of the child in accordance
24 with paragraph (5); and

1 “(B) a copy of the evaluation report and the
2 documentation of determination of eligibility
3 will be given to the parent.

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

9 “(A) *lack of scientifically based instruction*
10 *practices and programs that contain the essen-*
11 *tial components of reading instruction (as that*
12 *term is defined in section 1208(3) of the Elemen-*
13 *tary and Secondary Education Act of 1965);*

14 “(B) *lack of instruction in math; or*

15 “(C) *limited English proficiency.*

16 “(6) *SPECIFIC LEARNING DISABILITIES.*—

17 “(A) *IN GENERAL.*—*Notwithstanding sec-*
18 *tion 607 of this Act, when determining whether*
19 *a child has a specific learning disability as de-*
20 *finied under this Act, the local educational agen-*
21 *cy shall not be required to take into consider-*
22 *ation whether the child has a severe discrepancy*
23 *between achievement and intellectual ability in*
24 *oral expression, listening comprehension, written*
25 *expression, basic reading skill, reading com-*

1 *prehension, mathematical calculation, or mathe-*
2 *matical reasoning.*

3 “(B) *ADDITIONAL AUTHORITY.*—*In deter-*
4 *mining whether a child has a specific learning*
5 *disability, a local educational agency may use a*
6 *process which determines if a child responds to*
7 *scientific, research-based intervention.*

8 “(c) *ADDITIONAL REQUIREMENTS FOR EVALUATION*
9 *AND REEVALUATIONS.*—

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

15 “(A) *review existing evaluation data on the*
16 *child, including evaluations and information*
17 *provided by the parents of the child, current*
18 *classroom-based local or State assessments, and*
19 *classroom-based observations, and teacher and*
20 *related services providers observations; and*

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

24 “(i) *whether the child is a child with*
25 *a disability as defined in section 602(3),*

1 *and the educational needs of the child, or,*
2 *in case of a reevaluation of a child, whether*
3 *the child continues to have such a disability*
4 *and such educational needs;*

5 *“(ii) the present levels of academic*
6 *achievement and related developmental*
7 *needs of the child;*

8 *“(iii) whether the child needs special*
9 *education and related services, or in the*
10 *case of a reevaluation of a child, whether*
11 *the child continues to need special education*
12 *and related services; and*

13 *“(iv) whether any additions or modi-*
14 *fications to the special education and re-*
15 *lated services are needed to enable the child*
16 *to meet the measurable annual goals set out*
17 *in the individualized education program of*
18 *the child and to participate, as appropriate,*
19 *in the general education curriculum.*

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

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

10 “(4) *REQUIREMENTS IF ADDITIONAL DATA ARE*
11 *NOT NEEDED.*—*If the IEP Team and other qualified*
12 *professionals, as appropriate, determine that no addi-*
13 *tional data are needed to determine whether the child*
14 *continues to be a child with a disability and to deter-*
15 *mine the child’s educational needs, the local edu-*
16 *cational agency—*

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

18 “(i) *that determination and the rea-*
19 *sons for it; and*

20 “(ii) *the right of such parents to re-*
21 *quest an assessment to determine whether*
22 *the child continues to be a child with a dis-*
23 *ability and to determine the child’s edu-*
24 *cational needs; and*

1 “(B) shall not be required to conduct such
2 an assessment unless requested to by the child’s
3 parents.

4 “(5) *EVALUATIONS BEFORE CHANGE IN ELIGI-*
5 *BILITY.—A local educational agency shall evaluate a*
6 *child with a disability in accordance with this section*
7 *prior to graduation, and before determining that the*
8 *child is no longer a child with a disability, only in*
9 *instances where the IEP Team is not in agreement re-*
10 *garding the change in eligibility.*

11 “(d) *INDIVIDUALIZED EDUCATION PROGRAMS.—*

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

13 “(A) *INDIVIDUALIZED EDUCATION PRO-*
14 *GRAM.—*

15 “(i) *IN GENERAL.—The term ‘individ-*
16 *ualized education program’ or ‘IEP’ means*
17 *a written statement for each child with a*
18 *disability that is developed, reviewed, and*
19 *revised in accordance with this section and*
20 *that includes—*

21 “(I) *a statement of the child’s*
22 *present levels of academic achievement,*
23 *including—*

24 “(aa) *how the child’s dis-*
25 *ability affects the child’s involve-*

1 *ment and progress in the general*
2 *education curriculum;*

3 *“(bb) for preschool children,*
4 *as appropriate, how the disability*
5 *affects the child’s participation in*
6 *appropriate activities; and*

7 *“(cc) until the beginning of*
8 *the 2005–2006 school year, a de-*
9 *scription of benchmarks or short-*
10 *term objectives, except in the case*
11 *of children with disabilities who*
12 *take alternate assessments aligned*
13 *to alternate achievement stand-*
14 *ards, a description of benchmarks*
15 *or short-term objectives shall con-*
16 *tinue to be included;*

17 *“(II) a statement of measurable*
18 *annual goals designed to—*

19 *“(aa) meet the child’s needs*
20 *that result from the child’s dis-*
21 *ability to enable the child to be*
22 *involved in and make progress in*
23 *the general education curriculum;*
24 *and*

1 “(bb) meet the child’s other
2 educational needs that result from
3 the child’s disability;

4 “(III) a statement of the special
5 education and related services and sup-
6 plementary aids and services, based on
7 peer-reviewed research to the extent
8 practicable, to be provided to the child,
9 or on behalf of the child, and a state-
10 ment of the program modifications or
11 supports for school personnel that will
12 be provided for the child—

13 “(aa) to advance appro-
14 priately toward attaining the an-
15 nual goals;

16 “(bb) to be involved in and
17 make progress in the general edu-
18 cation curriculum in accordance
19 with subclause (I) and to partici-
20 pate in extracurricular and other
21 nonacademic activities; and

22 “(cc) to be educated and par-
23 ticipate with other children with
24 disabilities and nondisabled chil-

1 dren in the activities described in
2 this paragraph;

3 “(IV) an explanation of the ex-
4 tent, if any, to which the child will not
5 participate with nondisabled children
6 in the regular class and in the activi-
7 ties described in subclause (III)(cc);

8 “(V)(aa) a statement of any indi-
9 vidual appropriate accommodations in
10 the administration of State or district-
11 wide assessments of student achieve-
12 ment that are necessary to measure the
13 academic achievement of the child con-
14 sistent with section 612(a)(16)(A)(ii);
15 and

16 “(bb) if the IEP Team determines
17 that the child will not participate in a
18 particular State or districtwide assess-
19 ment of student achievement (or part
20 of such an assessment), a statement
21 of—

22 “(AA) why that assessment is
23 not appropriate for the child; and

1 “(BB) how the child will be
2 assessed consistent with
3 612(a)(16)(A);

4 “(VI) the projected date for the be-
5 ginning of the services and modifica-
6 tions described in subclause (III), and
7 the anticipated frequency, location,
8 and duration of those services and
9 modifications;

10 “(VII)(aa) beginning at age 14,
11 and updated annually, a statement of
12 the transition service needs of the child
13 under the applicable components of the
14 child’s IEP that focuses on the child’s
15 courses of study (such as participation
16 in advanced-placement courses or a vo-
17 cational education program);

18 “(bb) beginning at age 16 (or
19 younger, if determined appropriate by
20 the IEP Team), a statement of needed
21 transition services for the child, includ-
22 ing, when appropriate, a statement of
23 the interagency responsibilities or any
24 needed linkages; and

1 “(cc) *beginning at least 1 year be-*
2 *fore the child reaches the age of major-*
3 *ity under State law, a statement that*
4 *the child has been informed of his or*
5 *her rights under this title, if any, that*
6 *will transfer to the child on reaching*
7 *the age of majority under section*
8 *615(l); and*

9 “(VIII) *a statement of—*

10 “(aa) *how the child’s*
11 *progress toward the annual goals*
12 *described in subclause (II) will be*
13 *measured; and*

14 “(bb) *how the child’s parents*
15 *will be regularly informed (by*
16 *such means as periodic report*
17 *cards), at least as often as parents*
18 *are informed of their nondisabled*
19 *children’s progress, of the suffi-*
20 *ciency of their child’s progress to-*
21 *ward the annual goals described*
22 *in subclause (II).*

23 “(ii) *RULE OF CONSTRUCTION.—Noth-*
24 *ing in this subparagraph shall be construed*
25 *to require—*

1 “(I) that additional information
2 be included in a child’s IEP beyond
3 what is required in this subsection;
4 and

5 “(II) the IEP Team to include in-
6 formation under one component of a
7 child’s IEP that is already contained
8 under another component of such IEP.

9 “(B) *INDIVIDUALIZED EDUCATION PROGRAM*
10 *TEAM.*—The term ‘individualized education pro-
11 gram team’ or ‘IEP Team’ means a group of in-
12 dividuals composed of—

13 “(i) the parents of a child with a dis-
14 ability;

15 “(ii) a regular education teacher of
16 such child, but such teacher shall not be re-
17 quired to attend a meeting or part of a
18 meeting of the IEP Team involving issues
19 not related to the child’s participation in
20 the regular education environment, nor
21 shall multiple regular education teachers, if
22 the child has more than one regular edu-
23 cation teacher, be required to attend a meet-
24 ing, or part of a meeting, of the IEP team;

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

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

6 “(I) is qualified to provide, or su-
7 pervise the provision of, specially de-
8 signed instruction to meet the unique
9 needs of children with disabilities;

10 “(II) is knowledgeable about the
11 general education curriculum; and

12 “(III) is knowledgeable about the
13 availability of resources of the local
14 educational agency;

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

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

24 “(vii) whenever appropriate, the child
25 with a disability.

1 “(2) *REQUIREMENT THAT PROGRAM BE IN EF-*
2 *FECT.—*

3 “(A) *IN GENERAL.—At the beginning of*
4 *each school year, each local educational agency,*
5 *State educational agency, or other State agency,*
6 *as the case may be, shall have in effect, for each*
7 *child with a disability in its jurisdiction, an in-*
8 *dividualized education program, as defined in*
9 *paragraph (1)(A).*

10 “(B) *PROGRAM FOR CHILD AGED 3*
11 *THROUGH 5.—In the case of a child with a dis-*
12 *ability aged 3 through 5 (or, at the discretion of*
13 *the State educational agency, a 2 year-old child*
14 *with a disability who will turn age 3 during the*
15 *school year), the IEP Team shall consider the in-*
16 *dividualized family service plan that contains*
17 *the material described in section 636, and that*
18 *is developed in accordance with this section, and*
19 *the individualized family service plan may serve*
20 *as the IEP of the child if using that plan as the*
21 *IEP is—*

22 “(i) *consistent with State policy; and*

23 “(ii) *agreed to by the agency and the*
24 *child’s parents.*

25 “(3) *DEVELOPMENT OF IEP.—*

1 “(A) *IN GENERAL.*—*In developing each*
2 *child’s IEP, the IEP Team, subject to subpara-*
3 *graph (C), shall consider—*

4 “(i) *the results of the initial evaluation*
5 *or most recent evaluation of the child;*

6 “(ii) *the academic and developmental*
7 *needs of the child;*

8 “(iii) *the strengths of the child; and*

9 “(iv) *the concerns of the parents for en-*
10 *hancing the education of their child.*

11 “(B) *CONSIDERATION OF SPECIAL FAC-*
12 *TORS.*—*The IEP Team shall—*

13 “(i) *in the case of a child whose behav-*
14 *ior impedes his or her learning or that of*
15 *others, consider the use of positive behav-*
16 *ioral interventions and supports, and other*
17 *strategies, to address that behavior;*

18 “(ii) *in the case of a child with limited*
19 *English proficiency, consider the language*
20 *needs of the child as such needs relate to the*
21 *child’s IEP;*

22 “(iii) *in the case of a child who is*
23 *blind or visually impaired, provide for in-*
24 *struction in Braille and the use of Braille*
25 *unless the IEP Team determines, after an*

1 *evaluation of the child’s reading and writ-*
2 *ing skills, needs, and appropriate reading*
3 *and writing media (including an evalua-*
4 *tion of the child’s future needs for instruc-*
5 *tion in Braille or the use of Braille), that*
6 *instruction in Braille or the use of Braille*
7 *is not appropriate for the child;*

8 *“(iv) consider the communication*
9 *needs of the child, and in the case of a child*
10 *who is deaf or hard of hearing, consider the*
11 *child’s language and communication needs,*
12 *opportunities for direct communications*
13 *with peers and professional personnel in the*
14 *child’s language and communication mode,*
15 *academic level, and full range of needs, in-*
16 *cluding opportunities for direct instruction*
17 *in the child’s language and communication*
18 *mode; and*

19 *“(v) consider whether the child needs*
20 *assistive technology devices and services.*

21 *“(C) REQUIREMENT WITH RESPECT TO*
22 *REGULAR EDUCATION TEACHER.—The regular*
23 *education teacher of the child, if a member of the*
24 *IEP Team pursuant to paragraph (1)(B)(ii),*
25 *shall, to the extent appropriate, participate in*

1 *the development of the IEP of the child, includ-*
2 *ing the determination of appropriate positive be-*
3 *havioral interventions and supports, and other*
4 *strategies and the determination of supple-*
5 *mentary aids and services, program modifica-*
6 *tions, and support for school personnel consistent*
7 *with paragraph (1)(A)(i)(III).*

8 “(D) *IEP TEAM ATTENDANCE.*—*The parent*
9 *of a child with a disability and the local edu-*
10 *cational agency may jointly excuse any member*
11 *of the IEP Team from attending all or part of*
12 *an IEP meeting if they agree that the member’s*
13 *attendance is not necessary. The IEP Team shall*
14 *obtain the member’s input prior to an IEP meet-*
15 *ing from which the member is excused.*

16 “(E) *AGREEMENT ON MEETING.*—*In mak-*
17 *ing changes to a child’s IEP after the annual*
18 *IEP meeting, the parent of a child with a dis-*
19 *ability and the local educational agency may*
20 *agree not to reconvene the IEP team and instead*
21 *develop a written document to amend or modify*
22 *the child’s current IEP.*

23 “(F) *CONSOLIDATION OF IEP TEAM MEET-*
24 *INGS.*—*To the extent possible, the local edu-*

1 *cational agency shall encourage the consolidation*
2 *of IEP Team meetings for a child.*

3 “(G) *AMENDMENTS.—Changes to the IEP*
4 *may be made either by the entire IEP Team or,*
5 *as provided in subparagraph (E), by amending*
6 *the IEP rather than by redrafting the entire*
7 *IEP.*

8 “(4) *REVIEW AND REVISION OF IEP.—*

9 “(A) *IN GENERAL.—The local educational*
10 *agency shall ensure that, subject to subparagraph*
11 *(B), the IEP Team—*

12 “(i) *reviews the child’s IEP periodi-*
13 *cally, but not less than annually, to deter-*
14 *mine whether the annual goals for the child*
15 *are being achieved; and*

16 “(ii) *revises the IEP as appropriate to*
17 *address—*

18 “(I) *any lack of expected progress*
19 *toward the annual goals and in the*
20 *general education curriculum, where*
21 *appropriate;*

22 “(II) *the results of any reevalua-*
23 *tion conducted under this section;*

1 “(III) information about the child
2 provided to, or by, the parents, as de-
3 scribed in subsection (c)(1)(B);

4 “(IV) the child’s anticipated
5 needs; or

6 “(V) other matters.

7 “(B) *REQUIREMENT WITH RESPECT TO*
8 *REGULAR EDUCATION TEACHER.*—The regular
9 education teacher of the child, if a member of the
10 IEP Team, shall, consistent with this section,
11 participate in the review and revision of the IEP
12 of the child.

13 “(5) *MULTI-YEAR IEP.*—

14 “(A) *DEVELOPMENT.*—The local educational
15 agency may offer to the parent of a child with
16 a disability the option of developing a com-
17 prehensive multi-year IEP, not to exceed 3 years,
18 that is designed to cover the natural transition
19 points for the child. With the consent of the par-
20 ent, the IEP Team shall develop an IEP, as de-
21 scribed in paragraphs (1) and (3), that is de-
22 signed to serve the child for the appropriate
23 multi-year period, which includes a statement
24 of—

1 “(i) measurable goals pursuant to
2 paragraph (1)(A)(i)(II), coinciding with
3 natural transition points for the child, that
4 will enable the child to be involved in and
5 make progress in the general education cur-
6 riculum and that will meet the child’s other
7 needs that result from the child’s disability;
8 and

9 “(ii) measurable annual goals for de-
10 termining progress toward meeting the goals
11 described in clause (i).

12 “(B) REVIEW AND REVISION OF MULTI-YEAR
13 IEP.—

14 “(i) REQUIREMENT.—The IEP Team
15 shall conduct a review under paragraph (4)
16 of the child’s multi-year IEP at each of the
17 child’s natural transition points.

18 “(ii) STREAMLINED ANNUAL REVIEW
19 PROCESS.—In years other than a child’s
20 natural transition points, the local edu-
21 cational agency shall ensure that the IEP
22 Team—

23 “(I) provides an annual review of
24 the child’s IEP to determine the child’s
25 current levels of progress and deter-

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

3 “*(II) amends the IEP, as appro-*
4 *prate, to enable the child to continue*
5 *to meet the measurable goals set out in*
6 *the IEP.*

7 “*(iii) COMPREHENSIVE REVIEW PROC-*
8 *ESS.—If the IEP Team determines, on the*
9 *basis of the review under clause (i), that the*
10 *child is not making sufficient progress to-*
11 *ward the goals described in subparagraph*
12 *(A), the local educational agency shall en-*
13 *sure that the IEP Team reviews the IEP*
14 *under paragraph (4), within 30 calendar*
15 *days.*

16 “*(iv) PARENTAL PREFERENCE.—At the*
17 *request of the parent, the IEP Team shall*
18 *conduct a review under paragraph (4) of*
19 *the child’s multi-year IEP rather than a*
20 *streamlined annual review under clause*
21 *(ii).*

22 “*(C) DEFINITION.—As used in this para-*
23 *graph, the term ‘natural transition points’*
24 *means those periods that are close in time to the*
25 *transition of a child with a disability from pre-*

1 *school to elementary grades, from elementary*
2 *grades to middle or junior high school grades,*
3 *from middle or junior high school grades to high*
4 *school grades, and from high school grades to*
5 *post-secondary activities, but in no case longer*
6 *than 3 years.*

7 “(6) *FAILURE TO MEET TRANSITION OBJEC-*
8 *TIVES.—If a participating agency, other than the*
9 *local educational agency, fails to provide the transi-*
10 *tion services described in the IEP in accordance with*
11 *paragraph (1)(A)(i)(VII), the local educational agen-*
12 *cy shall reconvene the IEP Team to identify alter-*
13 *native strategies to meet the transition objectives for*
14 *the child set out in that program.*

15 “(7) *CHILDREN WITH DISABILITIES IN ADULT*
16 *PRISONS.—*

17 “(A) *IN GENERAL.—The following require-*
18 *ments do not apply to children with disabilities*
19 *who are convicted as adults under State law and*
20 *incarcerated in adult prisons:*

21 “(i) *The requirements contained in sec-*
22 *tion 612(a)(16) and paragraph (1)(A)(i)(V)*
23 *of this subsection (relating to participation*
24 *of children with disabilities in general as-*
25 *essments).*

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

8 “(B) *ADDITIONAL REQUIREMENT.—If a*
9 *child with a disability is convicted as an adult*
10 *under State law and incarcerated in an adult*
11 *prison, the child’s IEP Team may modify the*
12 *child’s IEP or placement notwithstanding the re-*
13 *quirements of sections 612(a)(5)(A) and*
14 *614(d)(1)(A) if the State has demonstrated a*
15 *bona fide security or compelling penological in-*
16 *terest that cannot otherwise be accommodated.*

17 “(e) *EDUCATIONAL PLACEMENTS.—Each local edu-*
18 *cational agency or State educational agency shall ensure*
19 *that the parents of each child with a disability are members*
20 *of any group that makes decisions on the educational place-*
21 *ment of their child.*

22 “(f) *ALTERNATIVE MEANS OF MEETING PARTICIPA-*
23 *TION.—When conducting IEP team meetings and place-*
24 *ment meetings pursuant to this section and 615, the parent*
25 *of a child with a disability and a local educational agency*

1 *may agree to use alternative means of meeting participa-*
2 *tion, such as video conferences and conference calls.”.*

3 **SEC. 205. PROCEDURAL SAFEGUARDS.**

4 *(a) ESTABLISHMENT OF PROCEDURES.—Section*
5 *615(a) of the Individuals with Disabilities Education Act*
6 *(20 U.S.C. 1415(a)) is amended to read as follows:*

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

15 *(b) TYPES OF PROCEDURES.—Section 615(b) of the In-*
16 *dividuals with Disabilities Education Act (20 U.S.C.*
17 *1415(b)) is amended to read as follows:*

18 *“(b) TYPES OF PROCEDURES.—The procedures re-*
19 *quired by this section shall include—*

20 *“(1) an opportunity for the parents of a child*
21 *with a disability to examine all records relating to*
22 *such child and to participate in meetings with respect*
23 *to the identification, evaluation, and educational*
24 *placement of the child, and the provision of a free ap-*
25 *propriate public education to such child, and to ob-*

1 *tain as appropriate an independent educational eval-*
2 *uation of the child;*

3 *“(2) procedures to protect the rights of the child*
4 *whenever the parents of the child are not known, the*
5 *agency cannot, after reasonable efforts, locate the par-*
6 *ents, or the child is a ward of the State, including the*
7 *assignment of an individual (who shall not be an em-*
8 *ployee of the State educational agency, the local edu-*
9 *cational agency, or any other agency that is involved*
10 *in the education or care of the child) to act as a sur-*
11 *rogate for the parents;*

12 *“(3) written prior notice to the parents of the*
13 *child whenever such agency—*

14 *“(A) proposes to initiate or change; or*

15 *“(B) refuses to initiate or change;*

16 *the identification, evaluation, or educational place-*
17 *ment of the child, in accordance with subsection (c),*
18 *or the provision of a free appropriate public edu-*
19 *cation to the child;*

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

1 “(5) an opportunity for mediation and vol-
2 untary binding arbitration, in accordance with sub-
3 section (e);

4 “(6) an opportunity to present complaints—

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

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

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

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

21 “(ii) that shall include—

22 “(I) the name of the child, the address
23 of the residence of the child (or, in the case
24 of a homeless child or youth (within the
25 meaning of section 725(2) of the McKinney-

1 *Vento Homeless Assistance Act (42 U.S.C.*
2 *11434a(2)), available contact information*
3 *for the child), and the name of the school the*
4 *child is attending;*

5 *“(II) a description of the specific issues*
6 *regarding the nature of the problem of the*
7 *child relating to such proposed initiation or*
8 *change, including facts relating to such*
9 *problem; and*

10 *“(III) a proposed resolution of the*
11 *problem to the extent known and available*
12 *to the parents at the time;*

13 *“(B) a requirement that a parent of a child with*
14 *a disability may not have a due process hearing until*
15 *the parent, or the attorney representing the child, files*
16 *a notice that meets the requirements of this para-*
17 *graph; and*

18 *“(8) procedures that require the State edu-*
19 *cational agency to develop a model form to assist par-*
20 *ents in filing a complaint in accordance with para-*
21 *graph (7).”.*

22 *(c) CONTENT OF PRIOR WRITTEN NOTICE.—Section*
23 *615(c) of the Individuals with Disabilities Education Act*
24 *(20 U.S.C. 1415(c)) is amended to read as follows:*

1 “(c) *CONTENT OF PRIOR WRITTEN NOTICE.*—The no-
2 *tice required by subsection (b)(3) shall include—*

3 “(1) *a description of the action proposed or re-*
4 *fused by the agency;*

5 “(2) *an explanation of why the agency proposes*
6 *or refuses to take the action and a description of each*
7 *evaluation procedure, test, record, or report the agen-*
8 *cy used as a basis for the proposed or refused action;*

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

15 “(4) *sources for parents to contact to obtain as-*
16 *sistance in understanding the provisions of this*
17 *part.”.*

18 “(d) *PROCEDURAL SAFEGUARDS NOTICE.*—Section
19 *615(d) of the Individuals with Disabilities Education Act*
20 *(20 U.S.C. 1415(d)) is amended to read as follows:*

21 “(d) *PROCEDURAL SAFEGUARDS NOTICE.*—

22 “(1) *IN GENERAL.*—A copy of the procedural
23 *safeguards available to the parents of a child with a*
24 *disability shall be given to the parents, at a min-*
25 *imum—*

1 “(A) upon initial referral or parental re-
2 quest for evaluation;

3 “(B) annually, at the beginning of the
4 school year; and

5 “(C) upon written request by a parent.

6 “(2) CONTENTS.—The procedural safeguards no-
7 tice shall include a description of the procedural safe-
8 guards, written in the native language of the parents,
9 unless it clearly is not feasible to do so, and written
10 in an easily understandable manner, available under
11 this section and under regulations promulgated by the
12 Secretary relating to—

13 “(A) independent educational evaluation;

14 “(B) prior written notice;

15 “(C) parental consent;

16 “(D) access to educational records;

17 “(E) opportunity to present complaints;

18 “(F) the child’s placement during pendency
19 of due process proceedings;

20 “(G) procedures for students who are subject
21 to placement in an interim alternative edu-
22 cational setting;

23 “(H) requirements for unilateral placement
24 by parents of children in private schools at pub-
25 lic expense;

1 “(I) mediation, early dispute resolution,
2 and voluntary binding arbitration;

3 “(J) due process hearings, including re-
4 quirements for disclosure of evaluation results
5 and recommendations;

6 “(K) civil actions; and

7 “(L) attorneys’ fees.”.

8 (e) *MEDIATION AND VOLUNTARY BINDING ARBITRA-*
9 *TION.—Section 615(e) of the Individuals with Disabilities*
10 *Education Act (20 U.S.C. 1415(e)) is amended to read as*
11 *follows:*

12 “(e) *MEDIATION AND VOLUNTARY BINDING ARBITRA-*
13 *TION.—*

14 “(1) *MEDIATION.—*

15 “(A) *IN GENERAL.—Any State educational*
16 *agency or local educational agency that receives*
17 *assistance under this part shall ensure that pro-*
18 *cedures are established and implemented to allow*
19 *parties to disputes involving any matter, includ-*
20 *ing matters arising prior to the filing of a com-*
21 *plaint pursuant to subsection (b)(6), to resolve*
22 *such disputes through a mediation process.*

23 “(B) *REQUIREMENTS.—Such procedures*
24 *shall meet the following requirements:*

1 “(i) *The procedures shall ensure that*
2 *the mediation process—*

3 “(I) *is voluntary on the part of*
4 *the parties;*

5 “(II) *is not used to deny or delay*
6 *a parent’s right to a due process hear-*
7 *ing under subsection (f), or to deny*
8 *any other rights afforded under this*
9 *part; and*

10 “(III) *is conducted by a qualified*
11 *and impartial mediator who is trained*
12 *in effective mediation techniques.*

13 “(ii) *A local educational agency or a*
14 *State agency may establish procedures to*
15 *offer to parents who choose not to use the*
16 *mediation process, an opportunity to meet,*
17 *at a time and location convenient to the*
18 *parents, with a disinterested party who is*
19 *under contract with—*

20 “(I) *a parent training and infor-*
21 *mation center in the State established*
22 *under section 672; or*

23 “(II) *an appropriate alternative*
24 *dispute resolution entity;*

1 to encourage the use, and explain the bene-
2 fits, of the mediation process to the parents.

3 “(iii) The State shall maintain a list
4 of individuals who are qualified mediators
5 and knowledgeable in laws and regulations
6 relating to the provision of special edu-
7 cation and related services.

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

11 “(v) Each session in the mediation
12 process shall be scheduled in a timely man-
13 ner and shall be held in a location that is
14 convenient to the parties to the dispute.

15 “(vi) An agreement reached by the par-
16 ties to the dispute in the mediation process
17 shall be set forth in a written mediation
18 agreement.

19 “(vii) Discussions that occur during
20 the mediation process shall be confidential
21 and may not be used as evidence in any
22 subsequent due process hearings or civil
23 proceedings and the parties to the medi-
24 ation process may be required to sign a con-

1 *fidentiality pledge prior to the commence-*
2 *ment of such process.*

3 “(2) *VOLUNTARY BINDING ARBITRATION.*—

4 “(A) *IN GENERAL.*—*A State educational*
5 *agency that receives assistance under this part*
6 *shall ensure that procedures are established and*
7 *implemented to allow parties to disputes involv-*
8 *ing any matter described in subsection (b)(6) to*
9 *resolve such disputes through voluntary binding*
10 *arbitration, which shall be available when a*
11 *hearing is requested under subsection (f) or (j).*

12 “(B) *REQUIREMENTS.*—*Such procedures*
13 *shall meet the following requirements:*

14 “(i) *The procedures shall ensure that*
15 *the voluntary binding arbitration process—*

16 “(I) *is voluntarily and knowingly*
17 *agreed to in writing by the parties;*
18 *and*

19 “(II) *is conducted by a qualified*
20 *and impartial arbitrator.*

21 “(ii) *A local educational agency or a*
22 *State agency shall ensure that parents who*
23 *choose to use voluntary binding arbitration*
24 *understand that the process is in lieu of a*
25 *due process hearing under subsection (f) or*

1 (j) and that the decision made by the arbi-
2 trator is final, unless there is fraud by a
3 party or the arbitrator or misconduct on the
4 part of the arbitrator.

5 “(iii) The parties shall jointly agree to
6 use an arbitrator from a list that the State
7 shall maintain of individuals who are
8 qualified arbitrators and knowledgeable in
9 laws and regulations relating to the provi-
10 sion of special education and related serv-
11 ices.

12 “(iv) The arbitration shall be con-
13 ducted according to State law on arbitra-
14 tion or, if there is no such applicable State
15 law, in a manner consistent with the Re-
16 vised Uniform Arbitration Act.

17 “(v) The voluntary binding arbitration
18 shall be scheduled in a timely manner and
19 shall be held in a location that is convenient
20 to the parties to the dispute.”.

21 (f) *IMPARTIAL DUE PROCESS HEARING.*—Section
22 615(f) of the *Individuals with Disabilities Education Act*
23 (20 U.S.C. 1415(f)) is amended to read as follows:

24 “(f) *IMPARTIAL DUE PROCESS HEARING.*—

25 “(1) *IN GENERAL.*—

1 “(A) *ACCESS TO HEARING.*—Whenever a
2 *complaint has been received under subsection*
3 *(b)(6) or (j) of this section, the parents or the*
4 *local educational agency involved in such com-*
5 *plaint shall have an opportunity for an impar-*
6 *tial due process hearing, which shall be con-*
7 *ducted by the State educational agency.*

8 “(B) *RESOLUTION SESSION.*—

9 “(i) *IN GENERAL.*—Prior to the oppor-
10 *tunity for an impartial due process hearing*
11 *under subparagraph (A), the local edu-*
12 *cational agency shall convene a meeting*
13 *with the parents—*

14 “(I) *within 15 days of receiving*
15 *notice of the parents’ complaint; and*

16 “(II) *where the parents of the*
17 *child discuss their complaint, and the*
18 *specific issues that form the basis of the*
19 *complaint, and the local educational*
20 *agency is provided the opportunity to*
21 *resolve the complaint;*

22 *unless the parents and the local educational*
23 *agency agree in writing to waive such meet-*
24 *ing.*

1 “(ii) *DUE PROCESS HEARING.*—If the
2 *local educational agency has not resolved*
3 *the complaint to the satisfaction of the par-*
4 *ents within 30 days of the receipt of the*
5 *complaint, the due process hearing shall*
6 *occur in accordance with subparagraph (A).*

7 “(iii) *DEFINITION OF MEETING.*—A
8 *meeting conducted pursuant to clause (i)*
9 *shall not be considered—*

10 “(I) *a meeting convened as a re-*
11 *sult of an administrative hearing or*
12 *judicial action; or*

13 “(II) *an administrative hearing*
14 *or judicial action for purposes of sub-*
15 *section (h)(3).*

16 “(2) *DISCLOSURE OF EVALUATIONS AND REC-*
17 *COMMENDATIONS.*—

18 “(A) *IN GENERAL.*—At least 5 business days
19 *prior to a hearing conducted pursuant to para-*
20 *graph (1), each party shall disclose to all other*
21 *parties all evaluations completed by that date*
22 *and recommendations based on the offering par-*
23 *ty’s evaluations that the party intends to use at*
24 *the hearing.*

1 “(B) *FAILURE TO DISCLOSE.*—A hearing of-
2 *ficer may bar any party that fails to comply*
3 *with subparagraph (A) from introducing the rel-*
4 *evant evaluation or recommendation at the hear-*
5 *ing without the consent of the other party.*

6 “(3) *LIMITATION ON HEARING.*—

7 “(A) *HEARING OFFICER.*—A hearing con-
8 *ducted pursuant to paragraph (1)(A) may not be*
9 *conducted by—*

10 “(i) *an employee of the State edu-*
11 *cational agency or the local educational*
12 *agency involved in the education or care of*
13 *the child; or*

14 “(ii) *any person having a personal or*
15 *professional interest that would conflict*
16 *with his or her objectivity in the hearing.*

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

24 “(C) *DECISION OF HEARING OFFICER.*—*A*
25 *decision made by a hearing officer must be based*

1 *on a determination of whether or not the child*
2 *received a free appropriate public education.”.*

3 *(g) APPEAL.—Section 615 of the Individuals with Dis-*
4 *abilities Education Act (20 U.S.C. 1415) is amended by*
5 *striking subsection (g).*

6 *(h) SAFEGUARDS.—Section 615 of the Individuals*
7 *with Disabilities Education Act (20 U.S.C. 1415) is amend-*
8 *ed—*

9 *(1) by redesignating subsection (h) as subsection*
10 *(g); and*

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

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

15 *“(1) the right to be represented by counsel and*
16 *by non-attorney advocates and to be accompanied and*
17 *advised by individuals with special knowledge or*
18 *training with respect to the problems of children with*
19 *disabilities;*

20 *“(2) the right to present evidence and confront,*
21 *cross-examine, and compel the attendance of wit-*
22 *nesses;*

23 *“(3) the right to a written, or, at the option of*
24 *the parents, electronic verbatim record of such hear-*
25 *ing; and*

1 “(4) the right to written, or, at the option of the
2 parents, electronic findings of fact and decisions
3 (which findings and decisions shall be made available
4 to the public consistent with the requirements of sec-
5 tion 617(d)) (relating to the confidentiality of data,
6 information, and records).”.

7 (i) *ADMINISTRATIVE PROCEDURES*.—Section 615 of
8 the *Individuals with Disabilities Education Act* (20 U.S.C.
9 1415) is amended—

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

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

13 (A) in paragraph (1)—

14 (i) by striking “*IN GENERAL*.—” and
15 all that follows through “*A decision made*
16 *in a hearing*” and inserting “*IN GEN-*
17 *ERAL.—A decision made in a hearing*”;

18 (ii) by striking “(k)” and inserting
19 “(j)”;

20 (iii) by striking “subsection (g) and”;

21 and

22 (iv) by striking subparagraph (B);

23 (B) in paragraph (2)(A), by striking “sub-
24 section (f) or (k) who does not have the right to

1 *an appeal under subsection (g)” and inserting*
2 *“subsection (f) or (j)”;* and

3 *(C) in paragraph (3), by amending sub-*
4 *paragraph (C) to read as follows:*

5 *“(C) DETERMINATION OF AMOUNT OF AT-*
6 *TORNEYS’ FEES.—*

7 *“(i) IN GENERAL.—Fees awarded*
8 *under this paragraph shall be based on*
9 *rates determined by the Governor of the*
10 *State (or other appropriate State official)*
11 *in which the action or proceeding arose for*
12 *the kind and quality of services furnished.*
13 *No bonus or multiplier may be used in cal-*
14 *culating the fees awarded under this sub-*
15 *section.*

16 *“(ii) NOTICE.—The Governor of the*
17 *State (or other appropriate State official)*
18 *shall make available to the public on an an-*
19 *nual basis the rates described in clause*
20 *(i).”.*

21 *(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACE-*
22 *MENT.—Section 615 of the Individuals with Disabilities*
23 *Education Act (20 U.S.C. 1415) is amended—*

24 *(1) by redesignating subsection (j) as subsection*
25 *(i); and*

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

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

13 (k) *PLACEMENT IN ALTERNATIVE EDUCATIONAL SET-*
 14 *TING.—Section 615 of the Individuals with Disabilities*
 15 *Education Act (20 U.S.C. 1415) is amended—*

16 (1) *by redesignating subsection (k) as subsection*
 17 *(j); and*

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

20 “(j) *PLACEMENT IN ALTERNATIVE EDUCATIONAL SET-*
 21 *TING.—*

22 “(1) *AUTHORITY OF SCHOOL PERSONNEL.—*

23 “(A) *IN GENERAL.—School personnel under*
 24 *this section may order a change in the placement*
 25 *of a child with a disability who violates a code*

1 *of student conduct policy to an appropriate in-*
2 *terim alternative educational setting, another*
3 *setting, or suspension, for not more than 10*
4 *school days (to the extent such alternatives would*
5 *be applied to children without disabilities).*

6 “(B) *ADDITIONAL AUTHORITY.*—*Subject to*
7 *subparagraph (C), and notwithstanding any*
8 *other provision of this Act, school personnel*
9 *under this section may order a change in the*
10 *placement of a child with a disability who vio-*
11 *lates a code of student conduct policy to an ap-*
12 *propriate interim alternative educational setting*
13 *selected so as to enable the child to continue to*
14 *participate in the general education curriculum,*
15 *although in another setting, and to progress to-*
16 *ward meeting the goals set out in the child’s*
17 *IEP, for not more than 45 school days (to the ex-*
18 *tent such alternative and such duration would be*
19 *applied to children without disabilities, and*
20 *which may include consideration of unique cir-*
21 *cumstances on a case-by-case basis), except that*
22 *the change in placement may last beyond 45*
23 *school days if required by State law or regula-*
24 *tion for the violation in question, to ensure the*
25 *safety and appropriate educational atmosphere*

1 *in the schools under the jurisdiction of the local*
2 *educational agency.*

3 “(C) *SERVICES.*—*A child with a disability*
4 *who is removed from the child’s current place-*
5 *ment under subparagraph (B) shall—*

6 “(i) *continue to receive educational*
7 *services selected so as to enable the child to*
8 *continue to participate in the general edu-*
9 *cation curriculum, although in another set-*
10 *ting, and to progress toward meeting the*
11 *goals set out in the child’s IEP; and*

12 “(ii) *continue to receive behavioral*
13 *intervention services designed to address the*
14 *behavior violation so that it does not recur.*

15 “(2) *DETERMINATION OF SETTING.*—*The alter-*
16 *native educational setting described in paragraph*
17 *(1)(B) shall be determined by the IEP Team.*

18 “(3) *PARENT APPEAL.*—

19 “(A) *IN GENERAL.*—*If the parent of a child*
20 *with a disability disagrees with any decision re-*
21 *garding placement or punishment under this sec-*
22 *tion, the parent may request a hearing.*

23 “(B) *AUTHORITY OF HEARING OFFICER.*—*If*
24 *a parent of a child with a disability disagrees*
25 *with a decision regarding placement of the child*

1 *or punishment of the child under this section, in-*
2 *cluding duration of the punishment, the hearing*
3 *officer may determine whether the decision re-*
4 *garding such action was appropriate.*

5 *“(4) PLACEMENT DURING APPEALS.—When a*
6 *parent requests a hearing regarding a disciplinary*
7 *action described in paragraph (1)(B) to challenge the*
8 *interim alternative educational setting or the viola-*
9 *tion of the code of student conduct policy, the child*
10 *shall remain in the interim alternative educational*
11 *setting pending the decision of the hearing officer or*
12 *until the expiration of the time period provided for*
13 *in paragraph (1)(B), whichever occurs first, unless*
14 *the parent and the State or local educational agency*
15 *agree otherwise.*

16 *“(5) PROTECTIONS FOR CHILDREN NOT YET ELI-*
17 *GIBLE FOR SPECIAL EDUCATION AND RELATED SERV-*
18 *ICES.—*

19 *“(A) IN GENERAL.—A child who has not*
20 *been determined to be eligible for special edu-*
21 *cation and related services under this part and*
22 *who has engaged in behavior that violates a code*
23 *of student conduct policy, may assert any of the*
24 *protections provided for in this part if the local*
25 *educational agency had knowledge (as deter-*

1 *mined in accordance with this paragraph) that*
2 *the child was a child with a disability before the*
3 *behavior that precipitated the disciplinary ac-*
4 *tion occurred.*

5 “(B) *BASIS OF KNOWLEDGE.*—*A local edu-*
6 *cational agency shall be deemed to have knowl-*
7 *edge that a child is a child with a disability if,*
8 *before the behavior that precipitated the discipli-*
9 *nary action occurred—*

10 “(i) *the parent of the child has ex-*
11 *pressed concern in writing (unless the par-*
12 *ent is illiterate or has a disability that pre-*
13 *vents compliance with the requirements con-*
14 *tained in this clause) to personnel of the ap-*
15 *propriate educational agency that the child*
16 *is in need of special education and related*
17 *services;*

18 “(ii) *the parent of the child has re-*
19 *quested an evaluation of the child pursuant*
20 *to section 614; or*

21 “(iii) *the teacher of the child, or other*
22 *personnel of the local educational agency,*
23 *has expressed concern in writing about the*
24 *behavior or performance of the child to the*

1 *director of special education of such agency*
2 *or to other personnel of the agency.*

3 “(C) *CONDITIONS THAT APPLY IF NO BASIS*
4 *OF KNOWLEDGE.—*

5 “(i) *IN GENERAL.—If a local edu-*
6 *cational agency does not have knowledge*
7 *that a child is a child with a disability (in*
8 *accordance with subparagraph (B)) prior to*
9 *taking disciplinary measures against the*
10 *child, the child may be subjected to discipli-*
11 *nary measures applied to children without*
12 *disabilities who engaged in comparable be-*
13 *haviors consistent with clause (ii).*

14 “(ii) *LIMITATIONS.—If a request is*
15 *made for an evaluation of a child during*
16 *the time period in which the child is sub-*
17 *jected to disciplinary measures under para-*
18 *graph (1) or (2), the evaluation shall be*
19 *conducted in an expedited manner. If the*
20 *child is determined to be a child with a dis-*
21 *ability, taking into consideration informa-*
22 *tion from the evaluation conducted by the*
23 *agency and information provided by the*
24 *parents, the agency shall provide special*
25 *education and related services in accordance*

1 *with this part, except that, pending the re-*
2 *sults of the evaluation, the child shall re-*
3 *main in the educational placement deter-*
4 *mined by school authorities.*

5 “(6) *REFERRAL TO AND ACTION BY LAW EN-*
6 *FORCEMENT AND JUDICIAL AUTHORITIES.—*

7 “(A) *IN GENERAL.—Nothing in this part*
8 *shall be construed to prohibit an agency from re-*
9 *porting a crime committed by a child with a dis-*
10 *ability to appropriate authorities or to prevent*
11 *State law enforcement and judicial authorities*
12 *from exercising their responsibilities with regard*
13 *to the application of Federal and State law to*
14 *crimes committed by a child with a disability.*

15 “(B) *TRANSMISSION OF RECORDS.—An*
16 *agency reporting a crime committed by a child*
17 *with a disability shall ensure that copies of the*
18 *special education and disciplinary records of the*
19 *child are transmitted for consideration by the*
20 *appropriate authorities to whom it reports the*
21 *crime.”.*

22 “(l) *RULE OF CONSTRUCTION.—Section 615 of the Indi-*
23 *viduals with Disabilities Education Act (20 U.S.C. 1415)*
24 *is amended by redesignating subsection (l) as subsection (k).*

1 (m) *TRANSFER OF PARENTAL RIGHTS AT AGE OF MA-*
2 *JORITY.*—Section 615 of the *Individuals with Disabilities*
3 *Education Act (20 U.S.C. 1415)* is amended—

4 (1) *by redesignating subsection (m) as subsection*
5 *(l); and*

6 (2) *by amending subsection (l) (as redesignated)*
7 *to read as follows:*

8 “(l) *TRANSFER OF PARENTAL RIGHTS AT AGE OF MA-*
9 *JORITY.*—

10 “(1) *IN GENERAL.*—A State that receives
11 amounts from a grant under this part may provide
12 that, when a child with a disability reaches the age
13 of majority under State law (except for a child with
14 a disability who has been determined to be incom-
15 petent under State law)—

16 “(A) *the public agency shall provide any*
17 *notice required by this section to both the indi-*
18 *vidual and the parents;*

19 “(B) *all other rights accorded to parents*
20 *under this part transfer to the child;*

21 “(C) *the agency shall notify the individual*
22 *and the parents of the transfer of rights; and*

23 “(D) *all rights accorded to parents under*
24 *this part transfer to children who are incarcer-*

1 ated in an adult or juvenile Federal, State, or
2 local correctional institution.

3 “(2) *SPECIAL RULE.*—If, under State law, a
4 child with a disability who has reached the age of
5 majority under State law, who has not been deter-
6 mined to be incompetent, but who is determined not
7 to have the ability to provide informed consent with
8 respect to the educational program of the child, the
9 State shall establish procedures for appointing the
10 parent of the child, or if the parent is not available,
11 another appropriate individual, to represent the edu-
12 cational interests of the child throughout the period of
13 eligibility of the child under this part.”.

14 **SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING,**
15 **AND JUDICIAL REVIEW.**

16 Section 616 of the Individuals with Disabilities Edu-
17 cation Act (20 U.S.C. 1416) is amended—

18 (1) by amending the heading to read as follows:

19 **“SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING,**
20 **AND JUDICIAL REVIEW.”;**

21 (2) by redesignating subsections (a) through (c)
22 as subsections (e) through (g), respectively; and

23 (3) by inserting before subsection (e) (as redesign-
24 ated) the following:

25 “(a) *FEDERAL MONITORING.*—

1 “(1) *IN GENERAL.*—*The Secretary shall monitor*
2 *implementation of this Act.*

3 “(2) *FOCUSED MONITORING.*—*The primary focus*
4 *of Federal monitoring activities shall be to improve*
5 *educational results for all children with disabilities,*
6 *while ensuring compliance with program require-*
7 *ments, with a particular emphasis on those require-*
8 *ments that are most closely related to improving edu-*
9 *cational results for children with disabilities.*

10 “(b) *INDICATORS.*—

11 “(1) *REQUIRED INDICATORS.*—*The Secretary*
12 *shall examine relevant information and data related*
13 *to States’ progress on improving educational results*
14 *for children with disabilities by reviewing—*

15 “(A) *achievement results of children with*
16 *disabilities on State or district assessments, in-*
17 *cluding children with disabilities taking State or*
18 *district assessments with appropriate accom-*
19 *modations;*

20 “(B) *achievement results of children with*
21 *disabilities on State or district alternate assess-*
22 *ments;*

23 “(C) *graduation rates of children with dis-*
24 *abilities and graduation rates of children with*

1 *disabilities as compared to graduation rates of*
2 *nondisabled children; and*

3 “(D) *dropout rates for children with dis-*
4 *abilities and dropout rates of children with dis-*
5 *abilities as compared to dropout rates of non-*
6 *disabled children.*

7 “(2) *PERMISSIVE INDICATORS.—The Secretary*
8 *also may establish other priorities for review of rel-*
9 *evant information and data, including data provided*
10 *by States under section 618, and also including the*
11 *following:*

12 “(A) *PRIORITIES FOR THIS PART.—The*
13 *Secretary may give priority to monitoring on*
14 *the following areas under this part:*

15 “(i) *Provision of educational services*
16 *in the least restrictive environment, includ-*
17 *ing—*

18 “(I) *education of children with*
19 *disabilities with nondisabled peers to*
20 *the maximum extent appropriate;*

21 “(II) *provision of appropriate*
22 *special education and related services;*

23 “(III) *access to the general cur-*
24 *riculum with appropriate accommoda-*
25 *tions;*

1 “(IV) provision of appropriate
2 services to students whose behavior im-
3 pedes learning; and

4 “(V) participation and perform-
5 ance of children with disabilities on
6 State and local assessments, including
7 alternate assessments.

8 “(ii) Secondary transition, including
9 the extent to which youth exiting special
10 education are prepared for post-secondary
11 education, employment, and adult life, and
12 are participants in appropriate transition
13 planning while in school.

14 “(iii) State exercise of general super-
15 visory authority, including effective moni-
16 toring and use of complaint resolution, me-
17 diation, and voluntary binding arbitration.

18 “(B) PRIORITIES FOR PART C.—The Sec-
19 retary may give priority to monitoring on the
20 following areas under part C:

21 “(i) Child find and public awareness
22 to support the identification, evaluation
23 and assessment of all eligible infants and
24 toddlers, including the provision of cul-

1 *turally relevant materials to inform and*
2 *promote referral.*

3 “(ii) *Provision of early intervention*
4 *services in natural environments, evalua-*
5 *tion and assessment to identify child needs*
6 *and family needs related to enhancing the*
7 *development of the child, and provision of*
8 *appropriate early intervention services in*
9 *natural environments to meet the needs of*
10 *individual children.*

11 “(iii) *Effective early childhood transi-*
12 *tion to services under this part.*

13 “(iv) *State exercise of general super-*
14 *visory authority, including—*

15 “(I) *effective monitoring and use*
16 *of other mechanisms such as complaint*
17 *resolution;*

18 “(II) *implementation of medi-*
19 *ation and voluntary binding arbitra-*
20 *tion; and*

21 “(III) *coordination of parent and*
22 *child protections.*

23 “(3) *DATA COLLECTION AND ANALYSIS.—The*
24 *Secretary shall review the data collection and anal-*
25 *ysis capacity of States to ensure that data and infor-*

1 *mation is collected, analyzed, and accurately reported*
2 *to the Secretary. The Secretary may provide technical*
3 *assistance to improve the capacity of States to meet*
4 *data requirements.*

5 *“(c) ADDITIONAL PRIORITIES.—*

6 *“(1) IN GENERAL.—The Secretary may develop*
7 *additional priorities for monitoring the effective im-*
8 *plementation of this Act.*

9 *“(2) PUBLIC COMMENT.—The Secretary shall*
10 *provide a public comment period of at least 30 days*
11 *on any additional priority proposed under this part*
12 *or part C.*

13 *“(3) DATE OF ENFORCEMENT.—The Secretary*
14 *may not begin to enforce a new priority until one*
15 *year from the date of publication of the priority in*
16 *the Federal Register as a final rule.*

17 *“(d) COMPLIANCE.—*

18 *“(1) IN GENERAL.—The Secretary shall review*
19 *State data to determine whether the State is in com-*
20 *pliance with the provisions of this Act.*

21 *“(2) LACK OF PROGRESS.—If after examining*
22 *data, as provided in section (b) or (c), the Secretary*
23 *determines that a State is not making satisfactory*
24 *progress in improving educational results for children*

1 *with disabilities, the Secretary shall take one or more*
2 *of the following actions:*

3 “(A) *Advise the State of available sources of*
4 *technical assistance that may help the State ad-*
5 *dress the lack of progress, which may include as-*
6 *sistance from the Office of Special Education*
7 *Programs, other offices of the Department of*
8 *Education, other Federal agencies, technical as-*
9 *sistance providers approved by the Secretary,*
10 *and other federally funded nonprofit agencies.*
11 *Such technical assistance may include—*

12 “(i) *the provision of advice by experts*
13 *to address the areas of noncompliance, in-*
14 *cluding explicit plans for ensuring compli-*
15 *ance within a specified period of time;*

16 “(ii) *assistance in identifying and im-*
17 *plementing professional development, in-*
18 *structional strategies, and methods of in-*
19 *struction that are based on scientifically*
20 *based research;*

21 “(iii) *designating and using distin-*
22 *guished superintendents, principals, special*
23 *education administrators, regular education*
24 *teachers, and special education teachers to*

1 *provide advice, technical assistance, and*
2 *support; and*

3 “(iv) *devising additional approaches to*
4 *providing technical assistance, such as col-*
5 *laborating with institutions of higher edu-*
6 *cation, educational service agencies, na-*
7 *tional centers of technical assistance sup-*
8 *ported under part D, and private providers*
9 *of scientifically based technical assistance.*

10 “(B) *Direct the use of State level funds for*
11 *technical assistance on the area or areas of un-*
12 *satisfactory performance.*

13 “(C) *Each year withhold at least 20 but no*
14 *more than 50 percent of the State’s funds under*
15 *section 611(e), after providing the State the op-*
16 *portunity to show cause why the withholding*
17 *should not occur, until the Secretary determines*
18 *that sufficient progress has been made in im-*
19 *proving educational results for children with dis-*
20 *abilities.*

21 “(3) *SUBSTANTIAL NON-COMPLIANCE.—*

22 “(A) *INITIAL DETERMINATION.—When the*
23 *Secretary determines that a State is not in sub-*
24 *stantial compliance with any provision of this*

1 *part, the Secretary shall take one or more of the*
2 *following actions:*

3 “(i) *Request that the State prepare a*
4 *corrective action plan or improvement plan*
5 *if the Secretary determines that the State*
6 *should be able to correct the problem within*
7 *one year.*

8 “(ii) *Identify the State as a high-risk*
9 *grantee and impose special conditions on*
10 *the State’s grant.*

11 “(iii) *Require the State to enter into a*
12 *compliance agreement under section 457 of*
13 *the General Education Provisions Act, if the*
14 *Secretary has reason to believe that the*
15 *State cannot correct the problem within one*
16 *year.*

17 “(iv) *Recovery of funds under section*
18 *452 of the General Education Provisions*
19 *Act.*

20 “(v)(I) *Withholding of payments under*
21 *subsection (e).*

22 “(II) *Pending the outcome of any hear-*
23 *ing to withhold payments under subsection*
24 *(e), the Secretary may suspend payments to*
25 *a recipient, suspend the authority of the re-*

1 *recipient to obligate Federal funds, or both,*
2 *after such recipient has been given reason-*
3 *able notice and an opportunity to show*
4 *cause why future payments or authority to*
5 *obligate Federal funds should not be sus-*
6 *pending.*

7 *“(B) CONTINUED NON-COMPLIANCE.—*

8 *“(i) SECRETARIAL ACTION.—If the Sec-*
9 *retary has imposed special conditions on a*
10 *grant under subparagraph (A)(ii) for sub-*
11 *stantially the same compliance problems for*
12 *three consecutive years, and at the end of*
13 *the third year the State has not dem-*
14 *onstrated that the violation has been cor-*
15 *rected to the satisfaction of the Secretary,*
16 *the Secretary shall take such additional en-*
17 *forcement actions as the Secretary deter-*
18 *mines to be appropriate from among those*
19 *actions specified in clauses (iii) through (v)*
20 *of subparagraph (A).*

21 *“(ii) REPORT TO CONGRESS.—The*
22 *Secretary shall report to Congress within 30*
23 *days of taking enforcement action pursuant*
24 *to this paragraph on the specific action*

1 *taken and the reasons why enforcement ac-*
2 *tion was taken.”.*

3 **SEC. 207. ADMINISTRATION.**

4 *Section 617 of the Individuals with Disabilities Edu-*
5 *cation Act (20 U.S.C. 1417) is amended to read as follows:*

6 **“SEC. 617. ADMINISTRATION.**

7 **“(a) RESPONSIBILITIES OF SECRETARY.—***In carrying*
8 *out this part, the Secretary shall—*

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

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

14 **“(B) carrying out this part; and**

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

17 **“(b) PROHIBITION AGAINST FEDERAL MANDATES, DI-**
18 *RECTION, OR CONTROL.—Nothing in this Act may be con-*
19 *strued to authorize an officer or employee of the Federal*
20 *Government to mandate, direct, or control a State, local*
21 *educational agency, or school’s specific instructional con-*
22 *tent, curriculum, or program of instruction.*

23 **“(c) CONFIDENTIALITY.—***The Secretary shall take ap-*
24 *propriate action, in accordance with section 444 of the Gen-*
25 *eral Education Provisions Act (20 U.S.C. 1232g), to ensure*

1 *the protection of the confidentiality of any personally iden-*
2 *tifiable data, information, and records collected or main-*
3 *tained by the Secretary and by State and local educational*
4 *agencies pursuant to this part.*

5 “(d) *PERSONNEL.*—*The Secretary is authorized to hire*
6 *qualified personnel necessary to carry out the Secretary’s*
7 *duties under subsection (a) and under sections 618 and 661*
8 *without regard to the provisions of title 5, United States*
9 *Code, relating to appointments in the competitive service*
10 *and without regard to chapter 51 and subchapter III of*
11 *chapter 53 of such title relating to classification and general*
12 *schedule pay rates, except that no more than twenty such*
13 *personnel shall be employed at any time.*

14 “(e) *PILOT PROGRAM.*—*The Secretary is authorized to*
15 *grant waivers of paperwork requirements under this part*
16 *for a period of time not to exceed 4 years with respect to*
17 *not more than 10 States based on proposals submitted by*
18 *States for addressing reduction of paperwork and non-in-*
19 *structional time spent fulfilling statutory and regulatory*
20 *requirements.*

21 “(f) *REPORT.*—*The Secretary shall include in the an-*
22 *nual report to Congress under section 426 of the Depart-*
23 *ment of Education Organization Act information related*
24 *to the effectiveness of waivers granted under subsection*
25 *(e)—*

1 “(1) in reducing the paperwork burden on teach-
2 ers, administrators, and related services providers
3 and non-instructional time spent by teachers in com-
4 plying with this part, including any specific rec-
5 ommendations for broader implementation; and

6 “(2) in enhancing longer-term educational plan-
7 ning, improving positive outcomes for children with
8 disabilities, promoting collaboration between IEP
9 Team members, and ensuring satisfaction of family
10 members, including any specific recommendations for
11 broader implementation.

12 “(g) *MODEL FORMS.*—Not later than the date on
13 which the Secretary publishes final regulations to imple-
14 ment this part (as amended by the Improving Education
15 Results for Children With Disabilities Act of 2003), the Sec-
16 retary shall publish and disseminate widely to States, local
17 educational agencies, and parent training and information
18 centers—

19 “(1) a model individualized education program
20 form;

21 “(2) a model form for the procedural safeguards
22 notice described in section 615(d); and

23 “(3) a model form for the prior written notice
24 described in section 615(b)(3);

1 *that would be consistent with the requirements of this part*
2 *and be deemed to be sufficient to meet such requirements.”.*

3 **SEC. 208. PROGRAM INFORMATION.**

4 *Section 618 of the Individuals with Disabilities Edu-*
5 *cation Act (20 U.S.C. 1418) is amended to read as follows:*

6 **“SEC. 618. PROGRAM INFORMATION.**

7 *“(a) IN GENERAL.—Each State and local educational*
8 *agency that receives assistance under this part, and the Sec-*
9 *retary of the Interior, shall provide data each year to the*
10 *Secretary—*

11 *“(1)(A) on—*

12 *“(i) the number and percentage of children*
13 *with disabilities, by race, ethnicity, and dis-*
14 *ability category, who are receiving a free appro-*
15 *priate public education;*

16 *“(ii) the number and percentage of children*
17 *with disabilities, by race and ethnicity, who are*
18 *receiving early intervention services;*

19 *“(iii) the number and percentage of chil-*
20 *dren with disabilities, by race, ethnicity, and*
21 *disability category, who are participating in reg-*
22 *ular education;*

23 *“(iv) the number and percentage of children*
24 *with disabilities, by race, ethnicity, and dis-*
25 *ability category, who are in separate classes, sep-*

1 *arate schools or facilities, or public or private*
2 *residential facilities;*

3 *“(v) the number and percentage of children*
4 *with disabilities, by race and ethnicity, and dis-*
5 *ability category who begin secondary school and*
6 *graduate with a regular high school diploma,*
7 *through the age of 21;*

8 *“(vi) the number and percentage of children*
9 *with disabilities, by race, ethnicity, and dis-*
10 *ability category, who, for each year of age from*
11 *age 14 to 21, stopped receiving special education*
12 *and related services because of program comple-*
13 *tion or other reasons and the reasons why those*
14 *children stopped receiving special education and*
15 *related services;*

16 *“(vii) the number and percentage of chil-*
17 *dren with disabilities, by race and ethnicity,*
18 *who, from birth through age 2, stopped receiving*
19 *early intervention services because of program*
20 *completion or for other reasons;*

21 *“(viii)(I) the number and percentage of*
22 *children with disabilities, by race, ethnicity, and*
23 *disability category, who under subparagraph (A)*
24 *or (B) of section 615(j)(1), are removed to an in-*
25 *terim alternative educational setting;*

1 “(II) the acts or items precipitating those
2 removals;

3 “(III) the number of children with disabili-
4 ties, by race, ethnicity, and disability category,
5 who are subject to long-term suspensions or ex-
6 pulsions; and

7 “(IV) the incidence, duration, and type of
8 disciplinary actions, by race and ethnicity, in-
9 cluding suspension and expulsions;

10 “(ix) the number of complaints resolved
11 through voluntary binding arbitration; and

12 “(x) the number of mediations held and the
13 number of settlement agreements reached through
14 mediation;

15 “(B) on the number and percentage of infants
16 and toddlers, by race and ethnicity, who are at risk
17 of having substantial developmental delays (as de-
18 fined in section 632), and who are receiving early
19 intervention services under part C; and

20 “(C) on the number of children served with funds
21 under section 613(f); and

22 “(2) on any other information that may be re-
23 quired by the Secretary.

1 “(b) *SAMPLING.*—*The Secretary may permit States*
2 *and the Secretary of the Interior to obtain the data de-*
3 *scribed in subsection (a) through sampling.*

4 “(c) *DISPROPORTIONALITY.*—

5 “(1) *IN GENERAL.*—*Each State that receives as-*
6 *sistance under this part, and the Secretary of the In-*
7 *terior, shall provide for the collection and examina-*
8 *tion of data to determine if significant*
9 *disproportionality based on race and ethnicity is oc-*
10 *curring in the State and the local educational agen-*
11 *cies of the State with respect to—*

12 “(A) *the identification of children as chil-*
13 *dren with disabilities, including the identifica-*
14 *tion of children as children with disabilities in*
15 *accordance with a particular impairment de-*
16 *scribed in section 602(3);*

17 “(B) *the placement in particular edu-*
18 *cational settings of such children; and*

19 “(C) *the incidence, duration, and type of*
20 *disciplinary actions, including suspensions and*
21 *expulsions.*

22 “(2) *REVIEW AND REVISION OF POLICIES, PRAC-*
23 *TICES, AND PROCEDURES.*—*In the case of a deter-*
24 *mination of significant disproportionality with re-*
25 *spect to the identification of children as children with*

1 *disabilities, or the placement in particular edu-*
2 *catinal settings of such children, in accordance with*
3 *paragraph (1), the State or the Secretary of the Inte-*
4 *rior, as the case may be—*

5 *“(A) shall provide for the review and, if ap-*
6 *propriate, revision of the policies, procedures,*
7 *and practices used in such identification or*
8 *placement to ensure that such policies, proce-*
9 *dures, and practices comply with the require-*
10 *ments of this Act;*

11 *“(B) shall require any local educational*
12 *agency identified under paragraph (1) to reserve*
13 *the maximum amount of funds under section*
14 *613(f) to provide comprehensive coordinated*
15 *prereferral support services to serve children in*
16 *the local educational agency, particularly chil-*
17 *dren in those groups that were significantly*
18 *overidentified under paragraph (1); and*

19 *“(C) shall require the local educational*
20 *agency to publicly report on the revision of poli-*
21 *cies, practices, and procedures described under*
22 *subparagraph (A).”.*

23 **SEC. 209. PRESCHOOL GRANTS.**

24 *Section 619 of the Individuals with Disabilities Edu-*
25 *cation Act (20 U.S.C. 1419) is amended to read as follows:*

1 **“SEC. 619. PRESCHOOL GRANTS.**

2 “(a) *IN GENERAL.*—*The Secretary shall provide grants*
3 *under this section to assist States to provide special edu-*
4 *cation and related services, in accordance with this part—*

5 “(1) *to children with disabilities aged 3 through*
6 *5, inclusive; and*

7 “(2) *at the State’s discretion, to 2-year-old chil-*
8 *dren with disabilities who will turn 3 during the*
9 *school year.*

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

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

14 “(2) *makes a free appropriate public education*
15 *available to all children with disabilities, aged 3*
16 *through 5, residing in the State.*

17 “(c) *ALLOCATIONS TO STATES.*—

18 “(1) *IN GENERAL.*—*The Secretary shall allocate*
19 *funds among the States in accordance with para-*
20 *graph (2) or (3), as appropriate.*

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

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

3 “(I) allocate to each State the amount
4 it received for fiscal year 1997;

5 “(II) allocate 85 percent of any re-
6 maining funds to States on the basis of
7 their relative populations of children aged 3
8 through 5; and

9 “(III) allocate 15 percent of those re-
10 maining funds to States on the basis of
11 their relative populations of all children
12 aged 3 through 5 who are living in poverty.

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

18 “(B) Notwithstanding subparagraph (A),
19 allocations under this paragraph shall be subject
20 to the following:

21 “(i) No State’s allocation shall be less
22 than its allocation for the preceding fiscal
23 year.

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

1 “(I) the sum of—

2 “(aa) the amount it received
3 for fiscal year 1997; and

4 “(bb) one third of one percent
5 of the amount by which the
6 amount appropriated under sub-
7 section (j) exceeds the amount ap-
8 propriated under this section for
9 fiscal year 1997;

10 “(II) the sum of—

11 “(aa) the amount it received
12 for the preceding fiscal year; and

13 “(bb) that amount multiplied
14 by the percentage by which the in-
15 crease in the funds appropriated
16 from the preceding fiscal year ex-
17 ceeds 1.5 percent; or

18 “(III) the sum of—

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

21 “(bb) that amount multiplied
22 by 90 percent of the percentage
23 increase in the amount appro-
24 priated from the preceding fiscal
25 year.

1 “(iii) Notwithstanding clause (ii), no
2 State’s allocation under this paragraph
3 shall exceed the sum of—

4 “(I) the amount it received for the
5 preceding fiscal year; and

6 “(II) that amount multiplied by
7 the sum of 1.5 percent and the percent-
8 age increase in the amount appro-
9 priated.

10 “(C) If the amount available for allocations
11 under this paragraph is insufficient to pay those
12 allocations in full, those allocations shall be rat-
13 ably reduced, subject to subparagraph (B)(i).

14 “(3) *DECREASE IN FUNDS.*—If the amount avail-
15 able for allocations to States under paragraph (1) is
16 less than the amount allocated to the States under
17 this section for the preceding fiscal year, those alloca-
18 tions shall be calculated as follows:

19 “(A) If the amount available for allocations
20 is greater than the amount allocated to the
21 States for fiscal year 1997, each State shall be
22 allocated the sum of—

23 “(i) the amount it received for fiscal
24 year 1997; and

1 “(i) an amount that bears the same
2 relation to any remaining funds as the in-
3 crease the State received for the preceding
4 fiscal year over fiscal year 1997 bears to the
5 total of all such increases for all States.

6 “(B) If the amount available for allocations
7 is equal to or less than the amount allocated to
8 the States for fiscal year 1997, each State shall
9 be allocated the amount it received for that year,
10 ratably reduced, if necessary.

11 “(d) RESERVATION FOR STATE ACTIVITIES.—

12 “(1) IN GENERAL.—Each State may retain not
13 more than the amount described in paragraph (2) for
14 administration and other State-level activities in ac-
15 cordance with subsections (e) and (f).

16 “(2) AMOUNT DESCRIBED.—For each fiscal year,
17 the Secretary shall determine and report to the State
18 educational agency an amount that is 25 percent of
19 the amount the State received under this section for
20 fiscal year 1997, cumulatively adjusted by the Sec-
21 retary for each succeeding fiscal year by the lesser
22 of—

23 “(A) the percentage increase, if any, from
24 the preceding fiscal year in the State’s allocation
25 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 the
4 Bureau of Labor Statistics of the Department of
5 Labor.

6 “(e) STATE ADMINISTRATION.—

7 “(1) IN GENERAL.—For the purpose of admin-
8 istering this section (including the coordination of ac-
9 tivities under this part with, and providing technical
10 assistance to, other programs that provide services to
11 children with disabilities) a State may use not more
12 than 20 percent of the maximum amount it may re-
13 tain under subsection (d) for any fiscal year.

14 “(2) ADMINISTRATION OF PART C.—Funds de-
15 scribed in paragraph (1) may also be used for the ad-
16 ministration of part C of this Act, if the State edu-
17 cational agency is the lead agency for the State under
18 that part.

19 “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State
20 shall use any funds it retains under subsection (d) and does
21 not use for administration under subsection (e)—

22 “(1) for support services (including establishing
23 and implementing the mediation and voluntary bind-
24 ing arbitration process required by section 615(e)),
25 which may benefit children with disabilities younger

1 *than 3 or older than 5 as long as those services also*
2 *benefit children with disabilities aged 3 through 5;*

3 *“(2) for direct services for children eligible for*
4 *services under this section;*

5 *“(3) for activities at the State and local levels to*
6 *meet the performance goals established by the State*
7 *under section 612(a)(16) and to support implementa-*
8 *tion of the State plan under subpart 1 of part D if*
9 *the State receives funds under that subpart; or*

10 *“(4) to supplement other funds used to develop*
11 *and implement a Statewide coordinated services sys-*
12 *tem designed to improve results for children and fam-*
13 *ilies, including children with disabilities and their*
14 *families, but not to exceed one percent of the amount*
15 *received by the State under this section for a fiscal*
16 *year.*

17 *“(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-*
18 *CIES.—*

19 *“(1) SUBGRANTS REQUIRED.—Each State that*
20 *receives a grant under this section for any fiscal year*
21 *shall distribute all of the grant funds that it does not*
22 *reserve under subsection (d) to local educational agen-*
23 *cies in the State that have established their eligibility*
24 *under section 613, as follows:*

1 “(A) *BASE PAYMENTS.*—*The State shall*
2 *first award each agency described in paragraph*
3 *(1) the amount that agency would have received*
4 *under this section for fiscal year 1997 if the*
5 *State had distributed 75 percent of its grant for*
6 *that year under section 619(c)(3), as then in ef-*
7 *fect.*

8 “(B) *ALLOCATION OF REMAINING FUNDS.*—
9 *After making allocations under subparagraph*
10 *(A), the State shall—*

11 “(i) *allocate 85 percent of any remain-*
12 *ing funds to those agencies on the basis of*
13 *the relative numbers of children enrolled in*
14 *public and private elementary and sec-*
15 *ondary schools within the agency’s jurisdic-*
16 *tion; and*

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

22 “(2) *REALLOCATION OF FUNDS.*—*If a State edu-*
23 *cational agency determines that a local educational*
24 *agency is adequately providing a free appropriate*
25 *public education to all children with disabilities aged*

1 3 through 5 residing in the area served by that agen-
2 cy with State and local funds, the State educational
3 agency may reallocate any portion of the funds under
4 this section that are not needed by that local agency
5 to provide a free appropriate public education to
6 other local educational agencies in the State that are
7 not adequately providing special education and re-
8 lated services to all children with disabilities aged 3
9 through 5 residing in the areas they serve.

10 “(h) *PART C INAPPLICABLE.*—Part C of this Act does
11 not apply to any child with a disability receiving a free
12 appropriate public education, in accordance with this part,
13 with funds received under this section.

14 “(i) *DEFINITION.*—For the purpose of this section, the
15 term ‘State’ means each of the 50 States, the District of
16 Columbia, and the Commonwealth of Puerto Rico.

17 “(j) *AUTHORIZATION OF APPROPRIATIONS.*—For the
18 purpose of carrying out this section, there are authorized
19 to be appropriated to the Secretary \$500,000,000 for fiscal
20 year 2004 and such sums as may be necessary for each sub-
21 sequent fiscal year.”.

1 **TITLE III—INFANTS AND**
2 **TODDLERS WITH DISABILITIES**

3 **SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS**
4 **WITH DISABILITIES EDUCATION ACT.**

5 *Sections 631 through 638 of the Individuals with Dis-*
6 *abilities Education Act (20 U.S.C. 1431–1438) are amend-*
7 *ed to read as follows:*

8 **“SEC. 631. FINDINGS AND POLICY.**

9 *“(a) FINDINGS.—The Congress finds that there is an*
10 *urgent and substantial need—*

11 *“(1) to enhance the development of infants and*
12 *toddlers with disabilities and to minimize their po-*
13 *tential for developmental delay;*

14 *“(2) to reduce the educational costs to our soci-*
15 *ety, including our Nation’s schools, by minimizing*
16 *the need for special education and related services*
17 *after infants and toddlers with disabilities reach*
18 *school age;*

19 *“(3) to minimize the likelihood of institutional-*
20 *ization of individuals with disabilities and maximize*
21 *the potential for their independently living in society;*

22 *“(4) to enhance the capacity of families to meet*
23 *the special needs of their infants and toddlers with*
24 *disabilities; and*

1 “(5) to enhance the capacity of State and local
2 agencies and service providers to identify, evaluate,
3 and meet the needs of historically underrepresented
4 populations, particularly minority, low-income,
5 inner-city, and rural populations.

6 “(b) *POLICY.*—It is the policy of the United States to
7 provide financial assistance to States—

8 “(1) to develop and implement a statewide, com-
9 prehensive, coordinated, multidisciplinary, inter-
10 agency system that provides early intervention serv-
11 ices for infants and toddlers with disabilities and
12 their families;

13 “(2) to facilitate the coordination of payment for
14 early intervention services from Federal, State, local,
15 and private sources (including public and private in-
16 surance coverage);

17 “(3) to enhance their capacity to provide quality
18 early intervention services and expand and improve
19 existing early intervention services being provided to
20 infants and toddlers with disabilities and their fami-
21 lies; and

22 “(4) to encourage States to expand opportunities
23 for children under 3 years of age who would be at risk
24 of having substantial developmental delay if they did
25 not receive early intervention services.

1 **“SEC. 632. DEFINITIONS.**

2 “As used in this part:

3 “(1) *AT-RISK INFANT OR TODDLER.*—The term
4 ‘at-risk infant or toddler’ means an individual under
5 3 years of age who would be at risk of experiencing
6 a substantial developmental delay if early interven-
7 tion services were not provided to the individual.

8 “(2) *COUNCIL.*—The term ‘council’ means a
9 State interagency coordinating council established
10 under section 641.

11 “(3) *DEVELOPMENTAL DELAY.*—The term ‘devel-
12 opmental delay’, when used with respect to an indi-
13 vidual residing in a State, has the meaning given
14 such term by the State under section 635(a)(1).

15 “(4) *EARLY INTERVENTION SERVICES.*—The term
16 ‘early intervention services’ means developmental
17 services that—

18 “(A) are provided under public supervision;

19 “(B) are provided at no cost except where
20 Federal or State law provides for a system of
21 payments by families, including a schedule of
22 sliding fees;

23 “(C) are designed to address family-identi-
24 fied priorities and concerns that are determined
25 by individualized family service plan team to re-

1 *late to enhancing the child’s development in any*
2 *one or more of the following areas—*

3 “(i) *physical development;*

4 “(ii) *cognitive development;*

5 “(iii) *communication development;*

6 “(iv) *social or emotional development;*

7 *or*

8 “(v) *adaptive development;*

9 “(D) *meet the standards of the State in*
10 *which they are provided, including the require-*
11 *ments of this part;*

12 “(E) *include—*

13 “(i) *family training, family therapy,*
14 *counseling, and home visits;*

15 “(ii) *special instruction;*

16 “(iii) *speech-language pathology and*
17 *audiology services;*

18 “(iv) *occupational therapy;*

19 “(v) *physical therapy;*

20 “(vi) *psychological services;*

21 “(vii) *service coordination services;*

22 “(viii) *medical services only for diag-*
23 *nostic or evaluation purposes;*

24 “(ix) *early identification, screening,*
25 *and assessment services;*

1 “(x) health services necessary to enable
2 the infant or toddler to benefit from the
3 other early intervention services;

4 “(xi) social work services;

5 “(xii) vision services;

6 “(xiii) assistive technology devices and
7 assistive technology services; and

8 “(xiv) transportation and related costs
9 that are necessary to enable an infant or
10 toddler and the infant’s or toddler’s family
11 to receive another service described in this
12 paragraph;

13 “(F) are provided by qualified personnel,
14 including—

15 “(i) special educators;

16 “(ii) speech-language pathologists and
17 audiologists;

18 “(iii) occupational therapists;

19 “(iv) physical therapists;

20 “(v) psychologists;

21 “(vi) social workers;

22 “(vii) nurses;

23 “(viii) registered dietitians;

24 “(ix) family therapists;

1 “(x) vision specialists, including oph-
2 thalmologists and optometrists;

3 “(xi) orientation and mobility special-
4 ists; and

5 “(xii) pediatricians and other physi-
6 cians;

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

11 “(H) are provided in conformity with an
12 individualized family service plan adopted in
13 accordance with section 636.

14 “(5) INFANT OR TODDLER WITH A DISABILITY.—
15 The term ‘infant or toddler with a disability’—

16 “(A) means an individual under 3 years of
17 age who needs early intervention services because
18 the individual—

19 “(i) is experiencing developmental
20 delays, as measured by appropriate diag-
21 nostic instruments and procedures in one or
22 more of the areas of cognitive development,
23 physical development, communication devel-
24 opment, social or emotional development,
25 and adaptive development; or

1 “(i) has a diagnosed physical or men-
2 tal condition which has a high probability
3 of resulting in developmental delay;

4 “(B) may also include, at a State’s discre-
5 tion, at-risk infants and toddlers; and

6 “(C) may also include, at a State’s discre-
7 tion, a child aged 3 through 5, who previously
8 received services under this part and who is eli-
9 gible for services under section 619, if—

10 “(i) services provided to this age group
11 under this part include an educational com-
12 ponent that promotes school readiness and
13 incorporates scientifically based pre-lit-
14 eracy, language, and numeracy skills; and

15 “(ii) parents are provided a written
16 notification of their rights and responsibil-
17 ities in determining whether their child will
18 continue to receive services under this part
19 or participate in preschool programs as-
20 sisted under section 619.

21 **“SEC. 633. GENERAL AUTHORITY.**

22 “The Secretary shall, in accordance with this part,
23 make grants to States (from their allotments under section
24 643) to assist each State to maintain and implement a
25 statewide, comprehensive, coordinated, multidisciplinary,

1 *interagency system to provide early intervention services for*
2 *infants and toddlers with disabilities and their families.*

3 ***“SEC. 634. ELIGIBILITY.***

4 *“In order to be eligible for a grant under section 633,*
5 *a State shall provide assurances to the Secretary that the*
6 *State—*

7 *“(1) has adopted a policy that appropriate early*
8 *intervention services are available to all infants and*
9 *toddlers with disabilities in the State and their fami-*
10 *lies, including Indian infants and toddlers with dis-*
11 *abilities and their families residing on a reservation*
12 *geographically located in the State; and*

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

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

16 *“(a) IN GENERAL.—A statewide system described in*
17 *section 633 shall include, at a minimum, the following com-*
18 *ponents:*

19 *“(1) A definition of the term ‘developmental*
20 *delay’ that will be used by the State in carrying out*
21 *programs under this part.*

22 *“(2) A State policy that is in effect and that en-*
23 *sures that appropriate early intervention services*
24 *based on scientifically based research are available to*
25 *all infants and toddlers with disabilities and their*

1 *families, including Indian infants and toddlers and*
2 *their families residing on a reservation geographically*
3 *located in the State.*

4 *“(3) A timely, comprehensive, multidisciplinary*
5 *evaluation of the functioning of each infant or toddler*
6 *with a disability in the State, and a family-directed*
7 *identification of the needs of each family of such an*
8 *infant or toddler, to appropriately assist in the devel-*
9 *opment of the infant or toddler.*

10 *“(4) For each infant or toddler with a disability*
11 *in the State, an individualized family service plan in*
12 *accordance with section 636, including service coordi-*
13 *nation services in accordance with such service plan.*

14 *“(5) A comprehensive child find system, con-*
15 *sistent with part B, including a system for making*
16 *referrals to service providers that includes timelines*
17 *and provides for participation by primary referral*
18 *sources.*

19 *“(6) A public awareness program focusing on*
20 *early identification of infants and toddlers with dis-*
21 *abilities, including the preparation and dissemina-*
22 *tion by the lead agency designated or established*
23 *under paragraph (10) to all primary referral sources,*
24 *especially hospitals and physicians, of information to*
25 *be given to parents, especially to inform parents with*

1 *premature infants, or infants with other physical risk*
2 *factors associated with learning or developmental*
3 *complications, on the availability of early interven-*
4 *tion services under this part and of services under*
5 *section 619 of this Act, and procedures for assisting*
6 *such sources in disseminating such information to*
7 *parents of infants and toddlers.*

8 *“(7) A central directory that includes informa-*
9 *tion on early intervention services, resources, and ex-*
10 *perts available in the State and research and dem-*
11 *onstration projects being conducted in the State.*

12 *“(8) A comprehensive system of personnel devel-*
13 *opment, including the training of paraprofessionals*
14 *and the training of primary referral sources respect-*
15 *ing the basic components of early intervention serv-*
16 *ices available in the State that—*

17 *“(A) shall include—*

18 *“(i) implementing innovative strategies*
19 *and activities for the recruitment and reten-*
20 *tion of early education service providers;*

21 *“(ii) promoting the preparation of*
22 *early intervention providers who are fully*
23 *and appropriately qualified to provide*
24 *early intervention services under this part;*
25 *and*

1 “(iii) training personnel to coordinate
2 transition services for infants and toddlers
3 served under this part from a program pro-
4 viding early intervention services under this
5 part and under part B (other than section
6 619), to a preschool program receiving
7 funds under section 619, or another appro-
8 priate program; and

9 “(B) may include—

10 “(i) training personnel to work in
11 rural and inner-city areas; and

12 “(ii) training personnel in the emo-
13 tional and social development of young chil-
14 dren.

15 “(9) Subject to subsection (b), policies and proce-
16 dures relating to the establishment and maintenance
17 of standards to ensure that personnel necessary to
18 carry out this part are appropriately and adequately
19 prepared and trained, including the establishment
20 and maintenance of standards that are consistent
21 with any State-approved or recognized certification,
22 licensing, registration, or other comparable require-
23 ments that apply to the area in which such personnel
24 are providing early intervention services.

1 “(10) *A single line of responsibility in a lead*
2 *agency designated or established by the Governor for*
3 *carrying out—*

4 “(A) *the general administration and super-*
5 *vision of programs and activities receiving as-*
6 *sistance under section 633, and the monitoring*
7 *of programs and activities used by the State to*
8 *carry out this part, whether or not such pro-*
9 *grams or activities are receiving assistance made*
10 *available under section 633, to ensure that the*
11 *State complies with this part;*

12 “(B) *the identification and coordination of*
13 *all available resources within the State from*
14 *Federal, State, local, and private sources;*

15 “(C) *the assignment of financial responsi-*
16 *bility in accordance with section 637(a)(2) to the*
17 *appropriate agencies;*

18 “(D) *the development of procedures to en-*
19 *sure that services are provided to infants and*
20 *toddlers with disabilities and their families*
21 *under this part in a timely manner pending the*
22 *resolution of any disputes among public agencies*
23 *or service providers;*

24 “(E) *the resolution of intra- and inter-*
25 *agency disputes; and*

1 “(F) the entry into formal interagency
2 agreements that define the financial responsi-
3 bility of each agency for paying for early inter-
4 vention services (consistent with State law) and
5 procedures for resolving disputes and that in-
6 clude all additional components necessary to en-
7 sure meaningful cooperation and coordination.

8 “(11) A policy pertaining to the contracting or
9 making of other arrangements with service providers
10 to provide early intervention services in the State,
11 consistent with the provisions of this part, including
12 the contents of the application used and the condi-
13 tions of the contract or other arrangements.

14 “(12) A procedure for securing timely reimburse-
15 ments of funds used under this part in accordance
16 with section 640(a).

17 “(13) Procedural safeguards with respect to pro-
18 grams under this part, as required by section 639.

19 “(14) A system for compiling data requested by
20 the Secretary under section 618 that relates to this
21 part.

22 “(15) A State interagency coordinating council
23 that meets the requirements of section 641.

24 “(16) Policies and procedures to ensure that,
25 consistent with section 636(d)(5)—

1 “(A) to the maximum extent appropriate,
2 early intervention services are provided in nat-
3 ural environments; and

4 “(B) the provision of early intervention
5 services for any infant or toddler occurs in a set-
6 ting other than a natural environment only
7 when early intervention cannot be achieved satis-
8 factorily for the infant or toddler in a natural
9 environment.

10 “(b) *POLICY.*—In implementing subsection (a)(9), a
11 State may adopt a policy that includes making ongoing
12 good-faith efforts to recruit and hire appropriately and ade-
13 quately trained personnel to provide early intervention
14 services to infants and toddlers with disabilities, including,
15 in a geographic area of the State where there is a shortage
16 of such personnel, the most qualified individuals available
17 who are making satisfactory progress toward completing
18 applicable course work necessary to meet the standards de-
19 scribed in subsection (a)(9), consistent with State law with-
20 in 3 years.

21 “(c) *TREATMENT OF CHILDREN AGED 3 THROUGH*
22 5.—

23 “(1) *IN GENERAL.*—If a State includes children
24 described in section 632(5)(C) in the system described
25 in section 633, the State shall be considered to have

1 *fulfilled any obligation under part B with respect to*
2 *the provision of a free appropriate public education*
3 *to those children during the period in which they are*
4 *receiving services under this part.*

5 “(2) *CONSTRUCTION.—Nothing in paragraph (1)*
6 *shall be construed to alter or diminish the rights and*
7 *protections afforded under this part to children de-*
8 *scribed in such paragraph.*

9 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

10 “(a) *ASSESSMENT AND PROGRAM DEVELOPMENT.—A*
11 *statewide system described in section 633 shall provide, at*
12 *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 the*
20 *identification of the supports and services necessary*
21 *to enhance the family’s capacity to meet the develop-*
22 *mental 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), including a de-*

1 *scription of the appropriate transition services for the*
2 *child’s entrance in school.*

3 “(b) *PERIODIC REVIEW.*—*The individualized family*
4 *service plan shall be evaluated once a year and the family*
5 *shall be provided a review of the plan at 6-month intervals*
6 *(or more often where appropriate based on infant or toddler*
7 *and family needs).*

8 “(c) *PROMPTNESS AFTER ASSESSMENT.*—*The individ-*
9 *ualized family service plan shall be developed within a rea-*
10 *sonable time after the assessment required by subsection*
11 *(a)(1) is completed. With the parents’ consent, early inter-*
12 *vention services may commence prior to the completion of*
13 *the assessment.*

14 “(d) *CONTENT OF PLAN.*—*The individualized family*
15 *service plan shall be in writing and contain—*

16 “(1) *a statement of the infant’s or toddler’s*
17 *present levels of physical development, cognitive devel-*
18 *opment, communication development, social or emo-*
19 *tional development, and adaptive development, based*
20 *on objective criteria;*

21 “(2) *a statement of the family’s resources, prior-*
22 *ities, and concerns relating to enhancing the develop-*
23 *ment of the family’s infant or toddler with a dis-*
24 *ability;*

1 “(3) a statement of the major goals expected to
2 be achieved for the infant or toddler and the family,
3 including pre-literacy and language skills, as develop-
4 mentally appropriate for the child, and the criteria,
5 procedures, and timelines used to determine the degree
6 to which progress toward achieving the goals is being
7 made and whether modifications or revisions of the
8 goals or services are necessary;

9 “(4) a statement of specific early intervention
10 services based on peer-reviewed research, to the extent
11 practicable, necessary to meet the unique needs of the
12 infant or toddler and the family, including the fre-
13 quency, intensity, and method of delivering services;

14 “(5) a statement of the natural environments in
15 which early intervention services will appropriately
16 be provided, including a justification of the extent, if
17 any, to which the services will not be provided in a
18 natural environment;

19 “(6) the projected dates for initiation of services
20 and the anticipated length, duration, and frequency
21 of the services;

22 “(7) the identification of the service coordinator
23 from the profession most immediately relevant to the
24 infant’s or toddler’s or family’s needs (or who is oth-
25 erwise qualified to carry out all applicable respon-

1 sibilities under this part) who will be responsible for
2 the implementation of the plan and coordination with
3 other agencies and persons, including transition serv-
4 ices; and

5 “(8) the steps to be taken to support the transi-
6 tion of the toddler with a disability to preschool or
7 other appropriate services.

8 “(e) *PARENTAL CONSENT.*—The contents of the indi-
9 vidualized family service plan shall be fully explained to
10 the parents and informed written consent from the parents
11 shall be obtained prior to the provision of early intervention
12 services described in such plan. If the parents do not pro-
13 vide consent with respect to a particular early intervention
14 service, then only the early intervention services to which
15 consent is obtained shall be provided.

16 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

17 “(a) *APPLICATION.*—A State desiring to receive a
18 grant under section 633 shall submit an application to the
19 Secretary at such time and in such manner as the Secretary
20 may reasonably require. The application shall contain—

21 “(1) a designation of the lead agency in the
22 State that will be responsible for the administration
23 of funds provided under section 633;

1 “(2) a designation of an individual or entity re-
2 sponsible for assigning financial responsibility among
3 appropriate agencies;

4 “(3) information demonstrating eligibility of the
5 State under section 634, including a description of
6 services to be provided to infants and toddlers with
7 disabilities and their families through the system;

8 “(4) if the State provides services to at-risk in-
9 fants and toddlers through the statewide system, a de-
10 scription of such services;

11 “(5) a description of the State policies and pro-
12 cedures requiring the referral of a child under the age
13 3 who is involved in a substantiated case of child
14 abuse or neglect consistent with section 635(a)(5) or
15 who is born and identified with fetal alcohol effects,
16 fetal alcohol syndrome, neonatal intoxication, or neo-
17 natal physical or neurological harm resulting from
18 prenatal drug exposure;

19 “(6) a description of the uses for which funds
20 will be expended in accordance with this part;

21 “(7) a description of the procedure used to en-
22 sure that resources are made available under this part
23 for all geographic areas within the State;

24 “(8) a description of State policies and proce-
25 dures that ensure that, prior to the adoption by the

1 *State of any other policy or procedure necessary to*
2 *meet the requirements of this part, there are public*
3 *hearings, adequate notice of the hearings, and an op-*
4 *portunity for comment available to the general public,*
5 *including individuals with disabilities and parents of*
6 *infants and toddlers with disabilities;*

7 *“(9) a description of the policies and procedures*
8 *to be used—*

9 *“(A) to ensure a smooth transition for tod-*
10 *dlers receiving early intervention services under*
11 *this part to preschool or other appropriate serv-*
12 *ices, including a description of how—*

13 *“(i) the families of such toddlers will*
14 *be included in the transition plans required*
15 *by subparagraph (C); and*

16 *“(ii) the lead agency designated or es-*
17 *tablished under section 635(a)(10) will—*

18 *“(I) notify the local educational*
19 *agency for the area in which such a*
20 *child resides that the child will shortly*
21 *reach the age of eligibility for preschool*
22 *services under part B, as determined*
23 *in accordance with State law;*

24 *“(II) in the case of a child who*
25 *may be eligible for such preschool serv-*

1 *ices, with the approval of the family of*
2 *the child, convene a conference among*
3 *the lead agency, the family, and the*
4 *local educational agency at least 90*
5 *days (and at the discretion of all such*
6 *parties, up to 6 months) before the*
7 *child is eligible for the preschool serv-*
8 *ices, to discuss any such services that*
9 *the child may receive; and*

10 *“(III) in the case of a child who*
11 *may not be eligible for such preschool*
12 *services, with the approval of the fam-*
13 *ily, make reasonable efforts to convene*
14 *a conference among the lead agency,*
15 *the family, and providers of other ap-*
16 *propriate services for children who are*
17 *not eligible for preschool services under*
18 *part B, to discuss the appropriate serv-*
19 *ices that the child may receive;*

20 *“(B) to review the child’s program options*
21 *for the period from the child’s third birthday*
22 *through the remainder of the school year; and*

23 *“(C) to establish a transition plan;*

1 “(10) a description of State efforts to promote
2 collaboration between Early Head Start programs,
3 child care, and services under part C of this Act; and

4 “(11) such other information and assurances as
5 the Secretary may reasonably require.

6 “(b) ASSURANCES.—The application described in sub-
7 section (a)—

8 “(1) shall provide satisfactory assurance that
9 Federal funds made available under section 643 to the
10 State will be expended in accordance with this part;

11 “(2) shall contain an assurance that the State
12 will comply with the requirements of section 640;

13 “(3) shall provide satisfactory assurance that the
14 control of funds provided under section 643, and title
15 to property derived from those funds, will be in a
16 public agency for the uses and purposes provided in
17 this part and that a public agency will administer
18 such funds and property;

19 “(4) shall provide for—

20 “(A) making such reports in such form and
21 containing such information as the Secretary
22 may require to carry out the Secretary’s func-
23 tions under this part; and

24 “(B) keeping such records and affording
25 such access to them as the Secretary may find

1 *necessary to ensure the correctness and*
2 *verification of those reports and proper disburse-*
3 *ment of Federal funds under this part;*

4 “(5) *provide satisfactory assurance that Federal*
5 *funds made available under section 643 to the*
6 *State—*

7 “(A) *will not be commingled with State*
8 *funds; and*

9 “(B) *will be used so as to supplement the*
10 *level of State and local funds expended for in-*
11 *fants and toddlers with disabilities and their*
12 *families and in no case to supplant those State*
13 *and local funds;*

14 “(6) *shall provide satisfactory assurance that*
15 *such fiscal control and fund accounting procedures*
16 *will be adopted as may be necessary to ensure proper*
17 *disbursement of, and accounting for, Federal funds*
18 *paid under section 643 to the State;*

19 “(7) *shall provide satisfactory assurance that*
20 *policies and procedures have been adopted to ensure*
21 *meaningful involvement of underserved groups, in-*
22 *cluding minority, low-income, and rural families, in*
23 *the planning and implementation of all the require-*
24 *ments of this part; and*

1 “(8) shall contain such other information and
2 assurances as the Secretary may reasonably require
3 by regulation.

4 “(c) *STANDARD FOR DISAPPROVAL OF APPLICATION.*—
5 *The Secretary may not disapprove such an application un-*
6 *less the Secretary determines, after notice and opportunity*
7 *for a hearing, that the application fails to comply with the*
8 *requirements of this section.*

9 “(d) *SUBSEQUENT STATE APPLICATION.*—*If a State*
10 *has on file with the Secretary a policy, procedure, or assur-*
11 *ance that demonstrates that the State meets a requirement*
12 *of this section, including any policy or procedure filed*
13 *under this part (as in effect before the date of the enactment*
14 *of the Improving Education Results for Children With Dis-*
15 *abilities Act of 2003), the Secretary shall consider the State*
16 *to have met the requirement for purposes of receiving a*
17 *grant under this part.*

18 “(e) *MODIFICATION OF APPLICATION.*—*An application*
19 *submitted by a State in accordance with this section shall*
20 *remain in effect until the State submits to the Secretary*
21 *such modifications as the State determines necessary. This*
22 *section shall apply to a modification of an application to*
23 *the same extent and in the same manner as this section*
24 *applies to the original application.*

1 “(f) *MODIFICATIONS REQUIRED BY THE SEC-*
2 *RETARY.—The Secretary may require a State to modify its*
3 *application under this section, but only to the extent nec-*
4 *essary to ensure the State’s compliance with this part, if—*

5 “(1) *an amendment is made to this Act, or a*
6 *Federal regulation issued under this Act;*

7 “(2) *a new interpretation of this Act is made by*
8 *a Federal court or the State’s highest court; or*

9 “(3) *an official finding of noncompliance with*
10 *Federal law or regulations is made with respect to the*
11 *State.*

12 **“SEC. 638. USES OF FUNDS.**

13 *“In addition to using funds provided under section*
14 *633 to maintain and implement the statewide system re-*
15 *quired by such section, a State may use such funds—*

16 “(1) *for direct early intervention services for in-*
17 *fants and toddlers with disabilities, and their fami-*
18 *lies, under this part that are not otherwise funded*
19 *through other public or private sources;*

20 “(2) *to expand and improve on services for in-*
21 *fants and toddlers and their families under this part*
22 *that are otherwise available;*

23 “(3) *to provide a free appropriate public edu-*
24 *cation, in accordance with part B, to children with*

1 *disabilities from their third birthday to the beginning*
2 *of the following school year; and*

3 *“(4) in any State that does not provide services*
4 *for at-risk infants and toddlers under section*
5 *637(a)(4), to strengthen the statewide system by initi-*
6 *ating, expanding, or improving collaborative efforts*
7 *related to at-risk infants and toddlers, including es-*
8 *tablishing linkages with appropriate public or private*
9 *community-based organizations, services, and per-*
10 *sonnel for the purposes of—*

11 *“(A) identifying and evaluating at-risk in-*
12 *fants and toddlers;*

13 *“(B) making referrals of the infants and*
14 *toddlers identified and evaluated under subpara-*
15 *graph (A); and*

16 *“(C) conducting periodic followup on each*
17 *such referral to determine if the status of the in-*
18 *fant or toddler involved has changed with respect*
19 *to the eligibility of the infant or toddler for serv-*
20 *ices under this part.”.*

21 **SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS**

22 **WITH DISABILITIES EDUCATION ACT.**

23 *Sections 641 through 645 of the Individuals with Dis-*
24 *abilities Education Act (20 U.S.C. 1441–1445) are amend-*
25 *ed to read as follows:*

1 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

2 “(a) *ESTABLISHMENT.*—

3 “(1) *IN GENERAL.*—*A State that desires to re-*
4 *ceive financial assistance under this part shall estab-*
5 *lish a State interagency coordinating council.*

6 “(2) *APPOINTMENT.*—*The council shall be ap-*
7 *pointed by the Governor. In making appointments to*
8 *the council, the Governor shall ensure that the mem-*
9 *bership of the council reasonably represents the popu-*
10 *lation of the State.*

11 “(3) *CHAIRPERSON.*—*The Governor shall des-*
12 *ignate a member of the council to serve as the chair-*
13 *person of the council, or shall require the council to*
14 *so designate such a member. Any member of the coun-*
15 *cil who is a representative of the lead agency des-*
16 *ignated under section 635(a)(10) may not serve as the*
17 *chairperson of the council.*

18 “(b) *COMPOSITION.*—

19 “(1) *IN GENERAL.*—*The council shall be com-*
20 *posed as follows:*

21 “(A) *PARENTS.*—*At least 20 percent of the*
22 *members shall be parents of infants or toddlers*
23 *with disabilities or children with disabilities*
24 *aged 12 or younger, with knowledge of, or experi-*
25 *ence with, programs for infants and toddlers*
26 *with disabilities. At least one such member shall*

1 *be a parent of an infant or toddler with a dis-*
2 *ability or a child with a disability aged 6 or*
3 *younger.*

4 “(B) *SERVICE PROVIDERS.—At least 20*
5 *percent of the members shall be public or private*
6 *providers of early intervention services.*

7 “(C) *STATE LEGISLATURE.—At least one*
8 *member shall be from the State legislature.*

9 “(D) *PERSONNEL PREPARATION.—At least*
10 *one member shall be involved in personnel prepa-*
11 *ration.*

12 “(E) *AGENCY FOR EARLY INTERVENTION*
13 *SERVICES.—At least one member shall be from*
14 *each of the State agencies involved in the provi-*
15 *sion of, or payment for, early intervention serv-*
16 *ices to infants and toddlers with disabilities and*
17 *their families and shall have sufficient authority*
18 *to engage in policy planning and implementa-*
19 *tion on behalf of such agencies.*

20 “(F) *AGENCY FOR PRESCHOOL SERVICES.—*
21 *At least one member shall be from the State edu-*
22 *cational agency responsible for preschool services*
23 *to children with disabilities and shall have suffi-*
24 *cient authority to engage in policy planning and*
25 *implementation on behalf of such agency.*

1 “(G) *AGENCY FOR HEALTH INSURANCE.*—At
2 *least one member shall be from the agency re-*
3 *ponsible for the State governance of health in-*
4 *urance.*

5 “(H) *HEAD START AGENCY.*—At least one
6 *representative from a Head Start agency or pro-*
7 *gram in the State.*

8 “(I) *CHILD CARE AGENCY.*—At least one
9 *representative from a State agency responsible*
10 *for child care.*

11 “(J) *MENTAL HEALTH AGENCY.*—At least
12 *one representative from the State agency respon-*
13 *sible for children’s mental health.*

14 “(K) *CHILD WELFARE AGENCY.*—At least
15 *one representative from the State agency respon-*
16 *sible for child protective services.*

17 “(L) *OFFICE OF THE COORDINATOR FOR*
18 *THE EDUCATION OF HOMELESS CHILDREN AND*
19 *YOUTH.*—At least one representative designated
20 *by the Office of the Coordinator.*

21 “(2) *OTHER MEMBERS.*—The council may in-
22 *clude other members selected by the Governor, includ-*
23 *ing a representative from the Bureau of Indian Af-*
24 *airs, or where there is no BIA-operated or BIA-fund-*

1 *ed school, from the Indian Health Service or the tribe*
2 *or tribal council.*

3 “(c) *MEETINGS.*—*The council shall meet at least quar-*
4 *terly and in such places as it deems necessary. The meetings*
5 *shall be publicly announced, and, to the extent appropriate,*
6 *open and accessible to the general public.*

7 “(d) *MANAGEMENT AUTHORITY.*—*Subject to the ap-*
8 *proval of the Governor, the council may prepare and ap-*
9 *prove a budget using funds under this part to conduct hear-*
10 *ings and forums, to reimburse members of the council for*
11 *reasonable and necessary expenses for attending council*
12 *meetings and performing council duties (including child*
13 *care for parent representatives), to pay compensation to a*
14 *member of the council if the member is not employed or*
15 *must forfeit wages from other employment when performing*
16 *official council business, to hire staff, and to obtain the serv-*
17 *ices of such professional, technical, and clerical personnel*
18 *as may be necessary to carry out its functions under this*
19 *part.*

20 “(e) *FUNCTIONS OF COUNCIL.*—

21 “(1) *DUTIES.*—*The council shall—*

22 “(A) *advise and assist the lead agency des-*
23 *ignated or established under section 635(a)(10)*
24 *in the performance of the responsibilities set*
25 *forth in such section, particularly the identifica-*

1 *tion of the sources of fiscal and other support for*
2 *services for early intervention programs, assign-*
3 *ment of financial responsibility to the appro-*
4 *priate agency, and the promotion of the inter-*
5 *agency agreements;*

6 *“(B) advise and assist the lead agency in*
7 *the preparation of applications and amendments*
8 *thereto;*

9 *“(C) advise and assist the State educational*
10 *agency regarding the transition of toddlers with*
11 *disabilities to preschool and other appropriate*
12 *services; and*

13 *“(D) prepare and submit an annual report*
14 *to the Governor and to the Secretary on the sta-*
15 *tus of early intervention programs for infants*
16 *and toddlers with disabilities and their families*
17 *operated within the State.*

18 *“(2) AUTHORIZED ACTIVITY.—The council may*
19 *advise and assist the lead agency and the State edu-*
20 *catinal agency regarding the provision of appro-*
21 *priate services for children from birth through age 5.*
22 *The council may advise appropriate agencies in the*
23 *State with respect to the integration of services for in-*
24 *fants and toddlers with disabilities and at-risk in-*
25 *fants and toddlers and their families, regardless of*

1 *whether at-risk infants and toddlers are eligible for*
2 *early intervention services in the State.*

3 “(f) *CONFLICT OF INTEREST.*—No member of the coun-
4 *cil shall cast a vote on any matter that would provide direct*
5 *financial benefit to that member or otherwise give the ap-*
6 *pearance of a conflict of interest under State law.*

7 “**SEC. 642. FEDERAL ADMINISTRATION.**

8 “Sections 616, 617, and 618 shall, to the extent not
9 inconsistent with this part, apply to the program author-
10 ized by this part, except that—

11 “(1) any reference in such sections to a State
12 educational agency shall be considered to be a ref-
13 erence to a State’s lead agency established or des-
14 ignated under section 635(a)(10);

15 “(2) any reference in such sections to a local
16 educational agency, educational service agency, or a
17 State agency shall be considered to be a reference to
18 an early intervention service provider under this
19 part; and

20 “(3) any reference to the education of children
21 with disabilities or the education of all children with
22 disabilities shall be considered to be a reference to the
23 provision of appropriate early intervention services to
24 infants and toddlers with disabilities.

1 **“SEC. 643. ALLOCATION OF FUNDS.**

2 “(a) *RESERVATION OF FUNDS FOR OUTLYING*
3 *AREAS.—*

4 “(1) *IN GENERAL.—From the sums appropriated*
5 *to carry out this part for any fiscal year, the Sec-*
6 *retary may reserve up to one percent for payments to*
7 *Guam, American Samoa, the Virgin Islands, and the*
8 *Commonwealth of the Northern Mariana Islands in*
9 *accordance with their respective needs.*

10 “(2) *CONSOLIDATION OF FUNDS.—The provisions*
11 *of Public Law 95–134, permitting the consolidation of*
12 *grants to the outlying areas, shall not apply to funds*
13 *those areas receive under this part.*

14 “(b) *PAYMENTS TO INDIANS.—*

15 “(1) *IN GENERAL.—The Secretary shall, subject*
16 *to this subsection, make payments to the Secretary of*
17 *the Interior to be distributed to tribes, tribal organi-*
18 *zations (as defined under section 4 of the Indian Self-*
19 *Determination and Education Assistance Act), or*
20 *consortia of the above entities for the coordination of*
21 *assistance in the provision of early intervention serv-*
22 *ices by the States to infants and toddlers with disabil-*
23 *ities and their families on reservations served by ele-*
24 *mentary and secondary schools for Indian children*
25 *operated or funded by the Department of the Interior.*
26 *The amount of such payment for any fiscal year shall*

1 *be 1.25 percent of the aggregate of the amount avail-*
2 *able to all States under this part for such fiscal year.*

3 *“(2) ALLOCATION.—For each fiscal year, the Sec-*
4 *retary of the Interior shall distribute the entire pay-*
5 *ment received under paragraph (1) by providing to*
6 *each tribe, tribal organization, or consortium an*
7 *amount based on the number of infants and toddlers*
8 *residing on the reservation, as determined annually,*
9 *divided by the total number of such children served by*
10 *all tribes, tribal organizations, or consortia.*

11 *“(3) INFORMATION.—To receive a payment*
12 *under this subsection, the tribe, tribal organization,*
13 *or consortium shall submit such information to the*
14 *Secretary of the Interior as is needed to determine the*
15 *amounts to be distributed under paragraph (2).*

16 *“(4) USE OF FUNDS.—The funds received by a*
17 *tribe, tribal organization, or consortium shall be used*
18 *to assist States in child find, screening, and other*
19 *procedures for the early identification of Indian chil-*
20 *dren under 3 years of age and for parent training.*
21 *Such funds may also be used to provide early inter-*
22 *vention services in accordance with this part. Such*
23 *activities may be carried out directly or through con-*
24 *tracts or cooperative agreements with the BIA, local*
25 *educational agencies, and other public or private non-*

1 *profit organizations. The tribe, tribal organization, or*
2 *consortium is encouraged to involve Indian parents*
3 *in the development and implementation of these ac-*
4 *tivities. The above entities shall, as appropriate, make*
5 *referrals to local, State, or Federal entities for the*
6 *provision of services or further diagnosis.*

7 “(5) *REPORTS.*—*To be eligible to receive a grant*
8 *under paragraph (2), a tribe, tribal organization, or*
9 *consortium shall make an annual report to the Sec-*
10 *retary of the Interior of activities undertaken under*
11 *this subsection, including the number of contracts and*
12 *cooperative agreements entered into, the number of*
13 *children contacted and receiving services for each*
14 *year, and the estimated number of children needing*
15 *services during the year following the year in which*
16 *the report is made. The Secretary of the Interior shall*
17 *include a summary of this information on an annual*
18 *basis to the Secretary of Education along with such*
19 *other information as required under section*
20 *611(h)(3)(E). The Secretary of Education may re-*
21 *quire any additional information from the Secretary*
22 *of the Interior.*

23 “(6) *PROHIBITED USES OF FUNDS.*—*None of the*
24 *funds under this subsection may be used by the Sec-*
25 *retary of the Interior for administrative purposes, in-*

1 *cluding child count, and the provision of technical as-*
2 *sistance.*

3 “(c) *STATE ALLOTMENTS.*—

4 “(1) *IN GENERAL.*—*Except as provided in para-*
5 *graphs (2) and (3) from the funds remaining for each*
6 *fiscal year after the reservation and payments under*
7 *subsections (a) and (b), the Secretary shall first allot*
8 *to each State an amount that bears the same ratio to*
9 *the amount of such remainder as the number of in-*
10 *fant and toddlers in the State bears to the number*
11 *of infants and toddlers in all States.*

12 “(2) *MINIMUM ALLOTMENTS.*—*Except as pro-*
13 *vided in paragraph (3) no State shall receive an*
14 *amount under this section for any fiscal year that is*
15 *less than the greater of—*

16 “(A) *one-half of one percent of the remain-*
17 *ing amount described in paragraph (1); or*

18 “(B) *\$500,000.*

19 “(3) *RATABLE REDUCTION.*—

20 “(A) *IN GENERAL.*—*If the sums made avail-*
21 *able under this part for any fiscal year are in-*
22 *sufficient to pay the full amounts that all States*
23 *are eligible to receive under this subsection for*
24 *such year, the Secretary shall ratably reduce the*
25 *allotments to such States for such year.*

1 “(B) *ADDITIONAL FUNDS.*—If additional
2 funds become available for making payments
3 under this subsection for a fiscal year, allotments
4 that were reduced under subparagraph (A) shall
5 be increased on the same basis they were reduced.

6 “(4) *DEFINITIONS.*—For the purpose of this sub-
7 section—

8 “(A) the terms ‘infants’ and ‘toddlers’ mean
9 children under 3 years of age; and

10 “(B) the term ‘State’ means each of the 50
11 States, the District of Columbia, and the Com-
12 monwealth of Puerto Rico.

13 “(d) *REALLOTMENT OF FUNDS.*—If a State elects not
14 to receive its allotment under subsection (c), the Secretary
15 shall reallocate, among the remaining States, amounts from
16 such State in accordance with such subsection.

17 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

18 “For the purpose of carrying out this part, there are
19 authorized to be appropriated \$447,000,000 for fiscal year
20 2004 and such sums as may be necessary for each of the
21 fiscal years 2005 through 2009.”.

1 **TITLE IV—NATIONAL ACTIVITIES**
2 **TO IMPROVE EDUCATION OF**
3 **CHILDREN WITH DISABIL-**
4 **ITIES**

5 **SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION**
6 **OF CHILDREN WITH DISABILITIES.**

7 *Part D of the Individuals with Disabilities Education*
8 *Act (20 U.S.C. 1451 et seq.) is amended to read as follows:*

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

11 **“SEC. 651. FINDINGS.**

12 *“The Congress finds the following:*

13 *“(1) The Federal Government has an ongoing ob-*
14 *ligation to support activities that contribute to posi-*
15 *tive results for children with disabilities, enabling*
16 *them to lead productive and independent adult lives.*

17 *“(2) Systemic change benefiting all students, in-*
18 *cluding children with disabilities, requires the in-*
19 *volvement of States, local educational agencies, par-*
20 *ents, individuals with disabilities and their families,*
21 *teachers and other service providers, and other inter-*
22 *ested individuals and organizations, to develop and*
23 *implement comprehensive strategies that improve edu-*
24 *cational results for children with disabilities.*

1 “(3) State educational agencies, in partnership
2 with local educational agencies, parents of children
3 with disabilities, and other individuals and organiza-
4 tions, are in the best position to improve education
5 for children with disabilities and to address their spe-
6 cial needs.

7 “(4) An effective educational system serving stu-
8 dents with disabilities should—

9 “(A) maintain high academic standards
10 and clear achievement goals for children, con-
11 sistent with the standards and expectations for
12 all students in the educational system, and pro-
13 vide for appropriate and effective strategies and
14 methods to ensure that all children with disabil-
15 ities have the opportunity to achieve those stand-
16 ards and goals;

17 “(B) clearly define, in objective, measurable
18 terms, the school and post-school results that
19 children with disabilities are expected to achieve;
20 and

21 “(C) promote transition services, as de-
22 scribed in section 602(31), and coordinate State
23 and local education, social, health, mental
24 health, and other services, to address the full
25 range of student needs, particularly the needs of

1 *children with disabilities who need significant*
2 *levels of support to participate and learn in*
3 *school and the community.*

4 “(5) *The availability of an adequate number of*
5 *qualified personnel is critical in order to serve effec-*
6 *tively children with disabilities, fill leadership posi-*
7 *tions in administrative and direct-service capacities,*
8 *provide teacher training, and conduct high-quality re-*
9 *search to improve special education.*

10 “(6) *High-quality, comprehensive professional*
11 *development programs are essential to ensure that the*
12 *persons responsible for the education or transition of*
13 *children with disabilities possess the skills and knowl-*
14 *edge necessary to address the educational and related*
15 *needs of those children.*

16 “(7) *Models of professional development should*
17 *be scientifically based and reflect successful practices,*
18 *including strategies for recruiting, preparing, and re-*
19 *taining personnel.*

20 “(8) *Continued support is essential for the devel-*
21 *opment and maintenance of a coordinated and high-*
22 *quality program of research to inform successful*
23 *teaching practices and model curricula for educating*
24 *children with disabilities.*

1 “(9) *A comprehensive research agenda should be*
2 *established and pursued to promote the highest qual-*
3 *ity and rigor in research on special education and re-*
4 *lated services, and to address the full range of issues*
5 *facing children with disabilities, parents of children*
6 *with disabilities, school personnel, and others.*

7 “(10) *Technical assistance, support, and dissemi-*
8 *nation activities are necessary to ensure that parts B*
9 *and C are fully implemented and achieve quality*
10 *early intervention, educational, and transitional re-*
11 *sults for children with disabilities and their families.*

12 “(11) *Parents, teachers, administrators, and re-*
13 *lated services personnel need technical assistance and*
14 *information in a timely, coordinated, and accessible*
15 *manner in order to improve early intervention, edu-*
16 *cational, and transitional services and results at the*
17 *State and local levels for children with disabilities*
18 *and their families.*

19 “(12) *Parent training and information activities*
20 *assist parents of a child with a disability in dealing*
21 *with the multiple pressures of parenting such a child*
22 *and are of particular importance in—*

23 “(A) *creating and preserving constructive*
24 *relationships between parents of children with*
25 *disabilities and schools by facilitating open com-*

1 *munication between such parents and schools,*
2 *encouraging dispute resolution at the earliest*
3 *point in time possible, and discouraging the es-*
4 *calation of an adversarial process between such*
5 *parents and schools;*

6 “(B) *ensuring the involvement of such par-*
7 *ents in planning and decision-making with re-*
8 *spect to early intervention, educational, and*
9 *transitional services;*

10 “(C) *achieving high-quality early interven-*
11 *tion, educational, and transitional results for*
12 *children with disabilities;*

13 “(D) *providing such parents information on*
14 *their rights, protections, and responsibilities*
15 *under this Act to ensure improved early inter-*
16 *vention, educational, and transitional results for*
17 *children with disabilities;*

18 “(E) *assisting such parents in the develop-*
19 *ment of skills to participate effectively in the*
20 *education and development of their children and*
21 *in the transitions described in section 602(31);*

22 “(F) *supporting the roles of such parents as*
23 *participants within partnerships seeking to im-*
24 *prove early intervention, educational, and tran-*

1 *sitional services and results for children with*
2 *disabilities and their families; and*

3 “(G) *supporting those parents who may*
4 *have limited access to services and supports due*
5 *to economic, cultural, or linguistic barriers.*

6 “(13) *Support is needed to improve technological*
7 *resources and integrate technology into the lives of*
8 *children with disabilities, parents of children with*
9 *disabilities, school personnel, and others through cur-*
10 *ricula, services, and assistive technologies.*

11 **“Subpart 1—State Professional Development Grants**

12 **“SEC. 652. PURPOSE.**

13 *“The purpose of this subpart is to assist State edu-*
14 *cational agencies in reforming and improving their systems*
15 *for professional development in early intervention, edu-*
16 *cational, and related and transition services in order to im-*
17 *prove results for children with disabilities.*

18 **“SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.**

19 “(a) *ELIGIBLE APPLICANTS.—A State educational*
20 *agency may apply for a grant under this subpart for a pe-*
21 *riod of not less than 1 year and not more than 5 years.*

22 “(b) *PARTNERS.—*

23 “(1) *REQUIRED PARTNERS.—In order to be con-*
24 *sidered for a grant under this subpart, a State edu-*
25 *cational agency shall enter into a partnership agree-*

1 *ment with local educational agencies, at least one in-*
2 *stitution of higher education in the State, and other*
3 *State agencies involved in, or concerned with, the*
4 *education of children with disabilities.*

5 *“(2) OPTIONAL PARTNERS.—In addition, a State*
6 *educational agency may enter into a partnership*
7 *agreement with any of the following:*

8 *“(A) The Governor.*

9 *“(B) Parents of children with disabilities*
10 *ages birth through 26.*

11 *“(C) Parents of nondisabled children ages*
12 *birth through 26.*

13 *“(D) Individuals with disabilities.*

14 *“(E) Organizations representing individ-*
15 *uals with disabilities and their parents, such as*
16 *parent training and information centers.*

17 *“(F) Community-based and other nonprofit*
18 *organizations involved in the education and em-*
19 *ployment of individuals with disabilities.*

20 *“(G) The lead State agency for part C.*

21 *“(H) General and special education teach-*
22 *ers, related services personnel, and early inter-*
23 *vention personnel.*

24 *“(I) The State advisory panel established*
25 *under part C.*

1 “(J) *The State interagency coordinating*
2 *council established under part C.*

3 “(K) *Institutions of higher education within*
4 *the State.*

5 “(L) *Individuals knowledgeable about voca-*
6 *tional education.*

7 “(M) *The State agency for higher education.*

8 “(N) *The State vocational rehabilitation*
9 *agency.*

10 “(O) *Public agencies with jurisdiction in*
11 *the areas of health, mental health, social services,*
12 *and juvenile justice.*

13 “(P) *Other providers of professional devel-*
14 *opment that work with students with disabilities.*

15 “(Q) *Other individuals.*

16 **“SEC. 654. APPLICATIONS.**

17 “(a) *IN GENERAL.—*

18 “(1) *SUBMISSION.—A State educational agency*
19 *that desires to receive a grant under this subpart*
20 *shall submit to the Secretary an application at such*
21 *time, in such manner, and including such informa-*
22 *tion as the Secretary may require.*

23 “(2) *STATE PLAN.—The application shall in-*
24 *clude a plan that addresses the State and local needs*
25 *for the professional development of administrators,*

1 principals, teachers, related services personnel, and
2 individuals who provide direct supplementary aids
3 and services to children with disabilities, and that—

4 “(A) is integrated, to the maximum extent
5 possible, with State plans under the Elementary
6 and Secondary Education Act of 1965, the Reha-
7 bilitation Act of 1973, and the Higher Education
8 Act of 1965, as appropriate; and

9 “(B) is designed to enable the State to meet
10 the requirements of section 612(a)(15) of this
11 Act.

12 “(b) ELEMENTS OF STATE PLAN.—Each State plan
13 shall—

14 “(1) describe a partnership agreement that—

15 “(A) specifies—

16 “(i) the nature and extent of the part-
17 nership among the State educational agen-
18 cy, local educational agencies, and other
19 State agencies involved in, or concerned
20 with, the education of children with disabil-
21 ities, and the respective roles of each mem-
22 ber of the partnership; and

23 “(ii) how such agencies will work in
24 partnership with other persons and organi-
25 zations involved in, and concerned with, the

1 *education of children with disabilities, in-*
2 *cluding the respective roles of each of these*
3 *persons and organizations; and*

4 *“(B) is in effect for the period of the grant;*

5 *“(2) describe how grant funds, including part B*
6 *funds retained for use at the State level under sections*
7 *611(e) and 619(d), and other Federal funds will be*
8 *used to support activities conducted under this sub-*
9 *part;*

10 *“(3) describe the strategies the State will use to*
11 *implement the plan to improve results for children*
12 *with disabilities, including—*

13 *“(A) how the State will align its profes-*
14 *sional development plan with the plans sub-*
15 *mitted by the State under sections 1111 and*
16 *2112 of the Elementary and Secondary Edu-*
17 *cation Act of 1965;*

18 *“(B) how the State will provide technical*
19 *assistance to local educational agencies and*
20 *schools to improve the quality of professional de-*
21 *velopment available to meet the needs of per-*
22 *sonnel that serve children with disabilities; and*

23 *“(C) how the State will assess, on a regular*
24 *basis, the extent to which the strategies imple-*
25 *mented under this subpart have been effective in*

1 *meeting the achievement goals and indicators in*
2 *section 612(a)(16);*

3 “(4) *describe, as appropriate, how the strategies*
4 *described in paragraph (3) will be coordinated with*
5 *public and private sector resources; and*

6 “(5) *include an assurance that the State will use*
7 *funds received under this subpart to carry out each*
8 *of the activities specified in the plan.*

9 “(c) *COMPETITIVE AWARDS.—*

10 “(1) *IN GENERAL.—The Secretary shall make*
11 *grants under this subpart on a competitive basis.*

12 “(2) *PRIORITY.—The Secretary may give pri-*
13 *ority to applications on the basis of need.*

14 “(d) *PEER REVIEW.—*

15 “(1) *IN GENERAL.—The Secretary shall evaluate*
16 *applications under this subpart using a panel of ex-*
17 *perts who are qualified by virtue of their training, ex-*
18 *pertise, or experience.*

19 “(2) *COMPOSITION OF PANEL.—A majority of a*
20 *panel described in paragraph (1) shall be composed of*
21 *individuals who are not employees of the Federal*
22 *Government.*

23 “(3) *PAYMENT OF FEES AND EXPENSES OF CER-*
24 *TAIN MEMBERS.—The Secretary may use available*
25 *funds appropriated to carry out this subpart to pay*

1 *the expenses and fees of panel members who are not*
2 *employees of the Federal Government.*

3 “(e) *REPORTING PROCEDURES.*—*Each State edu-*
4 *cational agency that receives a grant under this subpart*
5 *shall submit annual performance reports to the Secretary.*
6 *The reports shall—*

7 “(1) *describe the progress of the State in imple-*
8 *menting its plan;*

9 “(2) *analyze the effectiveness of the State’s ac-*
10 *tivities under this subpart and of the State’s strate-*
11 *gies for meeting its goals under section 612(a)(16);*
12 *and*

13 “(3) *identify any changes in such strategies*
14 *needed to improve its performance.*

15 **“SEC. 655. USE OF FUNDS.**

16 “(a) *IN GENERAL.*—

17 “(1) *ACTIVITIES.*—*A State educational agency*
18 *that receives a grant under this subpart shall use the*
19 *grant funds, subject to subsection (b), for the fol-*
20 *lowing:*

21 “(A) *PROFESSIONAL DEVELOPMENT.*—

22 “(i) *Carrying out programs that sup-*
23 *port the professional development of early*
24 *intervention personnel, related services per-*
25 *sonnel, and both special education and reg-*

1 *ular education teachers of children with dis-*
2 *abilities, such as programs that—*

3 *“(I) provide teacher mentoring,*
4 *team teaching, reduced class schedules,*
5 *and intensive professional development;*

6 *“(II) use standards or assessments*
7 *for guiding beginning teachers that are*
8 *consistent with challenging State stu-*
9 *dent academic achievement standards*
10 *and with the definition of professional*
11 *development in section 9101 of the Ele-*
12 *mentary and Secondary Education Act*
13 *of 1965;*

14 *“(III) promote collaborative and*
15 *consultive models of providing special*
16 *education ad related services; and*

17 *“(IV) increase understanding as*
18 *to the most appropriate placements*
19 *and services for all students to reduce*
20 *significant racial and ethnic*
21 *disproportionality in eligibility, place-*
22 *ment, and disciplinary actions.*

23 *“(ii) Encouraging and supporting the*
24 *training of special education and regular*
25 *education teachers and administrators to ef-*

1 *fectively integrate technology into curricula*
2 *and instruction, including training to im-*
3 *prove the ability to collect, manage, and*
4 *analyze data to improve teaching, decision-*
5 *making, school improvement efforts, and ac-*
6 *countability.*

7 *“(iii) Providing professional develop-*
8 *ment activities that improve the knowledge*
9 *of special education and regular education*
10 *teachers concerning—*

11 *“(I) the academic and develop-*
12 *mental needs of students with disabil-*
13 *ities; and*

14 *“(II) effective instructional strate-*
15 *gies, methods, and skills, use of chal-*
16 *lenging State academic content stand-*
17 *ards and student academic achieve-*
18 *ment standards, and use of State as-*
19 *sessments, to improve teaching prac-*
20 *tices and student academic achieve-*
21 *ment.*

22 *“(iv) Providing professional develop-*
23 *ment activities that—*

24 *“(I) improve the knowledge of spe-*
25 *cial education and regular education*

1 *teachers and principals and, in appro-*
2 *priate cases, related services personnel*
3 *and paraprofessionals, concerning ef-*
4 *fective instructional practices;*

5 *“(II) provide training in how to*
6 *teach and address the needs of students*
7 *with different learning styles;*

8 *“(III) involve collaborative groups*
9 *of teachers and administrators;*

10 *“(IV) provide training in methods*
11 *of—*

12 *“(aa) positive behavior inter-*
13 *ventions and supports to improve*
14 *student behavior in the classroom;*

15 *“(bb) scientifically based*
16 *reading instruction, including*
17 *early literacy instruction; and*

18 *“(cc) early and appropriate*
19 *interventions to identify and help*
20 *students with disabilities;*

21 *“(V) provide training to enable*
22 *special education and regular edu-*
23 *cation teachers, related services per-*
24 *sonnel, and principals to involve par-*
25 *ents in their child’s education, espe-*

1 *cially parents of low-income and lim-*
2 *ited English proficient children with*
3 *disabilities; or*

4 *“(VI) train administrators and*
5 *other relevant school personnel in con-*
6 *ducting facilitated individualized edu-*
7 *cation program meetings.*

8 *“(v) Developing and implementing ini-*
9 *tiatives to promote retention of highly*
10 *qualified special education teachers, includ-*
11 *ing programs that provide—*

12 *“(I) teacher mentoring from exem-*
13 *plary special education teachers, prin-*
14 *cipals, or superintendents;*

15 *“(II) induction and support for*
16 *special education teachers during their*
17 *first 3 years of employment as teach-*
18 *ers; or*

19 *“(III) incentives, including finan-*
20 *cial incentives, to retain special edu-*
21 *cation teachers who have a record of*
22 *success in helping students with dis-*
23 *abilities improve their academic*
24 *achievement.*

1 “(vi) *Carrying out programs and ac-*
2 *tivities that are designed to improve the*
3 *quality of the teacher force that serves chil-*
4 *dren with disabilities, such as—*

5 “(I) *innovative professional devel-*
6 *opment programs (which may be pro-*
7 *vided through partnerships including*
8 *institutions of higher education), in-*
9 *cluding programs that train teachers*
10 *and principals to integrate technology*
11 *into curricula and instruction to im-*
12 *prove teaching, learning, and tech-*
13 *nology literacy, are consistent with the*
14 *requirements of section 9101 of the Ele-*
15 *mentary and Secondary Education Act*
16 *of 1965, and are coordinated with ac-*
17 *tivities carried out under this part;*
18 *and*

19 “(II) *development and use of*
20 *proven, cost-effective strategies for the*
21 *implementation of professional develop-*
22 *ment activities, such as through the use*
23 *of technology and distance learning.*

24 “(B) *STATE ACTIVITIES.—*

1 “(i) *Reforming special education and*
2 *regular education teacher certification (in-*
3 *cluding recertification) or licensing require-*
4 *ments to ensure that—*

5 “(I) *special education and regular*
6 *education teachers have the training*
7 *and information necessary, including*
8 *an understanding of the latest scientif-*
9 *ically valid education research and its*
10 *applicability, to address the wide vari-*
11 *ety of needs of children with disabil-*
12 *ities across disability categories;*

13 “(II) *special education and reg-*
14 *ular education teachers have the nec-*
15 *essary subject matter knowledge and*
16 *teaching skills in the academic subjects*
17 *that the teachers teach;*

18 “(III) *special education and reg-*
19 *ular education teacher certification*
20 *(including recertification) or licensing*
21 *requirements are aligned with chal-*
22 *lenging State academic content stand-*
23 *ards; and*

24 “(IV) *special education and reg-*
25 *ular education teachers have the subject*

1 *matter knowledge and teaching skills,*
2 *including technology literacy, nec-*
3 *essary to help students meet chal-*
4 *lenging State student academic*
5 *achievement standards.*

6 *“(ii) Carrying out programs that es-*
7 *tablish, expand, or improve alternative*
8 *routes for State certification of special edu-*
9 *cation teachers for individuals who dem-*
10 *onstrate the potential to become highly effec-*
11 *tive special education teachers, such as indi-*
12 *viduals with a baccalaureate or master’s de-*
13 *gree (including mid-career professionals*
14 *from other occupations), paraprofessionals,*
15 *former military personnel, and recent col-*
16 *lege or university graduates with records of*
17 *academic distinction.*

18 *“(iii) Carrying out teacher advance-*
19 *ment initiatives for special education teach-*
20 *ers that promote professional growth and*
21 *emphasize multiple career paths (such as*
22 *paths to becoming a career teacher, mentor*
23 *teacher, or exemplary teacher) and pay dif-*
24 *ferentiation.*

1 “(iv) *Developing and implementing*
2 *mechanisms to assist local educational*
3 *agencies and schools in effectively recruiting*
4 *and retaining highly qualified special edu-*
5 *cation teachers.*

6 “(v) *Reforming tenure systems, imple-*
7 *menting teacher testing for subject matter*
8 *knowledge, and implementing teacher test-*
9 *ing for State certification or licensing, con-*
10 *sistent with title II of the Higher Education*
11 *Act of 1965.*

12 “(vi) *Developing and implementing*
13 *mechanisms to assist schools in effectively*
14 *recruiting and retaining highly qualified*
15 *special education teachers.*

16 “(vii) *Funding projects to promote rec-*
17 *iprocity of teacher certification or licensing*
18 *between or among States for special edu-*
19 *cation teachers, except that no reciprocity*
20 *agreement developed under this clause or de-*
21 *veloped using funds provided under this*
22 *subpart may lead to the weakening of any*
23 *State teaching certification or licensing re-*
24 *quirement.*

1 “(viii) *Developing or assisting local*
2 *educational agencies to serve children with*
3 *disabilities through the development and use*
4 *of proven, innovative strategies to deliver*
5 *intensive professional development programs*
6 *that are both cost-effective and easily acces-*
7 *sible, such as strategies that involve delivery*
8 *through the use of technology, peer networks,*
9 *and distance learning.*

10 “(ix) *Developing, or assisting local*
11 *educational agencies in developing, merit-*
12 *based performance systems, and strategies*
13 *that provide differential and bonus pay for*
14 *special education teachers.*

15 “(x) *Supporting activities that ensure*
16 *that teachers are able to use challenging*
17 *State academic content standards and stu-*
18 *dent academic achievement standards, and*
19 *State assessments, to improve instructional*
20 *practices and improve the academic*
21 *achievement of children with disabilities.*

22 “(xi) *Coordinating with, and expand-*
23 *ing, centers established under section*
24 *2113(c)(18) of the Elementary and Sec-*

1 *ondary Education Act of 1965 to benefit*
2 *special education teachers.*

3 “(2) *CONTRACTS AND SUBGRANTS.—Each such*
4 *State educational agency—*

5 “(A) *shall, consistent with its partnership*
6 *agreement under section 654(b)(1), award con-*
7 *tracts or subgrants to local educational agencies,*
8 *institutions of higher education, and parent*
9 *training and information centers, as appro-*
10 *priate, to carry out its State plan under this*
11 *subpart; and*

12 “(B) *may award contracts and subgrants to*
13 *other public and private entities, including the*
14 *lead agency under part C, to carry out such*
15 *plan.*

16 “(b) *USE OF FUNDS FOR PROFESSIONAL DEVELOP-*
17 *MENT.—A State educational agency that receives a grant*
18 *under this subpart shall use—*

19 “(1) *not less than 90 percent of the funds it re-*
20 *ceives under the grant for any fiscal year for activi-*
21 *ties under subsection (a)(1)(A); and*

22 “(2) *not more than 10 percent of the funds it re-*
23 *ceives under the grant for any fiscal year for activi-*
24 *ties under subsection (a)(1)(B).*

1 “(c) *GRANTS TO OUTLYING AREAS.*—Public Law 95–
2 134, permitting the consolidation of grants to the outlying
3 areas, shall not apply to funds received under this subpart.

4 “**SEC. 656. STATE GRANT AMOUNTS.**

5 “(a) *IN GENERAL.*—The Secretary shall make a grant
6 to each State educational agency whose application the Sec-
7 retary has selected for funding under this subpart in an
8 amount for each fiscal year that is—

9 “(1) not less than \$500,000, nor more than
10 \$2,000,000, in the case of the 50 States, the District
11 of Columbia, and the Commonwealth of Puerto Rico;
12 and

13 “(2) not less than \$80,000, in the case of an out-
14 lying area.

15 “(b) *FACTORS.*—The Secretary shall set the amount of
16 each grant under subsection (a) after considering—

17 “(1) the amount of funds available for making
18 the grants;

19 “(2) the relative population of the State or out-
20 lying area; and

21 “(3) the types of activities proposed by the State
22 or outlying area, including—

23 “(A) the alignment of proposed activities
24 with paragraphs (14) and (15) of section 612(a);

1 “(B) the alignment of proposed activities
2 with the plans submitted under sections 1111
3 and 2112 of the Elementary and Secondary
4 Education Act of 1965; and

5 “(C) the use, as appropriate, of scientif-
6 ically based research.

7 **“SEC. 657. AUTHORIZATION OF APPROPRIATIONS.**

8 “There are authorized to be appropriated to carry out
9 this subpart \$44,000,000 for fiscal year 2004 and such sums
10 as may be necessary for each of the fiscal years 2005
11 through 2009.

12 **“Subpart 2—Scientifically Based Research; Technical**
13 **Assistance; Model Demonstration Projects; Dis-**
14 **semination of Information; and Personnel Prepa-**
15 **ration Programs**

16 **“SEC. 661. PURPOSE.**

17 “The purpose of this subpart is to provide Federal
18 funding for scientifically based research, technical assist-
19 ance, model demonstration projects, information dissemina-
20 tion, and personnel preparation programs to improve early
21 intervention, educational, and transitional results for chil-
22 dren with disabilities.

23 **“SEC. 662. ADMINISTRATIVE PROVISIONS.**

24 “(a) **COMPREHENSIVE PLAN.**—

1 “(1) *IN GENERAL.*—*The Secretary shall develop*
2 *and implement a comprehensive plan for activities*
3 *carried out under this subpart (other than section*
4 *663) in order to enhance the provision of educational,*
5 *related, transitional, and early intervention services*
6 *to children with disabilities under parts B and C.*
7 *The plan shall include mechanisms to address edu-*
8 *cational, related services, transitional, and early*
9 *intervention needs identified by State educational*
10 *agencies in applications submitted under subpart 1.*

11 “(2) *PUBLIC COMMENT.*—*The Secretary shall*
12 *provide a public comment period of at least 30 days*
13 *on the plan.*

14 “(3) *DISTRIBUTION OF FUNDS.*—*In imple-*
15 *menting the plan, the Secretary shall, to the extent*
16 *appropriate, ensure that funds are awarded to recipi-*
17 *ents under this subpart to carry out activities that*
18 *benefit, directly or indirectly, children with disabil-*
19 *ities of all ages.*

20 “(4) *REPORTS TO CONGRESS.*—*The Secretary*
21 *shall annually report to the Congress on the Sec-*
22 *retary’s activities under this subsection, including an*
23 *initial report not later than the date that is 12*
24 *months after the date of the enactment of Improving*

1 *Education Results for Children With Disabilities Act*
2 *of 2003.*

3 “(b) *ELIGIBLE APPLICANTS.*—

4 “(1) *IN GENERAL.*—*Except as otherwise provided*
5 *in this subpart, the following entities are eligible to*
6 *apply for a grant, contract, or cooperative agreement*
7 *under this subpart:*

8 “(A) *A State educational agency.*

9 “(B) *A local educational agency.*

10 “(C) *A public charter school that is a local*
11 *educational agency under State law.*

12 “(D) *An institution of higher education.*

13 “(E) *Any other public agency.*

14 “(F) *A private nonprofit organization.*

15 “(G) *An outlying area.*

16 “(H) *An Indian tribe or a tribal organiza-*
17 *tion (as defined under section 4 of the Indian*
18 *Self-Determination and Education Assistance*
19 *Act (25 U.S.C. 450b)).*

20 “(I) *A for-profit organization if the Sec-*
21 *retary finds it appropriate given the specific*
22 *purpose of the competition.*

23 “(2) *SPECIAL RULE.*—*The Secretary may limit*
24 *the entities eligible for an award of a grant, contract,*

1 or cooperative agreement to one or more categories of
2 eligible entities described in paragraph (1).

3 “(c) *SPECIAL POPULATIONS.*—

4 “(1) *APPLICATION REQUIREMENT.*—*In making*
5 *an award of a grant, contract, or cooperative agree-*
6 *ment under this subpart, the Secretary shall, as ap-*
7 *propriate, require an applicant to demonstrate how*
8 *the applicant will address the needs of children with*
9 *disabilities from minority backgrounds.*

10 “(2) *REQUIRED OUTREACH AND TECHNICAL AS-*
11 *SISTANCE.*—*Notwithstanding any other provision of*
12 *this Act, the Secretary shall reserve at least two per-*
13 *cent of the total amount of funds appropriated to*
14 *carry out this subpart for either or both of the fol-*
15 *lowing activities:*

16 “(A) *Providing outreach and technical as-*
17 *sistance to historically black colleges and univer-*
18 *sities, and to institutions of higher education*
19 *with minority enrollments of at least 25 percent,*
20 *to promote the participation of such colleges,*
21 *universities, and institutions in activities under*
22 *this subpart.*

23 “(B) *Enabling historically black colleges*
24 *and universities, and the institutions described*
25 *in subparagraph (A), to assist other colleges,*

1 *universities, institutions, and agencies in im-*
2 *proving educational and transitional results for*
3 *children with disabilities, if such grant appli-*
4 *cants meet the criteria established by the Sec-*
5 *retary under this subpart.*

6 “(d) *PRIORITIES.—The Secretary, in making an*
7 *award of a grant, contract, or cooperative agreement under*
8 *this subpart, may, without regard to the rulemaking proce-*
9 *dures under section 553 of title 5, United States Code, limit*
10 *competitions to, or otherwise give priority to—*

11 *“(1) projects that address one or more—*

12 *“(A) age ranges;*

13 *“(B) disabilities;*

14 *“(C) school grades;*

15 *“(D) types of educational placements or*
16 *early intervention environments;*

17 *“(E) types of services;*

18 *“(F) content areas, such as reading; or*

19 *“(G) effective strategies for helping children*
20 *with disabilities learn appropriate behavior in*
21 *the school and other community-based edu-*
22 *cational settings;*

23 *“(2) projects that address the needs of children*
24 *based on the severity or incidence of their disability;*

25 *“(3) projects that address the needs of—*

1 “(A) *low-achieving students;*

2 “(B) *underserved populations;*

3 “(C) *children from low-income families;*

4 “(D) *children with limited English pro-*
5 *ficiency;*

6 “(E) *unserved and underserved areas;*

7 “(F) *rural or urban areas;*

8 “(G) *children whose behavior interferes with*
9 *their learning and socialization;*

10 “(H) *children with intractable reading dif-*
11 *ficulties; and*

12 “(I) *children in public charter schools;*

13 “(4) *projects to reduce inappropriate identifica-*
14 *tion of children as children with disabilities, particu-*
15 *larly among minority children; and*

16 “(5) *any activity that is expressly authorized in*
17 *this subpart or subpart 3.*

18 “(e) *APPLICANT AND RECIPIENT RESPONSIBILITIES.—*

19 “(1) *DEVELOPMENT AND ASSESSMENT OF*
20 *PROJECTS.—The Secretary shall require that an ap-*
21 *plicant for, and a recipient of, a grant, contract, or*
22 *cooperative agreement for a project under this sub-*
23 *part—*

24 “(A) *involve individuals with disabilities,*
25 *or parents of individuals with disabilities ages*

1 *birth through 26, in planning, implementing,*
2 *and evaluating the project; and*

3 “(B) *where appropriate, determine whether*
4 *the project has any potential for replication and*
5 *adoption by other entities.*

6 “(2) *ADDITIONAL RESPONSIBILITIES.—The Sec-*
7 *retary may require a recipient of a grant, contract,*
8 *or cooperative agreement for a project under this sub-*
9 *part—*

10 “(A) *to share in the cost of the project;*

11 “(B) *to prepare the research and evaluation*
12 *findings and products from the project in for-*
13 *formats that are useful for specific audiences, in-*
14 *cluding parents, administrators, teachers, early*
15 *intervention personnel, related services personnel,*
16 *and individuals with disabilities;*

17 “(C) *to disseminate such findings and prod-*
18 *ucts; and*

19 “(D) *to collaborate with other such recipi-*
20 *ents in carrying out subparagraphs (B) and (C).*

21 “(f) *APPLICATION MANAGEMENT.—*

22 “(1) *STANDING PANEL.—*

23 “(A) *IN GENERAL.—The Secretary shall es-*
24 *tablish and use a standing panel of experts who*
25 *are qualified, by virtue of their training, exper-*

1 *tise, or experience, to evaluate applications*
2 *under this subpart (other than section 663) that,*
3 *individually, request more than \$75,000 per year*
4 *in Federal financial assistance.*

5 “(B) *MEMBERSHIP.*—*The standing panel*
6 *shall include, at a minimum—*

7 “(i) *individuals who are representa-*
8 *tives of institutions of higher education that*
9 *plan, develop, and carry out high-quality*
10 *programs of personnel preparation;*

11 “(ii) *individuals who design and carry*
12 *out scientifically-based research targeted to*
13 *the improvement of special education pro-*
14 *grams and services;*

15 “(iii) *individuals who have recognized*
16 *experience and knowledge necessary to inte-*
17 *grate and apply scientifically-based research*
18 *findings to improve educational and transi-*
19 *tional results for children with disabilities;*

20 “(iv) *individuals who administer pro-*
21 *grams at the State or local level in which*
22 *children with disabilities participate;*

23 “(v) *individuals who prepare parents*
24 *of children with disabilities to participate*

1 *in making decisions about the education of*
2 *their children;*

3 “(vi) *individuals who establish policies*
4 *that affect the delivery of services to chil-*
5 *dren with disabilities;*

6 “(vii) *individuals who are parents of*
7 *children with disabilities ages birth through*
8 *26 who are benefiting, or have benefited,*
9 *from coordinated research, personnel prepa-*
10 *ration, and technical assistance; and*

11 “(viii) *individuals with disabilities.*

12 “(C) *TERM.—No individual shall serve on*
13 *the standing panel for more than 3 consecutive*
14 *years.*

15 “(2) *PEER-REVIEW PANELS FOR PARTICULAR*
16 *COMPETITIONS.—*

17 “(A) *COMPOSITION.—The Secretary shall*
18 *ensure that each subpanel selected from the*
19 *standing panel that reviews applications under*
20 *this subpart (other than section 663) includes—*

21 “(i) *individuals with knowledge and*
22 *expertise on the issues addressed by the ac-*
23 *tivities authorized by the subpart; and*

24 “(ii) *to the extent practicable, parents*
25 *of children with disabilities ages birth*

1 *through 26, individuals with disabilities,*
2 *and persons from diverse backgrounds.*

3 “(B) *FEDERAL EMPLOYMENT LIMITATION.*—
4 *A majority of the individuals on each subpanel*
5 *that reviews an application under this subpart*
6 *(other than section 663) shall be individuals who*
7 *are not employees of the Federal Government.*

8 “(3) *USE OF DISCRETIONARY FUNDS FOR ADMIN-*
9 *ISTRATIVE PURPOSES.*—

10 “(A) *EXPENSES AND FEES OF NON-FED-*
11 *ERAL PANEL MEMBERS.*—*The Secretary may use*
12 *funds available under this subpart to pay the ex-*
13 *penditures and fees of the panel members who are not*
14 *officers or employees of the Federal Government.*

15 “(B) *ADMINISTRATIVE SUPPORT.*—*The Sec-*
16 *retary may use not more than 1 percent of the*
17 *funds appropriated to carry out this subpart to*
18 *pay non-Federal entities for administrative sup-*
19 *port related to management of applications sub-*
20 *mitted under this subpart.*

21 “(g) *PROGRAM EVALUATION.*—*The Secretary may use*
22 *funds appropriated to carry out this subpart to evaluate*
23 *activities carried out under the subpart.*

24 “(h) *MINIMUM FUNDING REQUIRED.*—

1 “(1) *IN GENERAL.*—Subject to paragraph (2), the
2 Secretary shall ensure that, for each fiscal year, at
3 least the following amounts are provided under this
4 subpart to address the following needs:

5 “(A) \$12,832,000 to address the edu-
6 cational, related services, transitional, and early
7 intervention needs of children with deaf-blind-
8 ness.

9 “(B) \$4,000,000 to address the postsec-
10 ondary, vocational, technical, continuing, and
11 adult education needs of individuals with deaf-
12 ness.

13 “(C) \$4,000,000 to address the educational,
14 related services, and transitional needs of chil-
15 dren with an emotional disturbance and those
16 who are at risk of developing an emotional dis-
17 turbance.

18 “(2) *RATABLE REDUCTION.*—If the total amount
19 appropriated to carry out this subpart for any fiscal
20 year is less than \$130,000,000, the amounts listed in
21 paragraph (1) shall be ratably reduced.

22 “(i) *ELIGIBILITY FOR FINANCIAL ASSISTANCE.*—Effec-
23 tive for fiscal years for which the Secretary may make
24 grants under section 619(b), no State or local educational
25 agency or educational service agency or other public insti-

1 *tution or agency may receive a grant under this subpart*
2 *which relates exclusively to programs, projects, and activi-*
3 *ties pertaining to children aged 3 through 5, inclusive, un-*
4 *less the State is eligible to receive a grant under section*
5 *619(b).*

6 ***“SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHIL-***
7 ***DREN WITH DISABILITIES.***

8 *“(a) NATIONAL CENTER FOR SPECIAL EDUCATION RE-*
9 *SEARCH.—*

10 *“(1) ESTABLISHMENT.—*

11 *“(A) IN GENERAL.—There is established, in*
12 *the Institute of Education Sciences established*
13 *under section 111 of the Education Sciences Re-*
14 *form Act of 2002 (Public Law 107–279; 116*
15 *Stat. 1944) (hereinafter in this section referred*
16 *to as ‘the Institute’), the National Center for*
17 *Special Education Research.*

18 *“(B) COMMISSIONER.—The National Center*
19 *for Special Education Research shall be headed*
20 *by a Commissioner for Special Education Re-*
21 *search (hereinafter in this section referred to as*
22 *‘the Commissioner’). The Commissioner shall be*
23 *appointed by the Director of the Institute (here-*
24 *inafter in this section referred to as ‘the Direc-*
25 *tor’) in accordance with section 117 of the Edu-*

1 *cation Sciences Reform Act of 2002. The Com-*
2 *missioner shall have substantial knowledge of the*
3 *Center’s activities, including a high level of ex-*
4 *pertise in the fields of research and research*
5 *management.*

6 “(2) *APPLICABILITY OF EDUCATION SCIENCE RE-*
7 *FORM ACT OF 2002.—Parts A and E of the Education*
8 *Sciences Reform Act of 2002, as well as the standards*
9 *for peer review of applications and for the conduct*
10 *and evaluation of research under sections 133(a) and*
11 *134 of such Act, shall apply to the Secretary, the Di-*
12 *rector, and the Commissioner in carrying out this sec-*
13 *tion.*

14 “(b) *COMPETITIVE GRANTS.—The Director shall make*
15 *competitive grants to, or enter into contracts or cooperative*
16 *agreements with, eligible entities to expand the fundamental*
17 *knowledge and understanding of the education of infants,*
18 *toddlers, and children with disabilities in order to improve*
19 *educational results for such individuals, in accordance with*
20 *the priorities determined under this section.*

21 “(c) *AUTHORIZED ACTIVITIES.—Activities that may*
22 *be carried out under this section include research activi-*
23 *ties—*

1 “(1) to improve services provided under this Act
2 in order to improve academic achievement for chil-
3 dren with disabilities;

4 “(2) to investigate scientifically based edu-
5 cational practices that support learning and improve
6 academic achievement and progress for all students
7 with disabilities;

8 “(3) to examine the special needs of preschool-
9 aged children and infants and toddlers with disabil-
10 ities, including factors that may result in develop-
11 mental delays;

12 “(4) to investigate scientifically based related
13 services and interventions that promote participation
14 and progress in the general education curriculum;

15 “(5) to improve the alignment, compatibility,
16 and development of valid and reliable assessment
17 methods for assessing adequate yearly progress, as de-
18 scribed under section 1111(b)(2)(B) of the Elementary
19 and Secondary Education Act of 1965 (20 U.S.C.
20 6311(b)(2)(B));

21 “(6) to improve the alignment, compatibility,
22 and development of valid and reliable alternate as-
23 sessment methods for assessing adequate yearly
24 progress, as described under such section
25 1111(b)(2)(B);

1 “(7) to examine State content standards and al-
2 ternate assessments for students with a significant
3 cognitive impairment in terms of academic achieve-
4 ment, individualized instructional need, appropriate
5 educational settings, and improved post-school results;

6 “(8) to examine the educational and develop-
7 mental needs of children with high-incidence and low-
8 incidence disabilities;

9 “(9) to examine the extent to which overidenti-
10 fication and underidentification of children with dis-
11 abilities occurs, and the causes thereof;

12 “(10) to improve reading and literacy skills for
13 children with disabilities;

14 “(11) to examine and improve secondary and
15 postsecondary education and transitional needs of
16 children with disabilities;

17 “(12) to examine methods of early intervention
18 for children with disabilities who need significant lev-
19 els of support;

20 “(13) to examine universal design concepts in
21 the development of assessments, curricula, and in-
22 structional methods as a method to improve edu-
23 cational results for children with disabilities;

24 “(14) to improve the professional preparation for
25 personnel who provide educational and related serv-

1 *ices to children with disabilities, including children*
2 *with low-incidence disabilities, to increase academic*
3 *achievement of children with disabilities;*

4 *“(15) to examine the excess costs of educating a*
5 *child with a disability and expenses associated with*
6 *high-cost special education and related services; and*

7 *“(16) to examine the special needs of limited*
8 *English proficient children with disabilities.*

9 *“(d) PLAN.—The National Center for Special Edu-*
10 *cation Research shall propose to the Director a research*
11 *plan, with the advice of the Assistant Secretary for Special*
12 *Education and Rehabilitative Services, that—*

13 *“(1) is consistent with the priorities and mission*
14 *of the Institute of Educational Sciences and the mis-*
15 *sion of the Special Education Research Center and*
16 *includes the activities described in paragraph (3);*

17 *“(2) shall be carried out pursuant to subsection*
18 *(c) and, as appropriate, be updated and modified;*
19 *and*

20 *“(3) carries out specific, long-term research ac-*
21 *tivities that are consistent with the priorities and*
22 *mission of the Institute of Educational Sciences, and*
23 *are approved by the Director.*

24 *“(e) IMPLEMENTATION.—The National Center for Spe-*
25 *cial Education Research shall implement the plan proposed*

1 *under subsection (d) to carry out scientifically valid re-*
2 *search that—*

3 “(1) *is consistent with the purposes of this Act;*

4 “(2) *reflects an appropriate balance across all*
5 *age ranges of children with disabilities;*

6 “(3) *provides for research that is objective and*
7 *that uses measurable indicators to assess its progress*
8 *and results;*

9 “(4) *includes both basic research and applied re-*
10 *search, which shall include research conducted*
11 *through field-initiated studies and which may include*
12 *ongoing research initiatives;*

13 “(5) *ensures that the research conducted under*
14 *this section is relevant to special education practice*
15 *and policy;*

16 “(6) *synthesize and disseminate, through the Na-*
17 *tional Center for Education Evaluation and Regional*
18 *Assistance as well as activities authorized under this*
19 *part, the findings and results of education research*
20 *conducted or supported by the National Center for*
21 *Special Education Research; and*

22 “(7) *assist the Director in the preparation of a*
23 *biennial report, as a described in section 119 of the*
24 *Education Sciences Reform Act of 2003.*

1 “(f) *APPLICATIONS.*—An eligible entity that wishes to
2 receive a grant, or enter into a contract or cooperative
3 agreement, under this section shall submit an application
4 to the Commissioner at such time, in such manner, and
5 containing such information as the Commissioner may rea-
6 sonably require.

7 “**SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION**
8 **PROJECTS, DISSEMINATION OF INFORMA-**
9 **TION, AND IMPLEMENTATION OF SCIENTIF-**
10 **ICALLY BASED RESEARCH.**

11 “(a) *IN GENERAL.*—The Secretary shall make competi-
12 tive grants to, or enter into contracts or cooperative agree-
13 ments with, eligible entities including regional resource cen-
14 ters and clearinghouses to provide technical assistance, sup-
15 port model demonstration projects, disseminate useful infor-
16 mation, and implement activities that are supported by sci-
17 entifically based research.

18 “(b) *REQUIRED ACTIVITIES.*—Funds received under
19 this section shall be used to support activities to improve
20 services provided under this Act, including the practices of
21 professionals and others involved in providing such services
22 to children with disabilities, that promote academic
23 achievement and improve results for children with disabil-
24 ities through—

1 “(1) implementing effective strategies for ad-
2 dressing inappropriate behavior of students with dis-
3 abilities in schools, including strategies to prevent
4 children with emotional and behavioral problems
5 from developing emotional disturbances that require
6 the provision of special education and related services;

7 “(2) improving the alignment, compatibility,
8 and development of valid and reliable assessments
9 and alternate assessments for assessing adequate year-
10 ly progress, as described under section 1111(b)(2)(B)
11 of the Elementary and Secondary Education Act of
12 1965;

13 “(3) providing training for both regular edu-
14 cation teachers and special education teachers to ad-
15 dress the needs of students with different learning
16 styles;

17 “(4) identifying innovative, effective, and effi-
18 cient curricula designs, instructional approaches, and
19 strategies, and identifying positive academic and so-
20 cial learning opportunities, that—

21 “(A) provide effective transitions between
22 educational settings or from school to post school
23 settings; and

24 “(B) improve educational and transitional
25 results at all levels of the educational system in

1 *which the activities are carried out and, in par-*
2 *ticular, that improve the progress of children*
3 *with disabilities, as measured by assessments*
4 *within the general education curriculum in-*
5 *volved; and*

6 “(5) *demonstrating and applying scientifically*
7 *based findings to facilitate systemic changes, related*
8 *to the provision of services to children with disabil-*
9 *ities, in policy, procedure, practice, and the training*
10 *and use of personnel.*

11 “(c) *AUTHORIZED ACTIVITIES.—Activities that may*
12 *be carried out under this section include activities to im-*
13 *prove services provided under this Act, including the prac-*
14 *tices of professionals and others involved in providing such*
15 *services to children with disabilities, that promote academic*
16 *achievement and improve results for children with disabil-*
17 *ities through—*

18 “(1) *applying and testing research findings in*
19 *typical service settings to determine the usefulness, ef-*
20 *fectiveness, and general applicability of such research*
21 *findings in such areas as improving instructional*
22 *methods, curricula, and tools, such as textbooks and*
23 *media;*

24 “(2) *supporting and promoting the coordination*
25 *of early intervention and educational services for chil-*

1 *dren with disabilities with services provided by*
2 *health, rehabilitation, and social service agencies;*

3 *“(3) promoting improved alignment and com-*
4 *patibility of general and special education reforms*
5 *concerned with curricular and instructional reform,*
6 *and evaluation of such reforms;*

7 *“(4) enabling professionals, parents of children*
8 *with disabilities, and other persons to learn about,*
9 *and implement, the findings of scientifically based re-*
10 *search, and successful practices developed in model*
11 *demonstration projects, relating to the provision of*
12 *services to children with disabilities;*

13 *“(5) conducting outreach, and disseminating in-*
14 *formation, relating to successful approaches to over-*
15 *coming systemic barriers to the effective and efficient*
16 *delivery of early intervention, educational, and tran-*
17 *sitional services to personnel who provide services to*
18 *children with disabilities;*

19 *“(6) assisting States and local educational agen-*
20 *cies with the process of planning systemic changes*
21 *that will promote improved early intervention, edu-*
22 *cational, and transitional results for children with*
23 *disabilities;*

24 *“(7) promoting change through a multistate or*
25 *regional framework that benefits States, local edu-*

1 *cational agencies, and other participants in partner-*
2 *ships that are in the process of achieving systemic-*
3 *change outcomes;*

4 *“(8) focusing on the needs and issues that are*
5 *specific to a population of children with disabilities,*
6 *such as the provision of single-State and multi-State*
7 *technical assistance and in-service training—*

8 *“(A) to schools and agencies serving deaf-*
9 *blind children and their families;*

10 *“(B) to programs and agencies serving other*
11 *groups of children with low-incidence disabilities*
12 *and their families;*

13 *“(C) addressing the postsecondary education*
14 *needs of individuals who are deaf or hard-of-*
15 *hearing; and*

16 *“(D) to schools and personnel providing*
17 *special education and related services for chil-*
18 *dren with autism spectrum disorders;*

19 *“(9) demonstrating models of personnel prepara-*
20 *tion to ensure appropriate placements and services for*
21 *all students and reduce disproportionality in eligi-*
22 *bility, placement, and disciplinary actions for minor-*
23 *ity and limited English proficient children; and*

1 “(10) disseminating information on how to re-
2 duce racial and ethnic disproportionalities identified
3 under section 618.

4 “(d) *BALANCE AMONG ACTIVITIES AND AGE*
5 *RANGES.*—*In carrying out this section, the Secretary shall*
6 *ensure that there is an appropriate balance across all age*
7 *ranges of children with disabilities.*

8 “(e) *LINKING STATES TO INFORMATION SOURCES.*—
9 *In carrying out this section, the Secretary shall support*
10 *projects that link States to technical assistance resources,*
11 *including special education and general education re-*
12 *sources, and shall make research and related products avail-*
13 *able through libraries, electronic networks, parent training*
14 *projects, and other information sources, including through*
15 *the activities of the National Center for Evaluation and Re-*
16 *gional Assistance established under the Education Sciences*
17 *Reform Act.*

18 “(f) *APPLICATIONS.*—

19 “(1) *IN GENERAL.*—*An eligible entity that wish-*
20 *es to receive a grant, or enter into a contract or coop-*
21 *erative agreement, under this section shall submit an*
22 *application to the Secretary at such time, in such*
23 *manner, and containing such information as the Sec-*
24 *retary may require.*

1 “(2) *STANDARDS.*—*To the maximum extent fea-*
2 *sible, each applicant shall demonstrate that the*
3 *project described in its application is supported by*
4 *scientifically valid research that has been carried out*
5 *in accordance with the standards for the conduct and*
6 *evaluation of all relevant research and development*
7 *established by the National Center for Education Re-*
8 *search.*

9 “(3) *PRIORITY.*—*As appropriate, the Secretary*
10 *shall give priority to applications that propose to*
11 *serve teachers and school personnel directly in the*
12 *school environment.*

13 **“SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IM-**
14 **PROVE SERVICES AND RESULTS FOR CHIL-**
15 **DREN WITH DISABILITIES.**

16 “(a) *IN GENERAL.*—*The Secretary shall, on a competi-*
17 *tive basis, make grants to, or enter into contracts or cooper-*
18 *ative agreements with, eligible entities—*

19 “(1) *to help address State-identified needs for*
20 *qualified personnel in special education, related serv-*
21 *ices, early intervention, and regular education, to*
22 *work with children with disabilities;*

23 “(2) *to ensure that those personnel have the nec-*
24 *essary skills and knowledge, derived from practices*

1 *that have been determined, through scientifically valid*
2 *research, to be successful in serving those children;*

3 *“(3) to encourage increased focus on academics*
4 *and core content areas in special education personnel*
5 *preparation programs;*

6 *“(4) to ensure that regular education teachers*
7 *have the necessary skills and knowledge to provide in-*
8 *struction to students with disabilities in the regular*
9 *education classroom;*

10 *“(5) to provide high-quality professional develop-*
11 *ment for principals, superintendents, and other ad-*
12 *ministrators, including training in—*

13 *“(A) instructional leadership;*

14 *“(B) behavioral supports in the school and*
15 *classroom;*

16 *“(C) paperwork reduction;*

17 *“(D) promoting improved collaboration be-*
18 *tween special education and general education*
19 *teachers;*

20 *“(E) assessment and accountability;*

21 *“(F) ensuring effective learning environ-*
22 *ments; and*

23 *“(G) fostering positive relationships with*
24 *parents; and*

1 “(6) to ensure that all special education teachers
2 teaching in core academic subjects are highly quali-
3 fied.

4 “(b) *PERSONNEL PREPARATION; AUTHORIZED ACTIVI-*
5 *TIES.—*

6 “(1) *IN GENERAL.—*In carrying out this section,
7 the Secretary shall support activities, including ac-
8 tivities for high-incidence and low-incidence disabili-
9 ties, consistent with the objectives described in sub-
10 section (a).

11 “(2) *AUTHORIZED ACTIVITIES.—*Activities that
12 may be carried out under this subsection include the
13 following:

14 “(A) *Promoting activities undertaken by in-*
15 *stitutions of higher education, local educational*
16 *agencies, and other local entities—*

17 “(i) *to improve and reform their exist-*
18 *ing programs, and to support effective exist-*
19 *ing programs, to prepare teachers and re-*
20 *lated services personnel—*

21 “(I) *to meet the diverse needs of*
22 *children with disabilities for early*
23 *intervention, educational, and transi-*
24 *tional services; and*

1 “(II) to work collaboratively in
2 regular classroom settings; and

3 “(ii) to incorporate best practices and
4 scientifically based research about pre-
5 paring personnel—

6 “(I) so they will have the knowl-
7 edge and skills to improve educational
8 results for children with disabilities;
9 and

10 “(II) so they can implement effec-
11 tive teaching strategies and interven-
12 tions to ensure appropriate identifica-
13 tion, and to prevent the
14 misidentification or overidentification,
15 of children as having a disability, espe-
16 cially minority and limited English
17 proficient children.

18 “(B) Developing, evaluating, and dissemi-
19 nating innovative models for the recruitment, in-
20 duction, retention, and assessment of highly
21 qualified teachers to reduce shortages in per-
22 sonnel.

23 “(C) Developing and improving programs
24 for paraprofessionals to assist in the provision of
25 special education, related services, and early

1 *intervention services, including interdisciplinary*
2 *training to enable them to improve early inter-*
3 *vention, educational, and transitional results for*
4 *children with disabilities.*

5 “(D) *Demonstrating models for the prepara-*
6 *tion of, and interdisciplinary training of, early*
7 *intervention, special education, and general edu-*
8 *cation personnel, to enable the personnel to ac-*
9 *quire the collaboration skills necessary to work*
10 *within teams to improve results for children with*
11 *disabilities, particularly within the general edu-*
12 *cation curriculum.*

13 “(E) *Promoting the transferability, across*
14 *State and local jurisdictions, of licensure and*
15 *certification of teachers and administrators*
16 *working with such children.*

17 “(F) *Developing and disseminating models*
18 *that prepare teachers with strategies, including*
19 *behavioral interventions, for addressing the con-*
20 *duct of children with disabilities that impedes*
21 *their learning and that of others in the class-*
22 *room.*

23 “(G) *Developing and improving programs*
24 *to enhance the ability of general education teach-*
25 *ers, principals, school administrators, and school*

1 *board members to improve results for children*
2 *with disabilities.*

3 “(H) *Supporting institutions of higher edu-*
4 *cation with minority enrollments of at least 25*
5 *percent for the purpose of preparing personnel to*
6 *work with children with disabilities.*

7 “(I) *Developing and improving programs to*
8 *train special education teachers with an exper-*
9 *tise in autism spectrum disorders.*

10 “(c) *LOW-INCIDENCE DISABILITIES; AUTHORIZED AC-*
11 *TIVITIES.—*

12 “(1) *IN GENERAL.—In carrying out this section,*
13 *the Secretary shall support activities, consistent with*
14 *the objectives described in subsection (a), that benefit*
15 *children with low-incidence disabilities.*

16 “(2) *AUTHORIZED ACTIVITIES.—Activities that*
17 *may be carried out under this subsection include ac-*
18 *tivities such as the following:*

19 “(A) *Preparing persons who—*

20 “(i) *have prior training in educational*
21 *and other related service fields; and*

22 “(ii) *are studying to obtain degrees,*
23 *certificates, or licensure that will enable*
24 *them to assist children with low-incidence*
25 *disabilities to achieve the objectives set out*

1 *in their individualized education programs*
2 *described in section 614(d), or to assist in-*
3 *fant and toddlers with low incidence dis-*
4 *abilities to achieve the outcomes described*
5 *in their individualized family service plans*
6 *described in section 636.*

7 “(B) *Providing personnel from various dis-*
8 *ciplines with interdisciplinary training that will*
9 *contribute to improvement in early intervention,*
10 *educational, and transitional results for children*
11 *with low-incidence disabilities.*

12 “(C) *Preparing personnel in the innovative*
13 *uses and application of technology to enhance*
14 *learning by children with low-incidence disabil-*
15 *ities through early intervention, educational, and*
16 *transitional services.*

17 “(D) *Preparing personnel who provide serv-*
18 *ices to visually impaired or blind children to*
19 *teach and use Braille in the provision of services*
20 *to such children.*

21 “(E) *Preparing personnel who provide serv-*
22 *ices to deaf and hard-of-hearing children by pro-*
23 *viding direct language and communication ac-*
24 *cess to the general education curriculum through*

1 *spoken or signed languages, or other modes of*
2 *communication.*

3 “(F) *Preparing personnel to be qualified*
4 *educational interpreters, to assist children with*
5 *low-incidence disabilities, particularly deaf and*
6 *hard-of-hearing children in school and school-re-*
7 *lated activities and deaf and hard-of-hearing in-*
8 *ants and toddlers and preschool children in*
9 *early intervention and preschool programs.*

10 “(3) *DEFINITION.—As used in this section, the*
11 *term ‘low-incidence disability’ means—*

12 “(A) *a visual or hearing impairment, or si-*
13 *multaneous visual and hearing impairments;*

14 “(B) *a significant cognitive impairment; or*

15 “(C) *any impairment for which a small*
16 *number of personnel with highly specialized*
17 *skills and knowledge are needed in order for chil-*
18 *dren with that impairment to receive early*
19 *intervention services or a free appropriate public*
20 *education.*

21 “(4) *SELECTION OF RECIPIENTS.—In selecting*
22 *recipients under this subsection, the Secretary may*
23 *give preference to applications that propose to pre-*
24 *pare personnel in more than one low-incidence dis-*
25 *ability, such as deafness and blindness.*

1 “(5) *PREPARATION IN USE OF BRAILLE.*—The
2 *Secretary shall ensure that all recipients of assistance*
3 *under this subsection who will use that assistance to*
4 *prepare personnel to provide services to visually im-*
5 *paired or blind children that can appropriately be*
6 *provided in Braille will prepare those individuals to*
7 *provide those services in Braille.*

8 “(d) *LEADERSHIP PREPARATION; AUTHORIZED AC-*
9 *TIVITIES.*—

10 “(1) *IN GENERAL.*—*In carrying out this section,*
11 *the Secretary shall support leadership preparation ac-*
12 *tivities that are consistent with the objectives de-*
13 *scribed in subsection (a).*

14 “(2) *AUTHORIZED ACTIVITIES.*—*Activities that*
15 *may be carried out under this subsection include ac-*
16 *tivities such as the following:*

17 “(A) *Preparing personnel at the graduate,*
18 *doctoral, and postdoctoral levels of training to*
19 *administer, enhance, or provide services to im-*
20 *prove results for children with disabilities.*

21 “(B) *Providing interdisciplinary training*
22 *for various types of leadership personnel, includ-*
23 *ing teacher preparation faculty, related services*
24 *faculty, administrators, researchers, supervisors,*
25 *principals, and other persons whose work affects*

1 *early intervention, educational, and transitional*
2 *services for children with disabilities.*

3 “(e) *APPLICATIONS.*—

4 “(1) *IN GENERAL.*—*Any eligible entity that*
5 *wishes to receive a grant, or enter into a contract or*
6 *cooperative agreement, under this section shall submit*
7 *an application to the Secretary at such time, in such*
8 *manner, and containing such information as the Sec-*
9 *retary may require.*

10 “(2) *IDENTIFIED STATE NEEDS.*—

11 “(A) *REQUIREMENT TO ADDRESS IDENTI-*
12 *FIED NEEDS.*—*Any application under subsection*
13 *(b), (c), or (d) shall include information dem-*
14 *onstrating to the satisfaction of the Secretary*
15 *that the activities described in the application*
16 *will address needs identified by the State or*
17 *States the applicant proposes to serve.*

18 “(B) *COOPERATION WITH STATE EDU-*
19 *CATIONAL AGENCIES.*—*Any applicant that is not*
20 *a local educational agency or a State edu-*
21 *cational agency shall include information dem-*
22 *onstrating to the satisfaction of the Secretary*
23 *that the applicant and one or more State edu-*
24 *cational agencies or local educational agencies*

1 *will cooperate in carrying out and monitoring*
2 *the project.*

3 “(3) *ACCEPTANCE BY STATES OF PERSONNEL*
4 *PREPARATION REQUIREMENTS.—The Secretary may*
5 *require applicants to provide assurances from one or*
6 *more States that such States—*

7 “(A) *intend to accept successful completion*
8 *of the proposed personnel preparation program*
9 *as meeting State personnel standards or other re-*
10 *quirements in State law or regulation for serving*
11 *children with disabilities or serving infants and*
12 *toddlers with disabilities; and*

13 “(B) *need personnel in the area or areas in*
14 *which the applicant proposes to provide prepara-*
15 *tion, as identified in the States’ comprehensive*
16 *systems of personnel development under parts B*
17 *and C.*

18 “(f) *SELECTION OF RECIPIENTS.—*

19 “(1) *IMPACT OF PROJECT.—In selecting recipi-*
20 *ents under this section, the Secretary shall consider*
21 *the impact of the project proposed in the application*
22 *in meeting the need for personnel identified by the*
23 *States.*

24 “(2) *REQUIREMENT ON APPLICANTS TO MEET*
25 *STATE AND PROFESSIONAL STANDARDS.—The Sec-*

1 *retary shall make grants under this section only to el-*
2 *igible applicants that meet State and professionally*
3 *recognized standards for the preparation of special*
4 *education and related services personnel, if the pur-*
5 *pose of the project is to assist personnel in obtaining*
6 *degrees.*

7 *“(3) PREFERENCES.—In selecting recipients*
8 *under this section, the Secretary may—*

9 *“(A) give preference to institutions of higher*
10 *education that are educating regular education*
11 *personnel to meet the needs of children with dis-*
12 *abilities in integrated settings and educating*
13 *special education personnel to work in collabora-*
14 *tion with regular educators in integrated set-*
15 *tings; and*

16 *“(B) give preference to institutions of higher*
17 *education that are successfully recruiting and*
18 *preparing individuals with disabilities and indi-*
19 *viduals from groups that are underrepresented in*
20 *the profession for which they are preparing indi-*
21 *viduals.*

22 *“(g) SERVICE OBLIGATION.—*

23 *“(1) IN GENERAL.—Each application for funds*
24 *under subsections (b) and (c) shall include an assur-*
25 *ance that the applicant will ensure that individuals*

1 *who receive a scholarship under the proposed project*
2 *will subsequently provide special education and re-*
3 *lated services to children with disabilities for a period*
4 *of 2 years for every year for which assistance was re-*
5 *ceived or repay all or part of the cost of that assist-*
6 *ance, in accordance with regulations issued by the*
7 *Secretary.*

8 “(2) *LEADERSHIP PREPARATION.*—*Each appli-*
9 *cation for funds under subsection (d) shall include an*
10 *assurance that the applicant will ensure that individ-*
11 *uals who receive a scholarship under the proposed*
12 *project will subsequently perform work related to their*
13 *preparation for a period of 2 years for every year for*
14 *which assistance was received or repay all or part of*
15 *such costs, in accordance with regulations issued by*
16 *the Secretary.*

17 “(h) *SCHOLARSHIPS.*—*The Secretary may include*
18 *funds for scholarships, with necessary stipends and allow-*
19 *ances, in awards under subsections (b), (c), and (d).*

20 **“SEC. 666. STUDIES AND EVALUATIONS.**

21 “(a) *IN GENERAL.*—

22 “(1) *PROGRESS ASSESSMENT.*—*The Secretary*
23 *shall, in accordance with the priorities determined*
24 *under this section and in section 663, directly or*
25 *through competitive grants, contracts, or cooperative*

1 *agreements, assess the progress in the implementation*
2 *of this Act, including the effectiveness of State and*
3 *local efforts to provide—*

4 *“(A) a free appropriate public education to*
5 *children with disabilities; and*

6 *“(B) early intervention services to infants*
7 *and toddlers with disabilities and infants and*
8 *toddlers who would be at risk of having substan-*
9 *tial developmental delays if early intervention*
10 *services were not provided to them.*

11 *“(2) DELEGATION.—Notwithstanding any other*
12 *provision of law, the Secretary shall designate the Di-*
13 *rector of the Institute for Education Sciences to carry*
14 *out this section.*

15 *“(3) AUTHORIZED ACTIVITIES.—In carrying out*
16 *this subsection, the Secretary may support objective*
17 *studies, evaluations, and assessments, including stud-*
18 *ies that—*

19 *“(A) analyze issues identified in the re-*
20 *search agenda in section 663(d);*

21 *“(B) meet the standards in section 663(c);*
22 *and*

23 *“(C) undertake one or more of the following:*

24 *“(i) An analysis of the measurable im-*
25 *pact, outcomes, and results achieved by*

1 *State educational agencies and local edu-*
2 *cational agencies through their activities to*
3 *reform policies, procedures, and practices*
4 *designed to improve educational and transi-*
5 *tional services and results for children with*
6 *disabilities.*

7 “(ii) *An analysis of State and local*
8 *needs for professional development, parent*
9 *training, and other appropriate activities*
10 *that can reduce the need for disciplinary*
11 *actions involving children with disabilities.*

12 “(iii) *An assessment of educational*
13 *and transitional services and results for*
14 *children with disabilities from minority*
15 *backgrounds, including—*

16 “(I) *data on—*

17 “(aa) *the number of minority*
18 *children who are referred for spe-*
19 *cial education evaluation;*

20 “(bb) *the number of minority*
21 *children who are receiving special*
22 *education and related services and*
23 *their educational or other service*
24 *placement;*

1 “(cc) the number of minority
2 children who graduated from sec-
3 ondary programs with a regular
4 diploma in the standard number
5 of years; and

6 “(dd) the number of minority
7 children who drop out of the edu-
8 cational system without a regular
9 diploma; and

10 “(II) the performance of children
11 with disabilities from minority back-
12 grounds on State assessments and other
13 performance indicators established for
14 all students.

15 “(iv) A measurement of educational
16 and transitional services and results of chil-
17 dren with disabilities served under this Act,
18 including longitudinal studies that—

19 “(I) examine educational and
20 transitional services and results for
21 children with disabilities who are 3
22 through 17 years of age and are receiv-
23 ing special education and related serv-
24 ices under this Act, using a national,

1 *representative sample of distinct age*
2 *cohorts and disability categories; and*

3 “(II) *examine educational results,*
4 *transition services, postsecondary*
5 *placement, and employment status of*
6 *individuals with disabilities, 18*
7 *through 21 years of age, who are re-*
8 *ceiving or have received special edu-*
9 *cation and related services under this*
10 *Act.*

11 “(v) *An identification and report on*
12 *the placement of children with disabilities*
13 *by disability category.*

14 “(b) *NATIONAL ASSESSMENT.—*

15 “(1) *IN GENERAL.—The Secretary shall carry*
16 *out a national assessment of activities carried out*
17 *with Federal funds under this Act in order—*

18 “(A) *to determine the effectiveness of this*
19 *Act in achieving its purposes;*

20 “(B) *to provide timely information to the*
21 *President, the Congress, the States, local edu-*
22 *cational agencies, and the public on how to im-*
23 *plement the Act more effectively; and*

24 “(C) *to provide the President and the Con-*
25 *gress with information that will be useful in de-*

1 *veloping legislation to achieve the purposes of*
2 *this Act more effectively.*

3 “(2) *PUBLIC COMMENT.*—

4 “(A) *PLAN.*—*Not later than 12 months after*
5 *the date of enactment of the Improving Edu-*
6 *cation Results for Children With Disabilities Act*
7 *of 2003, the Secretary shall publish in the Fed-*
8 *eral Register for public comment a comprehen-*
9 *sive plan for developing and conducting the na-*
10 *tional assessment.*

11 “(B) *COMMENT PERIOD.*—*The Secretary*
12 *shall provide a public comment period of at least*
13 *30 days on such plan.*

14 “(3) *SCOPE OF ASSESSMENT.*—*The national as-*
15 *essment shall assess the—*

16 “(A) *implementation of programs assisted*
17 *under this Act and the impact of such programs*
18 *on addressing the developmental needs of, and*
19 *improving the academic achievement of, children*
20 *with disabilities to enable them to reach chal-*
21 *lenging developmental goals and challenging*
22 *State academic content standards based on State*
23 *academic assessments;*

24 “(B) *types of programs and services that*
25 *have demonstrated the greatest likelihood of help-*

1 *ing students reach the challenging State aca-*
2 *ademic content standards and developmental*
3 *goals;*

4 *“(C) implementation of the professional de-*
5 *velopment activities assisted under this Act and*
6 *the impact on instruction, student academic*
7 *achievement, and teacher qualifications to en-*
8 *hance the ability of special education teachers*
9 *and regular education teachers to improve results*
10 *for children with disabilities; and*

11 *“(D) effectiveness of schools, local edu-*
12 *cational agencies, States, other recipients of as-*
13 *sistance under this Act, and the Secretary in*
14 *achieving the purposes of this Act by—*

15 *“(i) improving the academic achieve-*
16 *ment of children with disabilities and their*
17 *performance on regular statewide assess-*
18 *ments as compared to nondisabled children,*
19 *and the performance of children with dis-*
20 *abilities on alternate assessments;*

21 *“(ii) improving the participation of*
22 *children with disabilities in the general*
23 *education curriculum;*

1 “(iii) improving the transitions of chil-
2 dren with disabilities at natural transition
3 points;

4 “(iv) placing and serving children with
5 disabilities, including minority children, in
6 the least restrictive environment appro-
7 priate;

8 “(v) preventing children with disabil-
9 ities, especially children with emotional dis-
10 turbances and specific learning disabilities,
11 from dropping out of school;

12 “(vi) addressing the reading and lit-
13 eracy needs of children with disabilities;

14 “(vii) reducing the overidentification of
15 children, especially minority and limited
16 English proficient children, as having a dis-
17 ability;

18 “(viii) improving the participation of
19 parents of children with disabilities in the
20 education of their children; and

21 “(ix) resolving disagreements between
22 education personnel and parents through al-
23 ternate dispute resolution activities includ-
24 ing mediation and voluntary binding arbi-
25 tration.

1 “(4) *INTERIM AND FINAL REPORTS.*—*The Sec-*
2 *retary shall submit to the President and the Con-*
3 *gress—*

4 “(A) *an interim report that summarizes the*
5 *preliminary findings of the assessment not later*
6 *than 30 months after the date of the enactment*
7 *of the Improving Education Results for Children*
8 *With Disabilities Act of 2003; and*

9 “(B) *a final report of the findings of the as-*
10 *essment not later than 5 years after the date of*
11 *the enactment of such Act.*

12 “(c) *ANNUAL REPORT.*—*The Secretary shall provide*
13 *an annual report to the Congress that—*

14 “(1) *summarizes the research conducted under*
15 *section 663;*

16 “(2) *analyzes and summarizes the data reported*
17 *by the States and the Secretary of the Interior under*
18 *section 618;*

19 “(3) *summarizes the studies and evaluations con-*
20 *ducted under this section and the timeline for their*
21 *completion;*

22 “(4) *describes the extent and progress of the na-*
23 *tional assessment; and*

1 “(5) describes the findings and determinations
2 resulting from reviews of State implementation of this
3 Act.

4 **“SEC. 667. AUTHORIZATION OF APPROPRIATIONS.**

5 “*There are authorized to be appropriated to carry out*
6 *sections 663, 664, and 666 \$171,861,000 for fiscal year*
7 *2004 and such sums as may be necessary for each of the*
8 *fiscal years 2005 through 2009. There are authorized to be*
9 *appropriated to carry out section 665 \$90,000,000 for fiscal*
10 *year 2004 and such sums as may be necessary for each of*
11 *the fiscal years 2005 through 2009.*

12 **“Subpart 3—Supports To Improve Results for**
13 **Children With Disabilities**

14 **“SEC. 671. PURPOSES.**

15 “*The purposes of this subpart are to ensure that—*

16 “(1) *children with disabilities and their parents*
17 *receive training and information on their rights, re-*
18 *sponsibilities, and protections under this Act, in order*
19 *to develop the skills necessary to cooperatively and ef-*
20 *fectively participate in planning and decisionmaking*
21 *relating to early intervention, educational, and tran-*
22 *sitional services;*

23 “(2) *parents, teachers, administrators, early*
24 *intervention personnel, related services personnel, and*
25 *transition personnel receive coordinated and acces-*

1 *sible technical assistance and information to assist*
2 *them in improving early intervention, educational,*
3 *and transitional services and results for children with*
4 *disabilities and their families; and*

5 *“(3) appropriate technology and media are re-*
6 *searched, developed, and demonstrated, to improve*
7 *and implement early intervention, educational, and*
8 *transitional services and results for children with dis-*
9 *abilities and their families.*

10 **“SEC. 672. PARENT TRAINING AND INFORMATION CENTERS.**

11 *“(a) PROGRAM AUTHORIZED.—The Secretary may*
12 *make grants to, and enter into contracts and cooperative*
13 *agreements with, parent organizations to support parent*
14 *training and information centers to carry out activities*
15 *under this section.*

16 *“(b) REQUIRED ACTIVITIES.—Each parent and com-*
17 *munity training and information center that receives as-*
18 *sistance under this section shall—*

19 *“(1) provide training and information that*
20 *meets the needs of parents of children with disabilities*
21 *living in the area served by the center, including un-*
22 *derserved parents and parents of children who may be*
23 *inappropriately identified, to enable children with*
24 *disabilities—*

1 “(A) to meet developmental and challenging
2 academic achievement goals that have been estab-
3 lished for all children; and

4 “(B) to be prepared to lead productive inde-
5 pendent adult lives to the maximum extent pos-
6 sible;

7 “(2) ensure that the training and information
8 provided meets the needs of low-income parents and
9 parents of children with limited English proficiency;

10 “(3) serve the parents of infants, toddlers, and
11 children with the full range of disabilities;

12 “(4) assist parents—

13 “(A) to better understand the nature of their
14 children’s disabilities and their educational, de-
15 velopmental, and transitional needs;

16 “(B) to communicate effectively and work
17 collaboratively with personnel responsible for
18 providing special education, early intervention,
19 transition services, and related services;

20 “(C) to participate in decisionmaking proc-
21 esses and the development of individualized edu-
22 cation programs under part B and individual-
23 ized family service plans under part C;

24 “(D) to obtain appropriate information
25 about the range, type and quality of options,

1 *programs, services, and resources available to as-*
2 *ist children with disabilities and their families*
3 *in school and at home;*

4 *“(E) to understand the provisions of this*
5 *Act for the education of, and the provision of*
6 *early intervention services to, children with dis-*
7 *abilities; and*

8 *“(F) to participate in activities at the*
9 *school level which benefit their children;*

10 *“(5) assist parents in resolving disputes in the*
11 *most expeditious way possible, including encouraging*
12 *the use, and explaining the benefits, of alternative*
13 *methods of dispute resolution, such as the use of indi-*
14 *vidualized education program facilitators and medi-*
15 *ation and voluntary binding arbitration processes de-*
16 *scribed in section 615(e);*

17 *“(6) assist parents to understand the availability*
18 *of, and how to effectively use, procedural safeguards*
19 *under this Act;*

20 *“(7) network with appropriate clearinghouses,*
21 *including organizations conducting national dissemi-*
22 *nation activities under subpart 2 and the Institute of*
23 *Educational Sciences, and with other national, State,*
24 *and local organizations and agencies, such as protec-*
25 *tion and advocacy agencies, that serve parents and*

1 *families of children with the full range of disabilities;*
2 *and*

3 “(8) *annually report to the Secretary on—*

4 “(A) *the number and demographics of par-*
5 *ents to whom it provided information and train-*
6 *ing in the most recently concluded fiscal year;*
7 *and*

8 “(B) *the effectiveness of strategies used to*
9 *reach and serve parents, including underserved*
10 *parents of children with disabilities.*

11 “(c) *OPTIONAL ACTIVITIES.—A parent training and*
12 *community and information center that receives assistance*
13 *under this section may—*

14 “(1) *provide information to teachers and other*
15 *professionals to assist them in improving results for*
16 *children with disabilities; and*

17 “(2) *assist students with disabilities to under-*
18 *stand their rights and responsibilities under section*
19 *615(l) on reaching the age of majority.*

20 “(d) *APPLICATION REQUIREMENTS.—Each applica-*
21 *tion for assistance under this section shall identify with*
22 *specificity the special efforts that the applicant will under-*
23 *take—*

24 “(1) *to ensure that the needs for training and in-*
25 *formation of underserved parents of children with dis-*

1 *abilities in the area to be served are effectively met;*
2 *and*

3 *“(2) to work with community-based organiza-*
4 *tions, including those that work with low-income par-*
5 *ents and parents of children with limited English*
6 *proficiency.*

7 *“(e) DISTRIBUTION OF FUNDS.—*

8 *“(1) IN GENERAL.—The Secretary shall make at*
9 *least 1 award to a parent organization in each State,*
10 *unless the Secretary does not receive an application*
11 *from such an organization in each State of sufficient*
12 *quality to warrant approval.*

13 *“(2) SELECTION REQUIREMENT.—The Secretary*
14 *shall select among applications submitted by parent*
15 *organizations in a State in a manner that ensures the*
16 *most effective assistance to parents, including parents*
17 *in urban and rural areas, in the State.*

18 *“(f) QUARTERLY REVIEW.—*

19 *“(1) REQUIREMENTS.—*

20 *“(A) MEETINGS.—The board of directors or*
21 *special governing committee of each organization*
22 *that receives an award under this section shall*
23 *meet at least once in each calendar quarter to re-*
24 *view the activities for which the award was*
25 *made.*

1 “(B) *ADVISING BOARD.*—*Each special gov-*
2 *erning committee shall directly advise the orga-*
3 *nization’s governing board of its views and rec-*
4 *ommendations.*

5 “(2) *CONTINUATION AWARD.*—*When an organi-*
6 *zation requests a continuation award under this sec-*
7 *tion, the board of directors or special governing com-*
8 *mittee shall submit to the Secretary a written review*
9 *of the parent training and information program con-*
10 *ducted by the organization during the preceding fiscal*
11 *year.*

12 “(g) *DEFINITION OF PARENT ORGANIZATION.*—*As*
13 *used in this section, the term ‘parent organization’ means*
14 *a private nonprofit organization (other than an institution*
15 *of higher education) that—*

16 “(1) *has a board of directors—*

17 “(A) *the majority of whom are parents of*
18 *children with disabilities ages birth through 26;*

19 “(B) *that includes—*

20 “(i) *individuals working in the fields*
21 *of special education, related services, and*
22 *early intervention; and*

23 “(ii) *individuals with disabilities; and*

24 “(C) *the parent and professional members of*
25 *which are broadly representative of the popu-*

1 *lation to be served, including low-income and*
2 *limited English proficient parents of children*
3 *with disabilities; or*

4 “(2) has—

5 “(A) *a membership that represents the in-*
6 *terests of individuals with disabilities and has*
7 *established a special governing committee that*
8 *meets the requirements of paragraph (1); and*

9 “(B) *a memorandum of understanding be-*
10 *tween the special governing committee and the*
11 *board of directors of the organization that clearly*
12 *outlines the relationship between the board and*
13 *the committee and the decisionmaking respon-*
14 *sibilities and authority of each.*

15 **“SEC. 673. COMMUNITY PARENT RESOURCE CENTERS.**

16 “(a) *IN GENERAL.—The Secretary may make grants*
17 *to, and enter into contracts and cooperative agreements*
18 *with, local parent organizations to support parent training*
19 *and information centers that will help ensure that under-*
20 *served parents of children with disabilities, including low-*
21 *income parents, parents of children with limited English*
22 *proficiency, and parents with disabilities, have the training*
23 *and information they need to enable them to participate*
24 *effectively in helping their children with disabilities—*

1 “(1) to meet developmental goals and, to the
2 maximum extent possible, those challenging standards
3 that have been established for all children; and

4 “(2) to be prepared to lead productive inde-
5 pendent adult lives, to the maximum extent possible.

6 “(b) *REQUIRED ACTIVITIES*.—Each parent training
7 and information center assisted under this section shall—

8 “(1) provide training and information that
9 meets the training and information needs of parents
10 of children with disabilities proposed to be served by
11 the grant, contract, or cooperative agreement;

12 “(2) carry out the activities required of parent
13 training and information centers under paragraphs
14 (2) through (7) of section 672(b);

15 “(3) establish cooperative partnerships with the
16 parent training and information centers funded
17 under section 672; and

18 “(4) be designed to meet the specific needs of
19 families who experience significant isolation from
20 available sources of information and support.

21 “(c) *DEFINITION*.—As used in this section, the term
22 ‘local parent organization’ means a parent organization,
23 as defined in section 672(g), that either—

24 “(1) has a board of directors the majority of
25 whom are from the community to be served; or

1 “(2) has—

2 “(A) as a part of its mission, serving the
3 interests of individuals with disabilities from
4 such community; and

5 “(B) a special governing committee to ad-
6 minister the grant, contract, or cooperative
7 agreement, a majority of the members of which
8 are individuals from such community.

9 **“SEC. 674. TECHNICAL ASSISTANCE FOR PARENT TRAINING**
10 **AND INFORMATION CENTERS.**

11 “(a) *IN GENERAL.*—The Secretary may, directly or
12 through awards to eligible entities (as defined in section
13 662(b)), provide technical assistance for developing, assist-
14 ing, and coordinating parent training and information
15 programs carried out by parent training and information
16 centers receiving assistance under sections 672 and 673.

17 “(b) *AUTHORIZED ACTIVITIES.*—The Secretary may
18 provide technical assistance to a parent training and infor-
19 mation center under this section in areas such as—

20 “(1) effective coordination of parent training ef-
21 forts;

22 “(2) dissemination of scientifically based re-
23 search and information;

1 “(3) promotion of the use of technology, includ-
2 ing assistive technology devices and assistive tech-
3 nology services;

4 “(4) reaching underserved populations, including
5 parents of low-income and limited English proficient
6 children with disabilities;

7 “(5) including children with disabilities in gen-
8 eral education programs;

9 “(6) facilitation of transitions from—

10 “(A) early intervention services to preschool;

11 “(B) preschool to elementary school;

12 “(C) elementary school to secondary school;

13 and

14 “(D) secondary school to postsecondary en-
15 vironments; and

16 “(7) promotion of alternative methods of dispute
17 resolution, including mediation and voluntary bind-
18 ing arbitration.

19 **“SEC. 675. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**
20 **AND UTILIZATION; AND MEDIA SERVICES.**

21 “(a) *IN GENERAL.*—The Secretary shall competitively
22 make grants to, and enter into contracts and cooperative
23 agreements with, eligible entities (as defined in section
24 662(b)) to support activities described in subsections (b)
25 and (c).

1 “(b) *TECHNOLOGY DEVELOPMENT, DEMONSTRATION,*
2 *AND UTILIZATION.*—

3 “(1) *IN GENERAL.*—*In carrying out this section,*
4 *the Secretary shall support activities to promote the*
5 *development, demonstration, and utilization of tech-*
6 *nology.*

7 “(2) *AUTHORIZED ACTIVITIES.*—*The following*
8 *activities may be carried out under this subsection:*

9 “(A) *Conducting research on, and pro-*
10 *moting the demonstration and use of—*

11 “(i) *innovative and emerging tech-*
12 *nologies for children with disabilities; and*

13 “(ii) *improved transfer of technology*
14 *from research and development to practice.*

15 “(B) *Supporting research, development, and*
16 *dissemination of technology with universal-de-*
17 *sign features, so that the technology is accessible*
18 *to individuals with disabilities without further*
19 *modification or adaptation.*

20 “(C) *Demonstrating the use of systems to*
21 *provide parents and teachers with information*
22 *and training concerning early diagnosis of,*
23 *intervention for, and effective teaching strategies*
24 *for, young children with reading disabilities.*

1 “(D) Supporting the implementation of re-
2 search programs.

3 “(E) Communicating information on avail-
4 able technology and the uses of such technology
5 to assist children with disabilities.

6 “(c) *EDUCATIONAL MEDIA SERVICES; OPTIONAL AC-*
7 *TIVITIES.*—In carrying out this section, the Secretary may
8 support—

9 “(1) educational media activities that are de-
10 signed to be of educational value in the classroom set-
11 ting to children with disabilities;

12 “(2) providing video description, open cap-
13 tioning, or closed captioning of television programs,
14 videos, or other materials with an education-based
15 content for use in the classroom setting when such
16 services are not provided by the producer or dis-
17 tributor of such information, including programs and
18 materials associated with new and emerging tech-
19 nologies such as CDs, DVDs, video streaming, and
20 other forms of multimedia;

21 “(3) distributing materials described in para-
22 graphs (1) and (2) through such mechanisms as a
23 loan service; and

24 “(4) providing free educational materials, in-
25 cluding textbooks, in accessible media for visually im-

1 *paired and print-disabled students in elementary, sec-*
2 *ondary, postsecondary, and graduate schools.*

3 “(d) *APPLICATIONS.—Any eligible entity (as defined*
4 *in section 662(b)) that wishes to receive a grant, or enter*
5 *into a contract or cooperative agreement, under this section*
6 *shall submit an application to the Secretary at such time,*
7 *in such manner, and containing such information as the*
8 *Secretary may require. For purposes of subsection (c)(4),*
9 *such entity shall—*

10 “(1) *be a national, nonprofit entity with a track*
11 *record of meeting the needs of students with print dis-*
12 *abilities through services described in paragraph (4);*

13 “(2) *have the capacity to produce, maintain,*
14 *and distribute in a timely fashion, up-to-date text-*
15 *books in digital audio formats to qualified students;*
16 *and*

17 “(3) *have a demonstrated ability to significantly*
18 *leverage Federal funds through other public and pri-*
19 *vate contributions, as well as through the expansive*
20 *use of volunteers.*

21 “(e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
22 *authorized to be appropriated to carry out section 674*
23 *\$32,710,000 for fiscal year 2004 and such sums as may be*
24 *necessary for each of the fiscal years 2005 through 2009.*
25 *There are authorized to be appropriated to carry out sec-*

1 tions 672 and 673 \$26,000,000 for fiscal year 2004 and
2 such sums as may be necessary for each of the fiscal years
3 2005 through 2009.”.

4 **SEC. 402. CONTINUATION OF FUNDING FOR COMMUNITY**
5 **PARENT AND RESOURCE CENTERS.**

6 *Notwithstanding any other provision of law, the Sec-*
7 *retary of Education is authorized to use amounts made*
8 *available for a fiscal year to carry out subpart 3 of part*
9 *D of the Individuals with Disabilities Education Act (as*
10 *added by section 401) to continue to provide funding under*
11 *grants made to, or contracts or cooperative agreements en-*
12 *tered into with, local parent organizations under section*
13 *683 of such Act (as such section was in effect on October*
14 *1, 2002).*

Union Calendar No. 44

108TH CONGRESS
1ST SESSION

H. R. 1350

[Report No. 108-77]

A BILL

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

APRIL 29, 2003

Reported with an amendment, committed to the Com-
mittee of the Whole House on the State of the Union,
and ordered to be printed