Public Law 101-226
101st Congress

An Act

Dec. 12, 1989
[H.R. 3614]

To amend the Drug-Free Schools and Communities Act of 1986 to revise certain requirements relating to the provision of drug abuse education and prevention program in elementary and secondary schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug-Free Schools and Communities Act Amendments of 1989.
20 USC 2701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Free Schools and Communities Act Amendments of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting after "part C" the following: "and section 5136"; and

(ii) by striking "and $20,000,000" and all that follows and inserting the following: "$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993."; and

(B) in subparagraph (B), by striking "$230,000,000" and inserting "$215,000,000"; and

(2) by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for purposes of carrying out section 5136 $25,000,000 for each of the fiscal years 1991, 1992, and 1993.".

SEC. 3. RESERVATIONS AND STATE ALLOTMENTS.

Section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended—

(1) in subsection (a), by striking "From" and inserting "Except as provided in subsection (c)";

(2) in subsection (b), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(3) by adding at the end the following new subsections:

"(c) DISTRIBUTION OF APPROPRIATIONS.—Except for funds provided for any fiscal year for part C of this title and sections 5136 and 5137, and for fiscal year 1991 for section 5146, the Secretary shall distribute any amounts appropriated or otherwise made available to carry out this title for any fiscal year in the following manner:

"(1) In any year in which the total of such amounts is not more than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the Secretary shall distribute such total amount as provided in subsections (a) and (b).

"(2) In any year in which the total of such amounts is greater than the total amount appropriated or otherwise made avail-

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able to carry out this title for the fiscal year 1989, the amount in excess of the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989 shall be distributed as follows:

"(A) Such amount as is necessary to carry out the reservations under paragraphs (1), (2), and (3) of subsection (a);

"(B)(i) Except as provided in clause (ii), not more than $14,700,000 to be allocated to the chief executive officer of each State, in an amount which bears the same ratio to such amount as the school-age population of the State bears to the school-age population of all States.

"(ii) For fiscal year 1990, in addition to amounts made available under clause (i), $25,000,000 shall be available for distribution to the chief executive officer of each State in an amount which bears the same ratio to such additional amount as the school-age population of the State bears to the school-age population of all States. Funds available under this clause shall be used to carry out section 5136.

"(C) Subject to subparagraph (D), of the remainder—

"(i) 50 percent of such remainder shall be distributed to the States under subsection (b); and

"(ii) 50 percent of such remainder shall be distributed to the States on the basis of the amounts received by each State under part A of title I of chapter 1 for the preceding fiscal year.

"(D) Under subparagraph (C), no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

"(d) DEFINITION.—For the purposes of this section, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

SEC. 4. USE OF ALLOTMENTS BY STATES.

Section 5121 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3191) is amended by adding at the end the following new subsection:

"(c) USE OF ADDITIONAL AMOUNTS.—Any amounts received by a State under section 5112(c)(2)(C) shall be used by the State educational agency to make grants to local educational agencies for purposes of carrying out programs in accordance with section 5125. The State educational agency shall distribute any such amounts among the local educational agencies within the State on the basis of the amounts received by each such local educational agency under part A of title I of chapter 1 for the preceding fiscal year.". Grants.

SEC. 5. STATE PROGRAMS.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended—

(1) in subsection (a) by striking "local governments" and all that follows through "organizations" and inserting "parent groups, community action agencies, community-based organizations, and other public entities and private nonprofit entities";

(2) in subsection (a)—

(A) in paragraph (6) by striking "and" at the end thereof;

(B) in paragraph (7) by striking the period at the end thereof and inserting "; and"; and

(C) by adding at the end of such subsection the following new paragraph:

"(8) to promote, establish, and maintain drug-free school zones for schools within the State.".

Grants. Contracts. Children and youth.

(3) in subsection (b) by striking the second sentence of paragraph (1) and inserting the following: "The chief executive officer shall make grants to or enter into contracts with public entities or private nonprofit entities for purposes of providing community-based programs of coordinated services that are designed for high-risk youths, including programs that use strategies to improve skills of such youths such as vocational and educational counseling and job skills training, giving priority to assisting community action agencies, community-based organizations, parent groups, and other entities which are representative of communities or significant segments of communities and which have the capability to provide such services. The chief executive officer shall also make grants to private nonprofit organizations to develop new strategies to communicate anti-drug abuse messages to youths.";

(4) in subsection (b)(2)—

(A) in subparagraph (I) by striking "or";

(B) in subparagraph (J) by striking the period and inserting "; and"; and

(C) by adding after subparagraph (J) the following new subparagraph:

"(K) is a juvenile in a detention facility within the State.".

(5) by adding at the end thereof the following new subsection:

"(d) DRUG TESTING PROGRAMS.—For each fiscal year, amounts made available to the chief executive officer of a State by section 5121(a) may be used for nondiscriminatory random drug testing programs for students voluntarily participating in athletic activities only in schools which voluntarily choose to participate in such a program. Nothing in this subsection shall prescribe or prohibit the use of drug testing programs.".

SEC. 6. STATE APPLICATIONS.

Subsection (b) of section 5123 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3193) is amended—

(1) in paragraph (7), by inserting before the semicolon the following: ", and judicial officials";

(2) by striking "and" at the end of paragraph (10);

(3) by striking the period at the end of paragraph (11) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(12) include a plan for providing innovative programs of drug abuse education for juveniles in detention facilities within the State as required by section 5122(b)(1)(A).".

SEC. 7. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

Section 5124 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES.—(1) Each State educational agency shall use a sum which shall not be less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local educational agencies, intermediate educational agencies, and consortia in the State, in accordance with applications approved under section 5126.

"(2) From the sum described in paragraph (1), the State educational agency shall distribute funds for use among local educational agencies, intermediate educational agencies, and consortia in the State on the basis of the relative enrollments in public schools and private nonprofit schools served by such agencies and consortia.

"(3)(A) Not later than July 1 of each year, the State educational agency shall inform each local educational agency, intermediate educational agency, and consortium in the State of the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121. If a local educational agency or a consortium of local educational agencies chooses not to apply to receive the amount allocated to such agency under this subsection, the State educational agency—

"(i) shall distribute such amount to the intermediate educational agency serving such local educational agency or consortium; or

"(ii) may, if it is able to facilitate the arrangement of a consortium among local educational agencies in the State that choose not to apply to receive the amounts allocated to such agencies under this subsection, distribute such amount to such consortium.

"(B) The State educational agency shall distribute to a local educational agency, intermediate educational agency, or consortium the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121 upon the approval of an application for such agency under section 5126.

"(4)(A) Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency, intermediate educational agency, or consortium under this subsection receives its allocation under this subsection—

"(i) such agency or consortium shall return to the State educational agency any funds from such allocation that remain unobligated; and

"(ii) the State educational agency shall reallocate any such amount to local educational agencies, intermediate educational agencies, or consortia that have plans for using such amount for programs or activities on a timely basis.

"(B) In any fiscal year, a local educational agency, intermediate educational agency, or consortium may retain for obligation in the succeeding fiscal year—

"(i) an amount equal to not more than 25 percent of the allocation it receives under this subsection for such fiscal year; or

"(ii) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency,"; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting after "materials" the following: "that clearly and consistently teach that illicit drug use is harmful"; and

(B) in paragraph (5), by striking "2.5 percent" and all that follows and inserting "5 percent of the amounts available under subsections (b) and (c) of section 5121.".

SEC. 8. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended in subsection (a)—

(1) in paragraph (2), by inserting before the semicolon the following: ", which—

"(A) should, to the extent practicable, employ counselors whose sole duty is to provide drug abuse prevention counseling to students;

"(B) may include the use of drug-free older students as positive role models and instruction relating to—

"(i) self-esteem;

"(ii) drugs and drug addiction;

"(iii) decisionmaking and risk-taking;

"(iv) stress management techniques; and

"(v) assertiveness;

"(C) may bring law enforcement officers into the classroom to provide antidrug information and positive alternatives to drug use, including decisionmaking and assertiveness skills; and

"(D) in the case of a local educational agency that determines it has served all students in all grades, such local educational agency may target additional funds to particularly vulnerable age groups, especially those in grades 4 through 9";

(2) in paragraph (4)—

(A) by inserting "and intervention" after "drug abuse prevention"; and

(B) by striking the semicolon at the end and inserting the following:

", which may include—

"(A) the employment of counselors, social workers, psychologists, or nurses who are trained to provide drug abuse prevention and intervention counseling; or

"(B) the provision of services through a contract with a private nonprofit organization that employs individuals who are trained to provide such counseling;";

(3) in paragraph (8), by striking "educational personnel" and inserting "school personnel"; and

(4) in paragraph (11) by striking "and" at the end thereof;

(5) by redesignating paragraph (12) as paragraph (13); and

(6) by adding after paragraph (11) the following new paragraph:

"(12) model alternative schools for youth with drug problems that address the special needs of such students through education and counseling; and".

SEC. 9. LOCAL APPLICATIONS.

Section 5126 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting before the period the following: "before the expiration of the 120-day period beginning on the date that the State educational agency notifies the local educational agency, intermediate educational agency, or consortium of the amount allocated to such agency or consortium under section 5124(a)."; and

(B) in paragraph (2)—

(i) in subparagraph (H), by inserting before the semicolon the following: "and with appropriate community-based organizations";

(ii) by striking "and" at the end of subparagraph (L);

(iii) by redesignating subparagraph (M) as subparagraph (R); and

(iv) by inserting after subparagraph (L) the following new subparagraphs:

"(M) describe how the applicant will ensure that the schools will be an important part of a community-wide effort to achieve a drug-free population;

"(N) describe how, to the extent practicable, assistance provided under this title will be used to provide trained counselors, social workers, psychologists, and nurses to carry out drug abuse prevention and intervention activities in addition to any individuals so employed by the applicant on the date of the enactment of the Drug-Free Schools and Communities Act Amendments of 1989;

"(O) provide assurances that the applicant will maintain and make available for distribution a list of local resources for substance abuse counseling and treatment;

"(P) provide assurances that the applicant has reviewed curricula that it intends to use and that such curricula will meet the needs of the schools served by the applicant;

"(Q) describe the training that will be provided for teachers and other personnel who are involved in the implementation of programs to be carried out by the applicant under this part; and"; and

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(1) Each applicant shall annually submit to the State educational agency a progress report on the implementation of its plan. The progress report shall include— Reports.

"(A) the applicant's significant accomplishments under the plan during the preceding year;

"(B) the extent to which the original objectives of the plan are being achieved;

"(C) a discussion of the method used by the applicant to evaluate the effectiveness of its drug education program carried out under its plan; and

"(D) the results of the evaluation described in subparagraph (C).".

SEC. 10. REPORTS.

Subsection (a) of section 5127 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3197) is amended in paragraph (3)—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(H) an evaluation of the effectiveness of State and local drug and alcohol abuse education and prevention programs.".

SEC. 11. TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL.

(a) AMENDMENT TO PART HEADING.—The heading for part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198 et seq.) is amended to read as follows:

"PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL".

20 USC 3201.

(b) PROGRAM AND ALLOCATIONS.—Subsection (b) of section 5128 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198) is amended by striking "educational personnel" in the first sentence and inserting "school personnel".

SEC. 12. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 5131 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211) is amended—

(1) in paragraph (4) of subsection (a), by striking "subsection (d)" and inserting "subsection (c)";

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) by striking subsection (e).

20 USC 3211 note.

(b) TRANSITION PROVISION.—Any amounts appropriated for the fiscal year 1990 and for any subsequent fiscal year for the purpose of making training grants under section 5131(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211) as such section existed on the day before the date of the enactment of this Act shall be used by the Secretary of Education for the purpose of making grants under section 5128 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198).

SEC. 13. FEDERAL ACTIVITIES.

Subsection (b) of section 5132 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraphs:

"(6) use private nonprofit organizations to develop innovative strategies to communicate antidrug abuse messages to youths and to eliminate drug abuse from the communities of the Nation; and

"(7) as necessary, evaluate programs assisted under this title.".

SEC. 14. EMERGENCY GRANTS.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following new section:

20 USC 3216.

"SEC. 5136 EMERGENCY GRANTS.

"(a) PROGRAM AUTHORIZED.—Except as provided under subsection (d), the Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall make grants to eligible local educational agencies that demonstrate significant need for additional assistance for purposes of combating drug and alcohol abuse by students served by such agencies.

"(b) ELIGIBLE AGENCIES.—A local educational agency shall be eligible to receive a grant under this section if such agency—

"(1) receives assistance under section 1006 or meets the criteria of clauses (i) and (ii) of section 1006(a)(1)(A); and

"(2) serves an area—

"(A) in which there is a large number or a high percentage of—

"(i) arrests for, or while under the influence of, drugs or alcohol; or

"(ii) convictions of youths for drug or alcohol-related crimes;

"(B) in which there is a large number or high percentage of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs; and

"(C) that has a significant drug and alcohol abuse problem, as indicated by other appropriate data.

"(c) AMOUNT OF GRANTS.—Each grant awarded under this section shall be in an amount that is not less than $100,000 and not more than $1,000,000.

"(d) FISCAL YEAR 1990.—For fiscal year 1990, funds available for the purposes of this section shall be allocated to the chief executive officer of each State for distribution through State educational agencies to local educational agencies.".

SEC. 15. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM. 20 USC 3217.

Part D of the Drug-Free Schools and Communities Act (20 U.S.C. 3211 et seq.) is amended by adding after section 5136 (as added by section 14) the following new section:

"SEC. 5137. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR DRUG-FREE SCHOOL ZONES.—The Secretary of Education is authorized to establish a demonstration program to establish and maintain drug-free school zones. In carrying out the demonstration program under this section, the Secretary shall make grants to local educational agencies, intermediate educational agencies, and consortia. Grants.

"(b) EVALUATIONS.—The Secretary shall evaluate programs under this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the purposes of this section. Funds appropriated under this section are authorized to remain available until expended.".

SEC. 16. DEFINITIONS.

Section 5141 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3221) is amended—

(1) in paragraph (1), by inserting before the period the following: ", including anabolic steroids";

(2) in paragraph (2), by inserting before the period the following: ", including anabolic steroids"; and

(3) by adding at the end the following new paragraph:

"(10) The term 'school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.".

SEC. 17. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT ELEMENTARY AND SECONDARY SCHOOLS.

Subsection (c) of section 5143 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3233) is amended— 20 USC 3223.

(1) by striking "WAIVER;";

(2) by inserting after "SECRETARY" the following: "AND STATE EDUCATIONAL AGENCIES";

(3) by inserting "(1)" before "If by reason"; and

(4) by adding at the end the following new paragraph:

"(2) If a State educational agency determines that a local educational agency, intermediate educational agency, or consortium, as appropriate, is failing to provide for the equitable participation of children or teachers from private nonprofit elementary or secondary schools in accordance with subsection (a) or (b), the State educational agency shall waive the requirements of such subsection with respect to such local educational agency, intermediate educational agency, or consortium and make appropriate arrangements for the equitable participation of such children or teachers.".

SEC. 18. NATIONAL DIFFUSION NETWORK.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3221 et seq.) is amended by adding at the end the following new section:

20 USC 3224b.

"SEC. 5146. DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.

"(a) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—The Secretary, through the National Diffusion Network established under section 1562, shall disseminate information and technical assistance with respect to drug abuse education and prevention programs of demonstrated effectiveness.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $500,000 for fiscal year 1991.".

SEC. 19. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS.

(a) AMENDMENT TO PART HEADING.—The heading for part F of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3227) is amended to read as follows:

"PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS".

(b) PROGRAM AUTHORIZED.—Subsection (a) of section 5151 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3227) is amended—

(1) by striking "and such other" and inserting "such other"; and

(2) by inserting before the period the following: ", and to parents of children participating in such programs".

SEC. 20. LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT.

Section 541(b) of the Higher Education Act of 1965 (20 U.S.C. 1109(b)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) developing skills and techniques for administering drug prevention and education programs.".

SEC. 21. EMERGENCY GRANTS FOR CHILD ABUSE PREVENTION SERVICES FOR CHILDREN WHOSE PARENTS ARE SUBSTANCE ABUSERS.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 (Public Law 101-126), is amended by adding after section 107 the following new section:

"SEC. 107A. EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANT. 42 USC 5106a-1.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be—

"(1) State and local agencies that are responsible for administering child abuse or related child abuse intervention services; and

"(2) community and mental health agencies and nonprofit youth-serving organizations with experience in providing child abuse prevention services.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where child abuse has placed substantial strains on State and local agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of emergency situations with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multi-disciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child abuse prevention services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse; and

"(4) the establishment or improvement of coordination between the agency administering the grant, and—

"(A) child advocates;

"(B) public educational institutions;

"(C) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants; and

"(D) parents and representatives of parent groups and related agencies.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1990, and such sums as may be necessary for each of the subsequent fiscal years 1991, 1992, and 1993.".

SEC. 22. DRUG-FREE SCHOOLS AND CAMPUSES.

(a) IN GENERAL.—

(1) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAM.—Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end a new section 1213 to read as follows:

"DRUG AND ALCOHOL ABUSE PREVENTION

20 USC 1145g.

"SEC. 1213. (a) Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

"(1) the annual distribution to each student and employee of—

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

"(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

"(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

"(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

"(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

"(2) a biennial review by the institution of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

"(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2). Public information.

"(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for— Regulations.

"(A) the periodic review of a representative sample of programs required by subsection (a); and

"(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

"(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

"(d) Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.".

(2) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on October 1, 1990. 20 USC 1145g note.

(B) The Secretary of Education may allow any institution of higher education until not later than April 1, 1991, to comply with section 1213 of the Higher Education Act of 1965 (as added by paragraph (1)) if such institution demonstrates—

(i) that it is in the process of developing and implementing its plan under such section; and

(ii) it has a legitimate need for more time to develop and implement such plan.

(b) AMENDMENTS TO DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.—

(1) IN GENERAL.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding after section 5144 the following new section:

"SEC. 5145. CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS. 20 USC 3224a.

"(a) IN GENERAL.—Notwithstanding any other provision of law other than section 432 of the General Education Provisions Act and section 103(b) of the Department of Education Organization Act, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

"(1) age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

"(2) conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful;

"(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

"(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

"(5) information about any available drug and alcohol counseling and rehabilitation and re-entry programs that are available to students and employees;

"(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

"(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

"(8) a biennial review by the applicant of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (4) are consistently enforced.

"(b) DISSEMINATION OF INFORMATION.—Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

"(c) CERTIFICATION TO SECRETARY.—Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

Public information.

"(d) REGULATIONS.—(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

"(B) a range of responses and sanctions for local educational agencies that fail to implement their programs or to consistently enforce their sanctions, including information and tech-

nical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

"(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.

"(e) Upon a determination by the Secretary to terminate financial assistance to any local educational agency under this section, the agency may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such agency is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the agency concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.".

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 5126(e) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(c)) (as amended by section 9 of this Act) is amended—

(A) by striking subparagraphs (E), (F), and (G); and

(B) by redesignating subparagraphs (H) through (R) as subparagraphs (E) through (O), respectively.

(3) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendments made by paragraphs (1) and (2) shall take effect on October 1, 1990. 20 USC 3224a note.

(B) The Secretary of Education may allow any local educational agency until not later than April 1, 1991, to comply with section 5145 of the Drug-Free Schools and Communities Act of 1986 (as added by paragraph (1)) if such agency demonstrates—

(i) that it is in the process of developing and implementing its plan under such section; and

(ii) it has a legitimate need for more time to develop and implement such plan.

SEC. 23. BEFORE AND AFTER SCHOOL PROGRAMS FOR UNSUPERVISED CHILDREN.

Section 3521(d) of the National Narcotics Leadership Act of 1988 is amended by— 42 USC 11841.

(1) redesignating paragraph (8) as paragraph (9);

(2) striking "and" at the end of paragraph (7); and

(3) inserting after paragraph (7) the following new paragraph:

"(8) programs for unsupervised children before and after school, including—

"(A) education and instruction consistent with the Drug-Free Schools and Communities Act of 1986;

"(B) athletic activities;

"(C) creative activities; and

"(D) other programs designed to reduce the risk of drug abuse; and".

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 3614:

HOUSE REPORTS: No. 101-384 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 13, considered and passed House.
Nov. 15, considered and passed Senate, amended.
Nov. 21, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 12, Presidential statement.