

§ 9411. Local allocations**(a) In general**

The Lead State Agency shall allocate to Local Councils in the State not less than 93 percent of the funds provided to the State under this chapter for a fiscal year.

(b) Limitation

The Lead State Agency shall allocate funds provided under this chapter on the basis of the population of the locality served by the Local Council.

(Pub. L. 106-554, §1(a)(1) [title VIII, §812], Dec. 21, 2000, 114 Stat. 2763, 2763A-88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9409 of this title.

§ 9412. Local applications**(a) In general**

To be eligible to receive assistance under this chapter, the Local Council shall submit an application to the Lead State Agency at such time, in such manner, and containing such information as the Lead State Agency may require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall include a statement ensuring that the local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has established or designated a Local Council under section 9413 of this title, and the Local Council has developed a local plan for carrying out early learning programs under this chapter that includes—

(1) a needs and resources assessment concerning early learning services and a statement describing how early learning programs will be funded consistent with the assessment;

(2) a statement of how the Local Council will ensure that early learning programs will meet the performance goals reported by the Lead State Agency under this chapter; and

(3) a description of how the Local Council will form collaboratives among local youth, social service, and educational providers to maximize resources and concentrate efforts on areas of greatest need.

(Pub. L. 106-554, §1(a)(1) [title VIII, §813], Dec. 21, 2000, 114 Stat. 2763, 2763A-88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9409, 9410, 9413 of this title.

§ 9413. Local administration**(a) Local Council****(1) In general**

To be eligible to receive funds under this chapter, a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity, as appropriate, shall establish or designate a Local Council, which shall be composed of—

(A) representatives of local agencies directly affected by early learning programs assisted under this chapter;

(B) parents;

(C) other individuals concerned with early learning issues in the locality, such as representative entities providing elementary education, child care resource and referral services, early learning opportunities, child care, and health services; and

(D) other key community leaders.

(2) Designating existing entity

If a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has, before December 21, 2000, a Local Council or a regional entity that is comparable to the Local Council described in paragraph (1), the entity, tribe, or corporation may designate the council or entity as a Local Council under this chapter, and shall be considered to have established a Local Council in compliance with this subsection.

(3) Functions

The Local Council shall be responsible for preparing and submitting the application described in section 9412 of this title.

(b) Administration**(1) Administrative costs**

Not more than 3 percent of the funds received by a Local Council under this chapter shall be used to pay for the administrative costs of the Local Council in carrying out this chapter.

(2) Fiscal agent

A Local Council may designate any entity, with a demonstrated capacity for administering grants, that is affected by, or concerned with, early learning issues, including the State, to serve as fiscal agent for the administration of grant funds received by the Local Council under this chapter.

(Pub. L. 106-554, §1(a)(1) [title VIII, §814], Dec. 21, 2000, 114 Stat. 2763, 2763A-88.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9402, 9407, 9412 of this title.

CHAPTER 76—EDUCATION RESEARCH, STATISTICS, EVALUATION, INFORMATION, AND DISSEMINATION

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SUBCHAPTER I—EDUCATION SCIENCES
REFORM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3412, 3419 of this title.

§ 9501. Definitions

In this subchapter:

(1) In general

The terms “elementary school”, “secondary school”, “local educational agency”, and “State educational agency” have the meanings given those terms in section 7801 of this title and the terms “freely associated states” and “outlying area” have the meanings given those terms in section 6331(c) of this title.

(2) Applied research

The term “applied research” means research—

(A) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and

(B) that is specifically directed to the advancement of practice in the field of education.

(3) Basic research

The term “basic research” means research—

(A) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and

(B) for the advancement of knowledge in the field of education.

(4) Board

The term “Board” means the National Board for Education Sciences established under section 9516 of this title.

(5) Bureau

The term “Bureau” means the Bureau of Indian Affairs.

(6) Comprehensive center

The term “comprehensive center” means an entity established under section 9602 of this title.

(7) Department

The term “Department” means the Department of Education.

(8) Development

The term “development” means the systematic use of knowledge or understanding gained from the findings of scientifically valid research and the shaping of that knowledge or understanding into products or processes that can be applied and evaluated and may prove useful in areas such as the preparation of materials and new methods of instruction and practices in teaching, that lead to the improvement of the academic skills of students, and that are replicable in different educational settings.

(9) Director

The term “Director” means the Director of the Institute of Education Sciences.

(10) Dissemination

The term “dissemination” means the communication and transfer of the results of scientifically valid research, statistics, and evaluations, in forms that are understandable, easily accessible, and usable, or adaptable for use in, the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, parents, policy-makers, and the public, through technical assistance, publications, electronic transfer, and other means.

(11) Early childhood educator

The term “early childhood educator” means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(12) Field-initiated research

The term “field-initiated research” means basic research or applied research in which specific questions and methods of study are generated by investigators (including teachers and other practitioners) and that conforms to standards of scientifically valid research.

(13) Historically Black college or university

The term “historically Black college or university” means a part B institution as defined in section 1061 of this title.

(14) Institute

The term “Institute” means the Institute of Education Sciences established under section 9511 of this title.

(15) Institution of higher education

The term “institution of higher education” has the meaning given that term in section 1001(a) of this title.

(16) National research and development center

The term “national research and development center” means a research and development center supported under section 9533(c) of this title.

(17) Provider of early childhood services

The term “provider of early childhood services” means a public or private entity that serves young children, including—

- (A) child care providers;
- (B) Head Start agencies operating Head Start programs, and entities carrying out Early Head Start programs, under the Head Start Act (42 U.S.C. 9831 et seq.);
- (C) preschools;
- (D) kindergartens; and
- (E) libraries.

(18) Scientifically based research standards

(A) The term “scientifically based research standards” means research standards that—

- (i) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and
- (ii) present findings and make claims that are appropriate to and supported by the methods that have been employed.

(B) The term includes, appropriate to the research being conducted—

- (i) employing systematic, empirical methods that draw on observation or experiment;
- (ii) involving data analyses that are adequate to support the general findings;
- (iii) relying on measurements or observational methods that provide reliable data;
- (iv) making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);
- (v) ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;
- (vi) obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and
- (vii) using research designs and methods appropriate to the research question posed.

(19) Scientifically valid education evaluation

The term “scientifically valid education evaluation” means an evaluation that—

- (A) adheres to the highest possible standards of quality with respect to research design and statistical analysis;
- (B) provides an adequate description of the programs evaluated and, to the extent possible,

examines the relationship between program implementation and program impacts;

(C) provides an analysis of the results achieved by the program with respect to its projected effects;

(D) employs experimental designs using random assignment, when feasible, and other research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible; and

(E) may study program implementation through a combination of scientifically valid and reliable methods.

(20) Scientifically valid research

The term “scientifically valid research” includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with scientifically based research standards.

(21) Secretary

The term “Secretary” means the Secretary of Education.

(22) State

The term “State” includes (except as provided in section 9548 of this title) each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the freely associated states, and the outlying areas.

(23) Technical assistance

The term “technical assistance” means—

(A) assistance in identifying, selecting, or designing solutions based on research, including professional development and high-quality training to implement solutions leading to—

- (i) improved educational and other practices and classroom instruction based on scientifically valid research; and
- (ii) improved planning, design, and administration of programs;

(B) assistance in interpreting, analyzing, and utilizing statistics and evaluations; and

(C) other assistance necessary to encourage the improvement of teaching and learning through the applications of techniques supported by scientifically valid research.

(Pub. L. 107-279, title I, §102, Nov. 5, 2002, 116 Stat. 1941.)

REFERENCES IN TEXT

The Head Start Act, referred to in par. (17)(B), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this Title 42 and Tables.

SHORT TITLE

Pub. L. 107-279, title I, §101, Nov. 5, 2002, 116 Stat. 1941, provided that: “This title [enacting this subchapter] may be cited as the ‘Education Sciences Reform Act of 2002’.”

Pub. L. 107-279, title II, §201, Nov. 5, 2002, 116 Stat. 1975, provided that: “This title [enacting subchapter II of this chapter] may be cited as the ‘Educational Technical Assistance Act of 2002’.”

Pub. L. 107-279, title III, §301, Nov. 5, 2002, 116 Stat. 1982, provided that: "This title [enacting subchapter III of this chapter] may be referred to as the 'National Assessment of Educational Progress Authorization Act'."

ORDERLY TRANSITION

Pub. L. 107-279, title IV, §405, Nov. 5, 2002, 116 Stat. 1986, provided that: "The Secretary of Education shall take such steps as are necessary to provide for the orderly transition to, and implementation of, the offices, boards, committees, and centers (and their various functions and responsibilities) established or authorized by this Act [enacting this chapter and section 3419 of this title, amending sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferring sections 9010 and 9011 of this title to sections 9622 and 9621 of this title, respectively, repealing sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacting provisions set out as notes under this section and section 7703 of this title, and repealing provisions set out as notes under sections 1221e and 9001 of this title], and by the amendments made by this Act, from those established or authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) and the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.)."

PART A—THE INSTITUTE OF EDUCATION SCIENCES

§ 9511. Establishment

(a) Establishment

There shall be in the Department the Institute of Education Sciences, to be administered by a Director (as described in section 9514 of this title) and, to the extent set forth in section 9516 of this title, a board of directors.

(b) Mission

(1) In general

The mission of the Institute is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through postsecondary study, in order to provide parents, educators, students, researchers, policymakers, and the general public with reliable information about—

(A) the condition and progress of education in the United States, including early childhood education;

(B) educational practices that support learning and improve academic achievement and access to educational opportunities for all students; and

(C) the effectiveness of Federal and other education programs.

(2) Carrying out mission

In carrying out the mission described in paragraph (1), the Institute shall compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need (including in technology areas) that are supported by Federal funds appropriated to the Institute and ensure that such activities—

(A) conform to high standards of quality, integrity, and accuracy; and

(B) are objective, secular, neutral, and nonideological and are free of partisan polit-

ical influence and racial, cultural, gender, or regional bias.

(c) Organization

The Institute shall consist of the following:

(1) The Office of the Director (as described in section 9514 of this title).

(2) The National Board for Education Sciences (as described in section 9516 of this title).

(3) The National Education Centers, which include—

(A) the National Center for Education Research (as described in part B of this subchapter);

(B) the National Center for Education Statistics (as described in part C of this subchapter); and

(C) the National Center for Education Evaluation and Regional Assistance (as described in part D of this subchapter).

(Pub. L. 107-279, title I, §111, Nov. 5, 2002, 116 Stat. 1944.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9501, 9513 of this title.

§ 9512. Functions

From funds appropriated under section 9584 of this title, the Institute, directly or through grants, contracts, or cooperative agreements, shall—

(1) conduct and support scientifically valid research activities, including basic research and applied research, statistics activities, scientifically valid education evaluation, development, and wide dissemination;

(2) widely disseminate the findings and results of scientifically valid research in education;

(3) promote the use, development, and application of knowledge gained from scientifically valid research activities;

(4) strengthen the national capacity to conduct, develop, and widely disseminate scientifically valid research in education;

(5) promote the coordination, development, and dissemination of scientifically valid research in education within the Department and the Federal Government; and

(6) promote the use and application of research and development to improve practice in the classroom.

(Pub. L. 107-279, title I, §112, Nov. 5, 2002, 116 Stat. 1945.)

§ 9513. Delegation

(a) Delegation of authority

Notwithstanding section 3472 of this title, the Secretary shall delegate to the Director all functions for carrying out this subchapter (other than administrative and support functions), except that—

(1) nothing in this subchapter or in subchapter III of this chapter (except section 9621(e)(1)(J) of this title) shall be construed to alter or diminish the role, responsibilities, or authority of the National Assessment Governing Board with respect to the National As-

assessment of Educational Progress (including with respect to the methodologies of the National Assessment of Educational Progress described in section 9621(e)(1)(E) of this title) from those authorized by the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.) on the day before November 5, 2002;

(2) members of the National Assessment Governing Board shall continue to be appointed by the Secretary;

(3) section 9621(f)(1) of this title shall apply to the National Assessment Governing Board in the exercise of its responsibilities under this Act;

(4) sections 9515 and 9516 of this title shall not apply to the National Assessment of Educational Progress; and

(5) sections 9515 and 9516 of this title shall not apply to the National Assessment Governing Board.

(b) Other activities

The Secretary may assign the Institute responsibility for administering other activities, if those activities are consistent with—

(1) the Institute's priorities, as approved by the National Board for Education Sciences under section 9516 of this title, and the Institute's mission, as described in section 9511(b) of this title; or

(2) the Institute's mission, but only if those activities do not divert the Institute from its priorities.

(Pub. L. 107-279, title I, §113, Nov. 5, 2002, 116 Stat. 1945.)

REFERENCES IN TEXT

The National Education Statistics Act of 1994, referred to in subsec. (a)(1), is title IV of Pub. L. 103-382, Oct. 20, 1994, 108 Stat. 4029, as amended, which was classified generally to chapter 71 (§9001 et seq.) of this title, prior to repeal by Pub. L. 107-279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985. Provisions relating to education statistics are now contained in part C (§9541 et seq.) of this subchapter.

This Act, referred to in subsec. (a)(3), means Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

§ 9514. Office of the Director

(a) Appointment

Except as provided in subsection (b)(2) of this section, the President, by and with the advice and consent of the Senate, shall appoint the Director of the Institute.

(b) Term

(1) In general

The Director shall serve for a term of 6 years, beginning on the date of appointment of the Director.

(2) First Director

The President, without the advice and consent of the Senate, may appoint the Assistant Secretary for the Office of Educational Research and Improvement (as such office existed on the day before November 5, 2002) to serve as the first Director of the Institute.

(3) Subsequent Directors

The Board may make recommendations to the President with respect to the appointment of a Director under subsection (a) of this section, other than a Director appointed under paragraph (2).

(c) Pay

The Director shall receive the rate of basic pay for level II of the Executive Schedule.

(d) Qualifications

The Director shall be selected from individuals who are highly qualified authorities in the fields of scientifically valid research, statistics, or evaluation in education, as well as management within such areas, and have a demonstrated capacity for sustained productivity and leadership in these areas.

(e) Administration

The Director shall—

(1) administer, oversee, and coordinate the activities carried out under the Institute, including the activities of the National Education Centers; and

(2) coordinate and approve budgets and operating plans for each of the National Education Centers for submission to the Secretary.

(f) Duties

The duties of the Director shall include the following:

(1) To propose to the Board priorities for the Institute, in accordance with section 9515(a) of this title.

(2) To ensure the methodology applied in conducting research, development, evaluation, and statistical analysis is consistent with the standards for such activities under this subchapter.

(3) To coordinate education research and related activities carried out by the Institute with such research and activities carried out by other agencies within the Department and the Federal Government.

(4) To advise the Secretary on research, evaluation, and statistics activities relevant to the activities of the Department.

(5) To establish necessary procedures for technical and scientific peer review of the activities of the Institute, consistent with section 9516(b)(3) of this title.

(6) To ensure that all participants in research conducted or supported by the Institute are afforded their privacy rights and other relevant protections as research subjects, in accordance with section 9573 of this title, section 552a of title 5, and sections 1232g and 1232h of this title.

(7) To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(8) To undertake initiatives and programs to increase the participation of researchers and institutions that have been historically underutilized in Federal education research activities of the Institute, including historically Black colleges or universities or other institutions of higher education with large numbers of minority students.

(9) To coordinate with the Secretary to promote and provide for the coordination of research and development activities and technical assistance activities between the Institute and comprehensive centers.

(10) To solicit and consider the recommendations of education stakeholders, in order to ensure that there is broad and regular public and professional input from the educational field in the planning and carrying out of the Institute's activities.

(11) To coordinate the wide dissemination of information on scientifically valid research.

(12) To carry out and support other activities consistent with the priorities and mission of the Institute.

(g) Expert guidance and assistance

The Director may establish technical and scientific peer-review groups and scientific program advisory committees for research and evaluations that the Director determines are necessary to carry out the requirements of this subchapter. The Director shall appoint such personnel, except that officers and employees of the United States shall comprise no more than ¼ of the members of any such group or committee and shall not receive additional compensation for their service as members of such a group or committee. The Director shall ensure that reviewers are highly qualified and capable to appraise education research and development projects. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer-review group or an advisory committee established under this subsection.

(h) Review

The Director may, when requested by other officers of the Department, and shall, when directed by the Secretary, review the products and publications of other offices of the Department to certify that evidence-based claims about those products and publications are scientifically valid.

(Pub. L. 107-279, title I, §114, Nov. 5, 2002, 116 Stat. 1946.)

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (c), is set out in section 5313 of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3412, 3419, 9511, 9533 of this title.

§ 9515. Priorities

(a) Proposal

The Director shall propose to the Board priorities for the Institute (taking into consideration

long-term research and development on core issues conducted through the national research and development centers). The Director shall identify topics that may require long-term research and topics that are focused on understanding and solving particular education problems and issues, including those associated with the goals and requirements established in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as—

(1) closing the achievement gap between high-performing and low-performing children, especially achievement gaps between minority and nonminority children and between disadvantaged children and such children's more advantaged peers; and

(2) ensuring—

(A) that all children have the ability to obtain a high-quality education (from early childhood through postsecondary education) and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments, particularly in mathematics, science, and reading or language arts;

(B) access to, and opportunities for, postsecondary education; and

(C) the efficacy, impact on academic achievement, and cost-effectiveness of technology use within the Nation's schools.

(b) Approval

The Board shall approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of those priorities. The Board shall transmit any priorities so approved to the appropriate congressional committees.

(c) Consistency

The Board shall ensure that priorities of the Institute and the National Education Centers are consistent with the mission of the Institute.

(d) Public availability and comment

(1) Priorities

Before submitting to the Board proposed priorities for the Institute, the Director shall make such priorities available to the public for comment for not less than 60 days (including by means of the Internet and through publishing such priorities in the Federal Register). The Director shall provide to the Board a copy of each such comment submitted.

(2) Plan

Upon approval of such priorities, the Director shall make the Institute's plan for addressing such priorities available for public comment in the same manner as under paragraph (1).

(Pub. L. 107-279, title I, §115, Nov. 5, 2002, 116 Stat. 1948.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see

Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9513, 9514, 9516 of this title.

§ 9516. National Board for Education Sciences

(a) Establishment

The Institute shall have a board of directors, which shall be known as the National Board for Education Sciences.

(b) Duties

The duties of the Board shall be the following:

(1) To advise and consult with the Director on the policies of the Institute.

(2) To consider and approve priorities proposed by the Director under section 9515 of this title to guide the work of the Institute.

(3) To review and approve procedures for technical and scientific peer review of the activities of the Institute.

(4) To advise the Director on the establishment of activities to be supported by the Institute, including the general areas of research to be carried out by the National Center for Education Research.

(5) To present to the Director such recommendations as it may find appropriate for—

(A) the strengthening of education research; and

(B) the funding of the Institute.

(6) To advise the Director on the funding of applications for grants, contracts, and cooperative agreements for research, after the completion of peer review.

(7) To review and regularly evaluate the work of the Institute, to ensure that scientifically valid research, development, evaluation, and statistical analysis are consistent with the standards for such activities under this subchapter.

(8) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and non-ideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(9) To solicit advice and information from those in the educational field, particularly practitioners and researchers, to recommend to the Director topics that require long-term, sustained, systematic, programmatic, and integrated research efforts, including knowledge utilization and wide dissemination of research, consistent with the priorities and mission of the Institute.

(10) To advise the Director on opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education research, statistics, and evaluation activities of the Institute.

(11) To recommend to the Director ways to enhance strategic partnerships and collabo-

orative efforts among other Federal and State research agencies.

(12) To recommend to the Director individuals to serve as Commissioners of the National Education Centers.

(c) Composition

(1) Voting members

The Board shall have 15 voting members appointed by the President, by and with the advice and consent of the Senate.

(2) Advice

The President shall solicit advice regarding individuals to serve on the Board from the National Academy of Sciences, the National Science Board, and the National Science Advisor.

(3) Nonvoting ex officio members

The Board shall have the following non-voting ex officio members:

(A) The Director of the Institute of Education Sciences.

(B) Each of the Commissioners of the National Education Centers.

(C) The Director of the National Institute of Child Health and Human Development.

(D) The Director of the Census.

(E) The Commissioner of Labor Statistics.

(F) The Director of the National Science Foundation.

(4) Appointed membership

(A) Qualifications

Members appointed under paragraph (1) shall be highly qualified to appraise education research, statistics, evaluations, or development, and shall include the following individuals:

(i) Not fewer than 8 researchers in the field of statistics, evaluation, social sciences, or physical and biological sciences, which may include those researchers recommended by the National Academy of Sciences.

(ii) Individuals who are knowledgeable about the educational needs of the United States, who may include school-based professional educators, parents (including parents with experience in promoting parental involvement in education), Chief State School Officers, State postsecondary education executives, presidents of institutions of higher education, local educational agency superintendents, early childhood experts, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(B) Terms

Each member appointed under paragraph (1) shall serve for a term of 4 years, except that—

(i) the terms of the initial members appointed under such paragraph shall (as determined by a random selection process at the time of appointment) be for staggered terms of—

- (I) 4 years for each of 5 members;
- (II) 3 years for each of 5 members; and
- (III) 2 years for each of 5 members; and

(ii) no member appointed under such paragraph shall serve for more than 2 consecutive terms.

(C) Unexpired terms

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(D) Conflict of interest

A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(5) Chair

The Board shall elect a chair from among the members of the Board.

(6) Compensation

Members of the Board shall serve without pay for such service. Members of the Board who are officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(7) Travel expenses

The members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5.

(8) Powers of the Board

(A) Executive Director

The Board shall have an Executive Director who shall be appointed by the Board.

(B) Additional staff

The Board shall utilize such additional staff as may be appointed or assigned by the Director, in consultation with the Chair and the Executive Director.

(C) Detail of personnel

The Board may use the services and facilities of any department or agency of the Federal Government. Upon the request of the Board, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out this Act.

(D) Contracts

The Board may enter into contracts or make other arrangements as may be necessary to carry out its functions.

(E) Information

The Board may, to the extent otherwise permitted by law, obtain directly from any executive department or agency of the Federal Government such information as the Board determines necessary to carry out its functions.

(9) Meetings

The Board shall meet not less than 3 times each year. The Board shall hold additional

meetings at the call of the Chair or upon the written request of not less than 6 voting members of the Board. Meetings of the Board shall be open to the public.

(10) Quorum

A majority of the voting members of the Board serving at the time of the meeting shall constitute a quorum.

(d) Standing committees

(1) Establishment

The Board may establish standing committees—

(A) that will each serve 1 of the National Education Centers; and

(B) to advise, consult with, and make recommendations to the Director and the Commissioner of the appropriate National Education Center.

(2) Membership

A majority of the members of each standing committee shall be voting members of the Board whose expertise is needed for the functioning of the committee. In addition, the membership of each standing committee may include, as appropriate—

(A) experts and scientists in research, statistics, evaluation, or development who are recognized in their discipline as highly qualified to represent such discipline and who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board;

(B) ex officio members of the Board; and

(C) policymakers and expert practitioners with knowledge of, and experience using, the results of research, evaluation, and statistics who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board.

(3) Duties

Each standing committee shall—

(A) review and comment, at the discretion of the Board or the standing committee, on any grant, contract, or cooperative agreement entered into (or proposed to be entered into) by the applicable National Education Center;

(B) prepare for, and submit to, the Board an annual evaluation of the operations of the applicable National Education Center;

(C) review and comment on the relevant plan for activities to be undertaken by the applicable National Education Center for each fiscal year; and

(D) report periodically to the Board regarding the activities of the committee and the applicable National Education Center.

(e) Annual report

The Board shall submit to the Director, the Secretary, and the appropriate congressional committees, not later than July 1 of each year, a report that assesses the effectiveness of the Institute in carrying out its priorities and mission, especially as such priorities and mission

relate to carrying out scientifically valid research, conducting unbiased evaluations, collecting and reporting accurate education statistics, and translating research into practice.

(f) Recommendations

The Board shall submit to the Director, the Secretary, and the appropriate congressional committees a report that includes any recommendations regarding any actions that may be taken to enhance the ability of the Institute to carry out its priorities and mission. The Board shall submit an interim report not later than 3 years after November 5, 2002, and a final report not later than 5 years after such date.

(Pub. L. 107-279, title I, §116, Nov. 5, 2002, 116 Stat. 1948.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (c)(4)(D), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

This Act, referred to in subsec. (c)(8)(C), means Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9501, 9511, 9513, 9514, 9584 of this title.

§ 9517. Commissioners of the National Education Centers

(a) Appointment of Commissioners

(1) In general

Except as provided in subsection (b) of this section, each of the National Education Centers shall be headed by a Commissioner appointed by the Director. In appointing Commissioners, the Director shall seek to promote continuity in leadership of the National Education Centers and shall consider individuals recommended by the Board. The Director may appoint a Commissioner to carry out the functions of a National Education Center without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Pay and qualifications

Except as provided in subsection (b) of this section, each Commissioner shall—

- (A) receive the rate of basic pay for level IV of the Executive Schedule; and
- (B) be highly qualified in the field of education research or evaluation.

(3) Service

Except as provided in subsection (b) of this section, each Commissioner shall report to the Director. A Commissioner shall serve for a period of not more than 6 years, except that a Commissioner—

- (A) may be reappointed by the Director; and
- (B) may serve after the expiration of that Commissioner's term, until a successor has been appointed, for a period not to exceed 1 additional year.

(b) Appointment of Commissioner for Education Statistics

The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

- (1) have substantial knowledge of programs assisted by the National Center for Education Statistics;
- (2) receive the rate of basic pay for level IV of the Executive Schedule; and
- (3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

(c) Coordination

Each Commissioner of a National Education Center shall coordinate with each of the other Commissioners of the National Education Centers in carrying out such Commissioner's duties under this subchapter.

(d) Supervision and approval

Each Commissioner, except the Commissioner for Education Statistics, shall carry out such Commissioner's duties under this subchapter under the supervision and subject to the approval of the Director.

(Pub. L. 107-279, title I, §117, Nov. 5, 2002, 116 Stat. 1952.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

Level IV of the Executive Schedule, referred to in subsecs. (a)(2)(A) and (b)(2), is set out in section 5315 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9583 of this title.

§ 9518. Agreements

The Institute may carry out research projects of common interest with entities such as the National Science Foundation and the National Institute of Child Health and Human Development through agreements with such entities that are in accordance with section 1231 of this title.

(Pub. L. 107-279, title I, §118, Nov. 5, 2002, 116 Stat. 1953.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9533 of this title.

§ 9519. Biennial report

The Director shall, on a biennial basis, transmit to the President, the Board, and the appro-

priate congressional committees, and make widely available to the public (including by means of the Internet), a report containing the following:

(1) A description of the activities carried out by and through the National Education Centers during the prior fiscal years.

(2) A summary of each grant, contract, and cooperative agreement in excess of \$100,000 funded through the National Education Centers during the prior fiscal years, including, at a minimum, the amount, duration, recipient, purpose of the award, and the relationship, if any, to the priorities and mission of the Institute, which shall be available in a user-friendly electronic database.

(3) A description of how the activities of the National Education Centers are consistent with the principles of scientifically valid research and the priorities and mission of the Institute.

(4) Such additional comments, recommendations, and materials as the Director considers appropriate.

(Pub. L. 107-279, title I, §119, Nov. 5, 2002, 116 Stat. 1953.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9533, 9543, 9562, 9563 of this title.

§ 9520. Competitive awards

Activities carried out under this Act through grants, contracts, or cooperative agreements, at a minimum, shall be awarded on a competitive basis and, when practicable, through a process of peer review.

(Pub. L. 107-279, title I, §120, Nov. 5, 2002, 116 Stat. 1953.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

PART B—NATIONAL CENTER FOR EDUCATION RESEARCH

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 9511 of this title.

§ 9531. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Research (in this part referred to as the “Research Center”).

(b) Mission

The mission of the Research Center is—

(1) to sponsor sustained research that will lead to the accumulation of knowledge and understanding of education, to—

(A) ensure that all children have access to a high-quality education;

(B) improve student academic achievement, including through the use of educational technology;

(C) close the achievement gap between high-performing and low-performing students through the improvement of teaching and learning of reading, writing, mathematics, science, and other academic subjects; and

(D) improve access to, and opportunity for, postsecondary education;

(2) to support the synthesis and, as appropriate, the integration of education research;

(3) to promote quality and integrity through the use of accepted practices of scientific inquiry to obtain knowledge and understanding of the validity of education theories, practices, or conditions; and

(4) to promote scientifically valid research findings that can provide the basis for improving academic instruction and lifelong learning.

(Pub. L. 107-279, title I, §131, Nov. 5, 2002, 116 Stat. 1954.)

§ 9532. Commissioner for Education Research

The Research Center shall be headed by a Commissioner for Education Research (in this part referred to as the “Research Commissioner”) who shall have substantial knowledge of the activities of the Research Center, including a high level of expertise in the fields of research and research management.

(Pub. L. 107-279, title I, §132, Nov. 5, 2002, 116 Stat. 1954.)

§ 9533. Duties

(a) General duties

The Research Center shall—

(1) maintain published peer-review standards and standards for the conduct and evaluation of all research and development carried out under the auspices of the Research Center in accordance with this part;

(2) propose to the Director a research plan that—

(A) is consistent with the priorities and mission of the Institute and the mission of the Research Center and includes the activities described in paragraph (3); and

(B) shall be carried out pursuant to paragraph (4) and, as appropriate, be updated and modified;

(3) carry out specific, long-term research activities that are consistent with the priorities and mission of the Institute, and are approved by the Director;

(4) implement the plan proposed under paragraph (2) to carry out scientifically valid research that—

(A) uses objective and measurable indicators, including timelines, that are used to assess the progress and results of such research;

(B) meets the procedures for peer review established by the Director under section

9514(f)(5) of this title and the standards of research described in section 9534 of this title; and

(C) includes both basic research and applied research, which shall include research conducted through field-initiated research and ongoing research initiatives;

(5) promote the use of scientifically valid research within the Federal Government, including active participation in interagency research projects described in section 9518 of this title;

(6) ensure that research conducted under the direction of the Research Center is relevant to education practice and policy;

(7) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of education research conducted or supported by the Research Center;

(8) assist the Director in the preparation of a biennial report, as described in section 9519 of this title;

(9) carry out research on successful State and local education reform activities, including those that result in increased academic achievement and in closing the achievement gap, as approved by the Director;

(10) carry out research initiatives regarding the impact of technology, including—

(A) research into how technology affects student achievement;

(B) long-term research into cognition and learning issues as they relate to the uses of technology;

(C) rigorous, peer-reviewed, large-scale, long-term, and broadly applicable empirical research that is designed to determine which approaches to the use of technology are most effective and cost-efficient in practice and under what conditions; and

(D) field-based research on how teachers implement technology and Internet-based resources in the classroom, including an understanding¹ how these resources are being accessed, put to use, and the effectiveness of such resources; and

(11) carry out research that is rigorous, peer-reviewed, and large scale to determine which methods of mathematics and science teaching are most effective, cost efficient, and able to be applied, duplicated, and scaled up for use in elementary and secondary classrooms, including in low-performing schools, to improve the teaching of, and student achievement in, mathematics and science as required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Eligibility

Research carried out under subsection (a) of this section through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(c) National research and development centers

(1) Support

In carrying out activities under subsection (a)(3) of this section, the Research Commis-

sioner shall support not less than 8 national research and development centers. The Research Commissioner shall assign each of the 8 national research and development centers not less than 1 of the topics described in paragraph (2). In addition, the Research Commissioner may assign each of the 8 national research and development centers additional topics of research consistent with the mission and priorities of the Institute and the mission of the Research Center.

(2) Topics of research

The Research Commissioner shall support the following topics of research, through national research and development centers or through other means:

(A) Adult literacy.

(B) Assessment, standards, and accountability research.

(C) Early childhood development and education.

(D) English language learners research.

(E) Improving low achieving schools.

(F) Innovation in education reform.

(G) State and local policy.

(H) Postsecondary education and training.

(I) Rural education.

(J) Teacher quality.

(K) Reading and literacy.

(3) Duties of centers

The national research and development centers shall address areas of national need, including in educational technology areas. The Research Commissioner may support additional national research and development centers to address topics of research not described in paragraph (2) if such topics are consistent with the priorities and mission of the Institute and the mission of the Research Center. The research carried out by the centers shall incorporate the potential or existing role of educational technology, where appropriate, in achieving the goals of each center.

(4) Scope

Support for a national research and development center shall be for a period of not more than 5 years, shall be of sufficient size and scope to be effective, and notwithstanding section 9534(b) of this title, may be renewed without competition for not more than 5 additional years if the Director, in consultation with the Research Commissioner and the Board, determines that the research of the national research and development center—

(A) continues to address priorities of the Institute; and

(B) merits renewal (applying the procedures and standards established in section 9534 of this title).

(5) Limit

No national research and development center may be supported under this subsection for a period of more than 10 years without submitting to a competitive process for the award of the support.

(6) Continuation of awards

The Director shall continue awards made to the national research and development centers

¹ So in original. Probably should be "understanding of".

that are in effect on the day before November 5, 2002, in accordance with the terms of those awards and may renew them in accordance with paragraphs (4) and (5).

(7) Disaggregation

To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, gender, and socioeconomic background.

(Pub. L. 107-279, title I, §133, Nov. 5, 2002, 116 Stat. 1954.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(11), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9501 of this title.

§ 9534. Standards for conduct and evaluation of research

(a) In general

In carrying out this part, the Research Commissioner shall—

(1) ensure that all research conducted under the direction of the Research Center follows scientifically based research standards;

(2) develop such other standards as may be necessary to govern the conduct and evaluation of all research, development, and wide dissemination activities carried out by the Research Center to assure that such activities meet the highest standards of professional excellence;

(3) review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development, and actively solicit recommendations from research organizations and members of the general public in the development of the standards described in paragraph (2); and

(4) ensure that all research complies with Federal guidelines relating to research misconduct.

(b) Peer review

(1) In general

The Director shall establish a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed \$100,000, and for evaluating and assessing the products of research by all recipients of grants and cooperative agreements under this Act.

(2) Evaluation

The Research Commissioner shall—

(A) develop the procedures to be used in evaluating applications for research grants, cooperative agreements, and contracts, and specify the criteria and factors (including, as

applicable, the use of longitudinal data linking test scores, enrollment, and graduation rates over time) which shall be considered in making such evaluations; and

(B) evaluate the performance of each recipient of an award of a research grant, contract, or cooperative agreement at the conclusion of the award.

(c) Long-term research

The Research Commissioner shall ensure that not less than 50 percent of the funds made available for research for each fiscal year shall be used to fund long-term research programs of not less than 5 years, which support the priorities and mission of the Institute and the mission of the Research Center.

(Pub. L. 107-279, title I, §134, Nov. 5, 2002, 116 Stat. 1957.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), means Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9533, 9564 of this title.

PART C—NATIONAL CENTER FOR EDUCATION
STATISTICS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 71 (§9001 et seq.) of this title prior to repeal by Pub. L. 107-279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 9511, 9576, 9584 of this title.

§ 9541. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Statistics (in this part referred to as the “Statistics Center”).

(b) Mission

The mission of the Statistics Center shall be—

(1) to collect and analyze education information and statistics in a manner that meets the highest methodological standards;

(2) to report education information and statistics in a timely manner; and

(3) to collect, analyze, and report education information and statistics in a manner that—

(A) is objective, secular, neutral, and non-ideological and is free of partisan political influence and racial, cultural, gender, or regional bias; and

(B) is relevant and useful to practitioners, researchers, policymakers, and the public.

(Pub. L. 107-279, title I, §151, Nov. 5, 2002, 116 Stat. 1957.)

§ 9542. Commissioner for Education Statistics

The Statistics Center shall be headed by a Commissioner for Education Statistics (in this part referred to as the “Statistics Commissioner”) who shall be highly qualified and have substantial knowledge of statistical methodologies and activities undertaken by the Statistics Center.

(Pub. L. 107-279, title I, §152, Nov. 5, 2002, 116 Stat. 1958.)

§ 9543. Duties

(a) General duties

The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics (disaggregated by the population characteristics described in paragraph (3)) on the condition and progress of education, at the pre-school, elementary, secondary, postsecondary, and adult levels in the United States, including data on—

(A) State and local education reform activities;

(B) State and local early childhood school readiness activities;

(C) student achievement in, at a minimum, the core academic areas of reading, mathematics, and science at all levels of education;

(D) secondary school completions, drop-outs, and adult literacy and reading skills;

(E) access to, and opportunity for, postsecondary education, including data on financial aid to postsecondary students;

(F) teaching, including—

(i) data on in-service professional development, including a comparison of courses taken in the core academic areas of reading, mathematics, and science with courses in noncore academic areas, including technology courses; and

(ii) the percentage of teachers who are highly qualified (as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) in each State and, where feasible, in each local educational agency and school;

(G) instruction, the conditions of the education workplace, and the supply of, and demand for, teachers;

(H) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety, including information regarding—

(i) the relationship between victims and perpetrators;

(ii) demographic characteristics of the victims and perpetrators; and

(iii) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation;

(I) the financing and management of education, including data on revenues and expenditures;

(J) the social and economic status of children, including their academic achievement;

(K) the existence and use of educational technology and access to the Internet by students and teachers in elementary schools and secondary schools;

(L) access to, and opportunity for, early childhood education;

(M) the availability of, and access to, before-school and after-school programs (including such programs during school recesses);

(N) student participation in and completion of secondary and postsecondary vocational and technical education programs by specific program area; and

(O) the existence and use of school libraries;

(2) conducting and publishing reports on the meaning and significance of the statistics described in paragraph (1);

(3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking;

(4) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities, which may include assisting State educational agencies and local educational agencies with the disaggregation of data and with the development of longitudinal student data systems;

(5) determining voluntary standards and guidelines to assist State educational agencies in developing statewide longitudinal data systems that link individual student data consistent with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title, to improve student academic achievement and close achievement gaps;

(6) acquiring and disseminating data on educational activities and student achievement (such as the Third International Math and Science Study) in the United States compared with foreign nations;

(7) conducting longitudinal and special data collections necessary to report on the condition and progress of education;

(8) assisting the Director in the preparation of a biennial report, as described in section 9519 of this title; and

(9) determining, in consultation with the National Research Council of the National Academies, methodology by which States may accurately measure graduation rates (defined as

the percentage of students who graduate from secondary school with a regular diploma in the standard number of years), school completion rates, and dropout rates.

(b) Training program

The Statistics Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of standard statistical procedures and concepts, and may establish a fellowship program to appoint such employees as temporary fellows at the Statistics Center, in order to assist the Statistics Center in carrying out its duties.

(Pub. L. 107-279, title I, §153, Nov. 5, 2002, 116 Stat. 1958.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(5), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

STUDY BY NATIONAL CENTER FOR EDUCATION STATISTICS RESPECTING CONDITION OF EDUCATION FOR HISPANIC AMERICANS

Pub. L. 98-211, §24(b), Dec. 8, 1983, 97 Stat. 1419, provided that: "The National Center for Education Statistics shall not terminate the study of the condition of education for Hispanic Americans unless specifically required or authorized to do so by law."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232j, 7909, 9572, 9607 of this title.

§ 9544. Performance of duties

(a) Grants, contracts, and cooperative agreements

In carrying out the duties under this part, the Statistics Commissioner,¹ may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(b) Gathering information

(1) Sampling

The Statistics Commissioner may use the statistical method known as sampling (including random sampling) to carry out this part.

(2) Source of information

The Statistics Commissioner may, as appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, vocational and adult education programs, libraries, administrators, teachers, students, the general public, and other individuals, organizations, agencies, and institutions (including information collected by States and local educational agencies for their own use); and

(B) by other offices within the Institute and by other Federal departments, agencies, and instrumentalities.

(3) Collection

The Statistics Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Statistics Center to any such agency, organization, or institution to assist in such collection.

(4) Technical assistance and coordination

In order to maximize the effectiveness of Department efforts to serve the educational needs of children and youth, the Statistics Commissioner shall—

(A) provide technical assistance to the Department offices that gather data for statistical purposes; and

(B) coordinate with other Department offices in the collection of data.

(c) Duration

Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than 5 years, and may be renewed at the discretion of the Statistics Commissioner for an additional period of not more than 5 years.

(Pub. L. 107-279, title I, §154, Nov. 5, 2002, 116 Stat. 1960.)

§ 9545. Reports

(a) Procedures for issuance of reports

The Statistics Commissioner,¹ shall establish procedures, in accordance with section 9576 of this title, to ensure that the reports issued under this section are relevant, of high quality, useful to customers, subject to rigorous peer review, produced in a timely fashion, and free from any partisan political influence.

(b) Report on condition and progress of education

Not later than June 1, 2003, and each June 1 thereafter, the Statistics Commissioner,¹ shall submit to the President and the appropriate congressional committees a statistical report on the condition and progress of education in the United States.

(c) Statistical reports

The Statistics Commissioner shall issue regular and, as necessary, special statistical reports on education topics, particularly in the core academic areas of reading, mathematics, and science, consistent with the priorities and the mission of the Statistics Center.

(Pub. L. 107-279, title I, §155, Nov. 5, 2002, 116 Stat. 1960.)

§ 9546. Dissemination

(a) General requests

(1) In general

The Statistics Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

¹ So in original. The comma probably should not appear.

¹ So in original. The comma probably should not appear.

(2) Compilations

The Statistics Center shall provide State educational agencies, local educational agencies, and institutions of higher education with opportunities to suggest the establishment of particular compilations of statistics, surveys, and analyses that will assist those educational agencies.

(b) Congressional requests

The Statistics Center shall furnish such special statistical compilations and surveys as the relevant congressional committees may request.

(c) Joint statistical projects

The Statistics Center may engage in joint statistical projects related to the mission of the Center, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) Fees**(1) In general**

Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c) of this section, may be made subject to the payment of the actual or estimated cost of such work.

(2) Funds received

All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) Access**(1) Other agencies**

The Statistics Center shall, consistent with section 9573 of this title, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Statistics Center.

(2) Interested parties

The Statistics Center shall, in accordance with such terms and conditions as the Center may prescribe, provide all interested parties, including public and private agencies, parents, and other individuals, direct access, in the most appropriate form (including, where possible, electronically), to data collected by the Statistics Center for the purposes of research and acquiring statistical information.

(Pub. L. 107-279, title I, §156, Nov. 5, 2002, 116 Stat. 1961.)

§ 9547. Cooperative education statistics systems

The Statistics Center may establish 1 or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.

(Pub. L. 107-279, title I, §157, Nov. 5, 2002, 116 Stat. 1962.)

§ 9548. State defined

In this part, the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 107-279, title I, §158, Nov. 5, 2002, 116 Stat. 1962.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9501 of this title.

PART D—NATIONAL CENTER FOR EDUCATION
EVALUATION AND REGIONAL ASSISTANCE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 9511 of this title.

§ 9561. Establishment**(a) Establishment**

There is established in the Institute a National Center for Education Evaluation and Regional Assistance.

(b) Mission

The mission of the National Center for Education Evaluation and Regional Assistance shall be—

- (1) to provide technical assistance;
- (2) to conduct evaluations of Federal education programs administered by the Secretary (and as time and resources allow, other education programs) to determine the impact of such programs (especially on student academic achievement in the core academic areas of reading, mathematics, and science);
- (3) to support synthesis and wide dissemination of results of evaluation, research, and products developed; and
- (4) to encourage the use of scientifically valid education research and evaluation throughout the United States.

(c) Grants, contracts, and cooperative agreements

In carrying out the duties under this part, the Director may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(Pub. L. 107-279, title I, §171, Nov. 5, 2002, 116 Stat. 1962.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9563 of this title.

§ 9562. Commissioner for Education Evaluation and Regional Assistance**(a) In general**

The National Center for Education Evaluation and Regional Assistance shall be headed by a Commissioner for Education Evaluation and Regional Assistance (in this part referred to as the “Evaluation and Regional Assistance Commissioner”) who is highly qualified and has demonstrated a capacity to carry out the mission of the Center and shall—

- (1) conduct evaluations pursuant to section 9563 of this title;

(2) widely disseminate information on scientifically valid research, statistics, and evaluation on education, particularly to State educational agencies and local educational agencies, to institutions of higher education, to the public, the media, voluntary organizations, professional associations, and other constituencies, especially with respect to information relating to, at a minimum—

(A) the core academic areas of reading, mathematics, and science;

(B) closing the achievement gap between high-performing students and low-performing students;

(C) educational practices that improve academic achievement and promote learning;

(D) education technology, including software; and

(E) those topics covered by the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before November 5, 2002);

(3) make such information accessible in a user-friendly, timely, and efficient manner (including through use of a searchable Internet-based online database that shall include all topics covered in paragraph (2)(E)) to schools, institutions of higher education, educators (including early childhood educators), parents, administrators, policymakers, researchers, public and private entities (including providers of early childhood services), entities responsible for carrying out technical assistance through the Department, and the general public;

(4) support the regional educational laboratories in conducting applied research, the development and dissemination of educational research, products and processes, the provision of technical assistance, and other activities to serve the educational needs of such laboratories' regions;

(5) manage the National Library of Education described in subsection (d) of this section, and other sources of digital information on education research;

(6) assist the Director in the preparation of a biennial report, described in section 9519 of this title; and

(7) award a contract for a prekindergarten through grade 12 mathematics and science teacher clearinghouse.

(b) Additional duties

In carrying out subsection (a) of this section, the Evaluation and Regional Assistance Commissioner shall—

(1) ensure that information disseminated under this section is provided in a cost-effective, nonduplicative manner that includes the most current research findings, which may include through the continuation of individual clearinghouses authorized under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act; 20 U.S.C.

6001 et seq.) (as such Act existed on the day before November 5, 2002);

(2) describe prominently the type of scientific evidence that is used to support the findings that are disseminated;

(3) explain clearly the scientifically appropriate and inappropriate uses of—

(A) the findings that are disseminated; and

(B) the types of evidence used to support those findings; and

(4) respond, as appropriate, to inquiries from schools, educators, parents, administrators, policymakers, researchers, public and private entities, and entities responsible for carrying out technical assistance.

(c) Continuation

The Director shall continue awards for the support of the Educational Resources Information Center Clearinghouses and contracts for regional educational laboratories (established under subsections (f) and (h) of section 941 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f) and (h)) (as such awards were in effect on the day before November 5, 2002)) for the duration of those awards, in accordance with the terms and agreements of such awards.

(d) National Library of Education

(1) Establishment

There is established within the National Center for Education Evaluation and Regional Assistance a National Library of Education that shall—

(A) be headed by an individual who is highly qualified in library science;

(B) collect and archive information;

(C) provide a central location within the Federal Government for information about education;

(D) provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(E) promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(2) Information

The information collected and archived by the National Library of Education shall include—

(A) products and publications developed through, or supported by, the Institute; and

(B) other relevant and useful education-related research, statistics, and evaluation materials and other information, projects, and publications that are—

(i) consistent with—

(I) scientifically valid research; or

(II) the priorities and mission of the Institute; and

(ii) developed by the Department, other Federal agencies, or entities (including entities supported under subchapter II of this chapter and the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Edu-

ational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before November 5, 2002)).¹

(Pub. L. 107-279, title I, §172, Nov. 5, 2002, 116 Stat. 1962.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (a)(1)(E), (b)(1), (c), and (d)(2)(B)(ii), is title IX of Pub. L. 103-227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107-279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941 of the Act was classified to section 6041 of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

§ 9563. Evaluations

(a) In general

(1) Requirements

In carrying out its missions, the National Center for Education Evaluation and Regional Assistance may—

(A) conduct or support evaluations consistent with the Center's mission as described in section 9561(b) of this title;

(B) evaluate programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(C) to the extent practicable, examine evaluations conducted or supported by others in order to determine the quality and relevance of the evidence of effectiveness generated by those evaluations, with the approval of the Director;

(D) coordinate the activities of the National Center for Education Evaluation and Regional Assistance with other evaluation activities in the Department;

(E) review and, where feasible, supplement Federal education program evaluations, particularly those by the Department, to determine or enhance the quality and relevance of the evidence generated by those evaluations;

(F) establish evaluation methodology; and

(G) assist the Director in the preparation of the biennial report, as described in section 9519 of this title.

(2) Additional requirements

Each evaluation conducted by the National Center for Education Evaluation and Regional Assistance pursuant to paragraph (1) shall—

(A) adhere to the highest possible standards of quality for conducting scientifically valid education evaluation; and

(B) be subject to rigorous peer-review.

(b) Administration of evaluations under title I of the Elementary and Secondary Education Act of 1965

The Evaluation and Regional Assistance Commissioner, consistent with the mission of the National Center for Education Evaluation and

Regional Assistance under section 9561(b) of this title, shall administer all operations and contracts associated with evaluations authorized by part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) and administered by the Department as of November 5, 2002.

(Pub. L. 107-279, title I, §173, Nov. 5, 2002, 116 Stat. 1964.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(1)(B) and (b), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. Part E of title I of the Act is classified generally to part E (§6491 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9562, 9564 of this title.

§ 9564. Regional educational laboratories for research, development, dissemination, and technical assistance

(a) Regional educational laboratories

The Director shall enter into contracts with entities to establish a networked system of 10 regional educational laboratories that serve the needs of each region of the United States in accordance with the provisions of this section. The amount of assistance allocated to each laboratory by the Evaluation and Regional Assistance Commissioner shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(b) Regions

The regions served by the regional educational laboratories shall be the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before November 5, 2002).

(c) Eligible applicants

The Director may enter into contracts under this section with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

(d) Applications

(1) Submission

Each applicant desiring a contract under this section shall submit an application at

¹ So in original. The third closing parenthesis probably should not appear.

such time, in such manner, and containing such information as the Director may reasonably require.

(2) Plan

Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 9606 of this title and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the regional educational laboratory, on an ongoing basis.

(e) Entering into contracts

(1) In general

In entering into contracts under this section, the Director shall—

(A) enter into contracts for a 5-year period; and

(B) ensure that regional educational laboratories established under this section have strong and effective governance, organization, management, and administration, and employ qualified staff.

(2) Coordination

In order to ensure coordination and prevent unnecessary duplication of activities among the regions, the Evaluation and Regional Assistance Commissioner shall—

(A) share information about the activities of each regional educational laboratory awarded a contract under this section with each other regional educational laboratory awarded a contract under this section and with the Department of Education, including the Director and the Board;

(B) oversee a strategic plan for ensuring that each regional educational laboratory awarded a contract under this section increases collaboration and resource-sharing in such activities;

(C) ensure, where appropriate, that the activities of each regional educational laboratory awarded a contract under this section also serve national interests; and

(D) ensure that each regional educational laboratory awarded a contract under this section coordinates such laboratory's activities with the activities of each other regional technical assistance provider.

(3) Outreach

In conducting competitions for contracts under this section, the Director shall—

(A) actively encourage eligible entities to compete for such awards by making information and technical assistance relating to the competition widely available; and

(B) seek input from the chief executive officers of States, chief State school officers, educators, and parents regarding the need for applied research, wide dissemination, training, technical assistance, and development activities authorized by this subchapter in the regions to be served by the regional educational laboratories and how those educational needs could be addressed most effectively.

(4) Objectives and indicators

Before entering into a contract under this section, the Director shall design specific ob-

jectives and measurable indicators to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional educational laboratories, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(5) Standards

The Evaluation and Regional Assistance Commissioner shall establish a system for technical and peer review to ensure that applied research activities, research-based reports, and products of the regional educational laboratories are consistent with the research standards described in section 9534 of this title and the evaluation standards adhered to pursuant to section 9563(a)(2)(A) of this title.

(f) Central mission and primary function

Each regional educational laboratory awarded a contract under this section shall support applied research, development, wide dissemination, and technical assistance activities by—

(1) providing training (which may include supporting internships and fellowships and providing stipends) and technical assistance to State educational agencies, local educational agencies, school boards, schools funded by the Bureau as appropriate, and State boards of education regarding, at a minimum—

(A) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(B) scientifically valid research in education on teaching methods, assessment tools, and high quality, challenging curriculum frameworks for use by teachers and administrators in, at a minimum—

(i) the core academic subjects of mathematics, science, and reading;

(ii) English language acquisition;

(iii) education technology; and

(iv) the replication and adaption of exemplary and promising practices and new educational methods, including professional development strategies and the use of educational technology to improve teaching and learning; and

(C) the facilitation of communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the State education goals;

(2) developing and widely disseminating, including through Internet-based means, scientifically valid research, information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement, to—

(A) schools, districts, institutions of higher education, educators (including early childhood educators and librarians), parents, policymakers, and other constituencies, as appropriate, within the region in which the regional educational laboratory is located; and

(B) the National Center for Education Evaluation and Regional Assistance;

(3) developing a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(4) in the event such quality applied research does not exist as determined by the regional educational laboratory or the Department, carrying out applied research projects that are designed to serve the particular educational needs (in prekindergarten through grade 16) of the region in which the regional educational laboratory is located, that reflect findings from scientifically valid research, and that result in user-friendly, replicable school-based classroom applications geared toward promoting increased student achievement, including using applied research to assist in solving site-specific problems and assisting in development activities (including high-quality and on-going professional development and effective parental involvement strategies);

(5) supporting and serving the educational development activities and needs of the region by providing educational applied research in usable forms to promote school-improvement, academic achievement, and the closing of achievement gaps and contributing to the current base of education knowledge by addressing enduring problems in elementary and secondary education and access to postsecondary education;

(6) collaborating and coordinating services with other technical assistance providers funded by the Department of Education;

(7) assisting in gathering information on school finance systems to promote improved access to educational opportunities and to better serve all public school students;

(8) assisting in gathering information on alternative administrative structures that are more conducive to planning, implementing, and sustaining school reform and improved academic achievement;

(9) bringing teams of experts together to develop and implement school improvement plans and strategies, especially in low-performing or high poverty schools; and

(10) developing innovative approaches to the application of technology in education that are unlikely to originate from within the private sector, but which could result in the development of new forms of education software, education content, and technology-enabled pedagogy.

(g) Activities

Each regional educational laboratory awarded a contract under this section shall carry out the following activities:

(1) Collaborate with the National Education Centers in order to—

(A) maximize the use of research conducted through the National Education Centers in the work of such laboratory;

(B) keep the National Education Centers apprised of the work of the regional educational laboratory in the field; and

(C) inform the National Education Centers about additional research needs identified in the field.

(2) Consult with the State educational agencies and local educational agencies in the region in developing the plan for serving the region.

(3) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(4) Report and disseminate information on overcoming the obstacles faced by educators and schools in high poverty, urban, and rural areas.

(5) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional educational laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(h) Governing board and allocation

(1) In general

In carrying out its responsibilities, each regional educational laboratory awarded a contract under this section, in keeping with the terms and conditions of such laboratory's contract, shall—

(A) establish a governing board that—

(i) reflects a balanced representation of—

(I) the States in the region;

(II) the interests and concerns of regional constituencies; and

(III) technical expertise;

(ii) includes the chief State school officer or such officer's designee of each State represented in such board's region;

(iii) includes—

(I) representatives nominated by chief executive officers of States and State organizations of superintendents, principals, institutions of higher education, teachers, parents, businesses, and researchers; or

(II) other representatives of the organizations described in subclause (I), as required by State law in effect on the day before November 5, 2002;

(iv) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Evaluation and Regional Assistance Commissioner concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements

of this section and in consultation with the Evaluation and Regional Assistance Commissioner, the mission of the regional educational laboratory for the duration of the contract period;

(v) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(vi) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(vii) directs the regional educational laboratory to carry out the laboratory's duties in a manner that will make progress toward achieving the State education goals and reforming schools and educational systems; and

(viii) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers; and

(B) allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(2) Special rule

If a regional educational laboratory needs flexibility in order to meet the requirements of paragraph (1)(A)(i), the regional educational laboratory may select not more than 10 percent of the governing board from individuals outside those representatives nominated in accordance with paragraph (1)(A)(iii).

(i) Duties of governing board

In order to improve the efficiency and effectiveness of the regional educational laboratories, the governing boards of the regional educational laboratories shall establish and maintain a network to—

(1) share information about the activities each laboratory is carrying out;

(2) plan joint activities that would meet the needs of multiple regions;

(3) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(4) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(j) Evaluations

The Evaluation and Regional Assistance Commissioner shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in

this section in the third year that such laboratory receives assistance under this section in accordance with the standards developed by the Evaluation and Regional Assistance Commissioner and approved by the Board and shall transmit the results of such evaluations to the relevant committees of Congress, the Board, and the appropriate regional educational laboratory governing board.

(k) Rule of construction

No regional educational laboratory receiving assistance under this section shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(l) Advance payment system

Each regional educational laboratory awarded a contract under this section shall participate in the advance payment system at the Department of Education.

(m) Additional projects

In addition to activities authorized under this section, the Director is authorized to enter into contracts or agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve State education goals and for other purposes.

(n) Annual report and plan

Not later than July 1 of each year, each regional educational laboratory awarded a contract under this section shall submit to the Evaluation and Regional Assistance Commissioner—

(1) a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(2) a report of how well such laboratory is meeting the needs of the region, including a summary of activities during the preceding year, a list of entities served, a list of products, and any other information that the regional educational laboratory may consider relevant or the Evaluation and Regional Assistance Commissioner may require.

(o) Construction

Nothing in this section shall be construed to require any modifications in a regional educational laboratory contract in effect on the day before November 5, 2002.

(Pub. L. 107-279, title I, §174, Nov. 5, 2002, 116 Stat. 1965.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (b) and (c), is title IX of Pub. L. 103-227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107-279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Sec-

tion 941 of the Act was classified to section 6041 of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002), referred to in subsec. (c), means title XIII of Pub. L. 89-10, as added by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, which was classified generally to subchapter XIII (§8601 et seq.) of chapter 70 of this title, prior to amendment by Pub. L. 107-110. Parts A to D of title XIII of Pub. L. 89-10, were classified to parts A (§8621 et seq.), B (§8651 et seq.), C (§8671 et seq.), and D (§8701 et seq.), respectively, of subchapter XIII of chapter 70 of this title, and were redesignated as parts K to N of title IX of Pub. L. 103-227, by Pub. L. 107-110, title X, §§1021(a), 1022(a), 1023(a), 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to parts G (§6053 et seq.), H (§6054 et seq.), I (§6055 et seq.), and J (§6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, and subsequently repealed by Pub. L. 107-279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (f)(1)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9584, 9605, 9606 of this title.

PART E—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6317 of this title.

§ 9571. Interagency data sources and formats

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

(Pub. L. 107-279, title I, §181, Nov. 5, 2002, 116 Stat. 1971.)

§ 9572. Prohibitions

(a) National database

Nothing in this subchapter may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this subchapter.

(b) Federal Government and use of Federal funds

Nothing in this subchapter may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this subchapter.

(c) Endorsement of curriculum

Notwithstanding any other provision of Federal law, no funds provided under this subchapter to the Institute, including any office, board, committee, or center of the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to

be used in an elementary school or secondary school.

(d) Federally sponsored testing

(1) In general

Subject to paragraph (2), no funds provided under this subchapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) Exceptions

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(6) of this title or section 9003(a)(6) of this title (as such section was in effect on the day before November 5, 2002) and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 107-279, title I, §182, Nov. 5, 2002, 116 Stat. 1971.)

REFERENCES IN TEXT

Section 9003 of this title, referred to in subsec. (d)(2), was repealed by Pub. L. 107-279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§ 9573. Confidentiality

(a) In general

All collection, maintenance, use, and wide dissemination of data by the Institute, including each office, board, committee, and center of the Institute, shall conform with the requirements of section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(b) Student information

The Director shall ensure that all individually identifiable information about students, their academic achievements, their families, and information with respect to individual schools, shall remain confidential in accordance with section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(c) Confidentiality standards

(1) In general

(A) The Director shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this subchapter.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition

No person may—

(A) use any individually identifiable information furnished under this subchapter for any purpose other than a research, statistics, or evaluation purpose under this subchapter;

(B) make any publication whereby the data furnished by any particular person under this subchapter can be identified; or

(C) permit anyone other than the individuals authorized by the Director to examine the individual reports.

(d) Administration

(1) In general

(A) Disclosure

No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this subchapter.

(B) Immunity

Individually identifiable information collected or retained under this subchapter shall be immune from legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(C) Application

This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.

(2) Employee or staff violations

Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (c)(2) of this section, knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (c)(2) of this section, and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this subchapter, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(3) Temporary staff

The Director may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Director in performing the Director's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) Information requirements

No collection of information or data acquisition activity undertaken by the Director shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, except such collection of information or data acquisition

activity may be subject to review or coordination if the Director determines that such review or coordination is beneficial.

(5) Definitions

For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Director and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) Violations

Any person who uses any data provided by the Director, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (c)(2) of this section, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(7) Access to reports or records

Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Director's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(e) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) and (b) of this section, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

(A) collect reports, records, and information (including individually identifiable information) in the possession of the Director that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection

An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2)¹ of this section and shall not be liable to any person for that production.

(Pub. L. 107–279, title I, §183, title IV, §401(a)(6), Nov. 5, 2002, 116 Stat. 1972, 1983.)

CODIFICATION

Subsecs. (a) to (c) of section 9007 of this title, which were transferred to this section and redesignated subsecs. (c) to (e) by Pub. L. 107–279, §401(a)(6), were based on Pub. L. 103–382, title IV, §408(a) to (c), Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107–56, title V, §508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107–279, title IV, §401(a)(1)–(5), Nov. 5, 2002, 116 Stat. 1983.

AMENDMENTS

2002—Subsecs. (c) to (e). Pub. L. 107–279, §401(a)(6), transferred subsecs. (a) to (c) of section 9007 of this title to this section and redesignated them as subsecs. (c) to (e), respectively. See Codification note above.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9514, 9543, 9546, 9574, 9607 of this title.

§ 9574. Availability of data

Subject to section 9573 of this title, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

(Pub. L. 107–279, title I, §184, Nov. 5, 2002, 116 Stat. 1972.)

§ 9575. Performance management

The Director shall ensure that all activities conducted or supported by the Institute or a National Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

(1) Establishing and improving feedback mechanisms in order to anticipate customer needs.

(2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely

distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

(Pub. L. 107–279, title I, §185, Nov. 5, 2002, 116 Stat. 1972.)

§ 9576. Authority to publish**(a) Publication**

The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C of this subchapter), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

(b) Advance copies

The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

(c) Peer review

All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) Items not covered

Nothing in subsections¹ (a), (b), or (c) of this section shall be construed to apply to—

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

(Pub. L. 107–279, title I, §186, Nov. 5, 2002, 116 Stat. 1973.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9545 of this title.

§ 9577. Vacancies

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 9578 of this title.

(Pub. L. 107–279, title I, §187, Nov. 5, 2002, 116 Stat. 1973.)

¹ So in original. Probably means subsection (d)(2).

¹ So in original. Probably should be "subsection".

§ 9578. Scientific or technical employees**(a) In general**

The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5 governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

(1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS-15, as determined in accordance with section 5376 of title 5, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or 1/5 of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

(b) Duties of employees

All employees described in subsection (a) of this section shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

(Pub. L. 107-279, title I, §188, Nov. 5, 2002, 116 Stat. 1973.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

GS-15, referred to in subsec. (a)(2), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

Level III of the Executive Schedule, referred to in subsec. (a)(2), is set out in section 5314 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9577 of this title.

§ 9579. Fellowships

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of

higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

(Pub. L. 107-279, title I, §189, Nov. 5, 2002, 116 Stat. 1974.)

§ 9580. Voluntary service

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

(Pub. L. 107-279, title I, §190, Nov. 5, 2002, 116 Stat. 1974.)

§ 9581. Rulemaking

Notwithstanding section 1232(d) of this title, the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5 shall apply to the Institute.

(Pub. L. 107-279, title I, §191, Nov. 5, 2002, 116 Stat. 1974.)

§ 9582. Copyright

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17.

(Pub. L. 107-279, title I, §192, Nov. 5, 2002, 116 Stat. 1974.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107-279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

§ 9583. Removal**(a) Presidential**

The Director, each member of the Board, and the Commissioner for Education Statistics may be removed by the President prior to the expiration of the term of each such appointee.

(b) Director

Each Commissioner appointed by the Director pursuant to section 9517 of this title may be removed by the Director prior to the expiration of the term of each such Commissioner.

(Pub. L. 107-279, title I, §193, Nov. 5, 2002, 116 Stat. 1974.)

§ 9584. Authorization of appropriations**(a) In general**

There are authorized to be appropriated to administer and carry out this subchapter (except section 9564 of this title) \$400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before November 5, 2002) for fiscal year 2002 shall be provided to the National Center for Education Statistics, as authorized under part C of this subchapter; and

(2) not more than the lesser of 2 percent of such funds or \$1,000,000 shall be made available to carry out section 9516 of this title (relating to the National Board for Education Sciences).

(b) Regional educational laboratories

There are authorized to be appropriated to carry out section 9564 of this title \$100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years. Of the amounts appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(c) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107-279, title I, §194, Nov. 5, 2002, 116 Stat. 1975.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9512 of this title.

SUBCHAPTER II—EDUCATIONAL TECHNICAL ASSISTANCE**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in sections 6317, 9562 of this title.

§ 9601. Definitions

In this subchapter:

(1) In general

The terms “local educational agency” and “State educational agency” have the meanings given those terms in section 7801 of this title.

(2) Secretary

The term “Secretary” means the Secretary of Education.

(Pub. L. 107-279, title II, §202, Nov. 5, 2002, 116 Stat. 1975.)

SHORT TITLE

This subchapter known as the “Educational Technical Assistance Act of 2002”, see Short Title note set out under section 9501 of this title.

§ 9602. Comprehensive centers**(a) Authorization****(1) In general**

Subject to paragraph (2), beginning in fiscal year 2004, the Secretary is authorized to award

not less than 20 grants to local entities, or consortia of such entities, with demonstrated expertise in providing technical assistance and professional development in reading, mathematics, science, and technology, especially to low-performing schools and districts, to establish comprehensive centers.

(2) Regions

In awarding grants under paragraph (1), the Secretary—

(A) shall ensure that not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before November 5, 2002); and

(B) after meeting the requirements of subparagraph (A), shall consider, in awarding the remainder of the grants, the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools identified for school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))¹ in the population served by the local entity or consortium of such entities.

(b) Eligible applicants**(1) In general**

Grants under this section may be made with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in subsection (f) of this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

(2) Outreach

In conducting competitions for grants under this section, the Secretary shall actively encourage potential applicants to compete for such awards by making widely available information and technical assistance relating to the competition.

(3) Objectives and indicators

Before awarding a grant under this section, the Secretary shall design specific objectives and measurable indicators, using the results of the assessment conducted under section 9605 of this title, to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional entities, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are

¹ So in original. Probably should be followed by a third closing parenthesis.

being carried out as part of school improvement efforts.

(c) Application

(1) Submission

Each local entity, or consortium of such entities, seeking a grant under this section shall submit an application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.

(2) Plan

Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 9606 of this title and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the comprehensive center, on an ongoing basis.

(d) Allocation

Each comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the center.

(e) Scope of work

Each comprehensive center established under this section shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located on school improvement activities that take into account factors such as the proportion of economically disadvantaged students in the region, and give priority to—

(1) schools in the region with high percentages or numbers of students from low-income families, as determined under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)), including such schools in rural and urban areas, and schools receiving assistance under title I of that Act (20 U.S.C. 6301 et seq.);

(2) local educational agencies in the region in which high percentages or numbers of school-age children are from low-income families, as determined under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)), including such local educational agencies in rural and urban areas; and

(3) schools in the region that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)).

(f) Activities

(1) In general

A comprehensive center established under this section shall support dissemination and technical assistance activities by—

(A) providing training, professional development, and technical assistance regarding, at a minimum—

(i) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) the use of scientifically valid teaching methods and assessment tools for use by teachers and administrators in, at a minimum—

(I) the core academic subjects of mathematics, science, and reading or language arts;

(II) English language acquisition; and

(III) education technology; and

(iii) the facilitation of communication between education experts, school officials, teachers, parents, and librarians, as appropriate; and

(B) disseminating and providing information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))), to schools, educators, parents, and policymakers within the region in which the center is located; and

(C) developing teacher and school leader inservice and preservice training models that illustrate best practices in the use of technology in different content areas.

(2) Coordination and collaboration

Each comprehensive center established under this section shall coordinate its activities, collaborate, and regularly exchange information with the regional educational laboratory in the region in which the center is located, the National Center for Education Evaluation and Regional Assistance, the Office of the Secretary, the State service agency, and other technical assistance providers in the region.

(g) Comprehensive center advisory board

(1) Establishment

Each comprehensive center established under this section shall have an advisory board that shall support the priorities of such center.

(2) Duties

Each advisory board established under paragraph (1) shall advise the comprehensive center—

(A) concerning the activities described in subsection (d) of this section;

(B) on strategies for monitoring and addressing the educational needs of the region, on an ongoing basis;

(C) on maintaining a high standard of quality in the performance of the center's activities; and

(D) on carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

(3) Composition**(A) In general**

Each advisory board shall be composed of—

(i) the chief State school officers, or such officers' designees or other State officials, in each State served by the comprehensive center who have primary responsibility under State law for elementary and secondary education in the State; and

(ii) not more than 15 other members who are representative of the educational interests in the region served by the comprehensive center and are selected jointly by the officials specified in clause (i) and the chief executive officer of each State served by the comprehensive center, including the following:

(I) Representatives of local educational agencies and regional educational agencies, including representatives of local educational agencies serving urban and rural areas.

(II) Representatives of institutions of higher education.

(III) Parents.

(IV) Practicing educators, including classroom teachers, principals, and administrators.

(V) Representatives of business.

(VI) Policymakers, expert practitioners, and researchers with knowledge of, and experience using, the results of research, evaluation, and statistics.

(B) Special rule

In the case of a State in which the chief executive officer has the primary responsibility under State law for elementary and secondary education in the State, the chief executive officer shall consult, to the extent permitted by State law, with the State educational agency in selecting additional members of the board under subparagraph (A)(i).

(h) Report to Secretary

Each comprehensive center established under this section shall submit to the Secretary an annual report, at such time, in such manner, and containing such information as the Secretary may require, which shall include the following:

(1) A summary of the comprehensive center's activities during the preceding year.

(2) A listing of the States, local educational agencies, and schools the comprehensive center assisted during the preceding year.

(Pub. L. 107-279, title II, §203, Nov. 5, 2002, 116 Stat. 1975.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (a)(2)(A) and (b)(1), is title IX of Pub. L. 103-227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107-279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941(h) of the Act was classified to section 6041(h) of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002), referred to in subsec. (b)(1), means title XIII of Pub. L. 89-10, as added by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, which was classified generally to subchapter XIII (§8601 et seq.) of chapter 70 of this title, prior to amendment by Pub. L. 107-110. Parts A to D of title XIII of Pub. L. 89-10, were classified to parts A (§8621 et seq.), B (§8651 et seq.), C (§8671 et seq.), and D (§8701 et seq.), respectively, of subchapter XIII of chapter 70 of this title, and were redesignated as parts K to N of title IX of Pub. L. 103-227, by Pub. L. 107-110, title X, §§1021(a), 1022(a), 1023(a), 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to parts G (§6053 et seq.), H (§6054 et seq.), I (§6055 et seq.), and J (§6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, and subsequently repealed by Pub. L. 107-279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (e)(1) and (f)(1)(A)(i), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9501, 9604, 9605, 9606 of this title.

§ 9603. Evaluations

The Secretary shall provide for ongoing independent evaluations by the National Center for Education Evaluation and Regional Assistance of the comprehensive centers receiving assistance under this subchapter, the results of which shall be transmitted to the appropriate congressional committees and the Director of the Institute of Education Sciences. Such evaluations shall include an analysis of the services provided under this subchapter, the extent to which each of the comprehensive centers meets the objectives of its respective plan, and whether such services meet the educational needs of State educational agencies, local educational agencies, and schools in the region.

(Pub. L. 107-279, title II, §204, Nov. 5, 2002, 116 Stat. 1979.)

§ 9604. Existing technical assistance providers

The Secretary shall continue awards for the support of the Eisenhower Regional Mathematics and Science Education Consortia established under part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before November 5, 2002), the Regional Technology in Education Consortia under sec-

tion 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before January 8, 2002), and the Comprehensive Regional Assistance Centers established under part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before November 5, 2002), in accordance with the terms of such awards, until the comprehensive centers authorized under section 9602 of this title are established.

(Pub. L. 107-279, title II, §205, Nov. 5, 2002, 116 Stat. 1979.)

REFERENCES IN TEXT

Parts K and M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such parts existed on the day before November 5, 2002), referred to in text, mean parts K and M of title IX of Pub. L. 103-227, which were classified to parts G (§6053 et seq.) and I (§6055 et seq.), respectively, of subchapter IX of chapter 68 of this title, prior to repeal by Pub. L. 107-279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

Section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before January 8, 2002), referred to in text, is section 3141 of title III of Pub. L. 89-10, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3649, which was classified to section 6861 of this title prior to the general amendment of title III of Pub. L. 89-10 by Pub. L. 107-110, title III, §301, Jan. 8, 2002, 115 Stat. 1689.

§ 9605. Regional advisory committees

(a) Establishment

Beginning in 2004, the Secretary shall establish a regional advisory committee for each region described in section 9564(b) of this title.

(b) Membership

(1) Composition

The membership of each regional advisory committee shall—

- (A) not exceed 25 members;
- (B) contain a balanced representation of States in the region; and
- (C) include not more than one representative of each State educational agency geographically located in the region.

(2) Eligibility

The membership of each regional advisory committee may include the following:

- (A) Representatives of local educational agencies, including rural and urban local educational agencies.
- (B) Representatives of institutions of higher education, including individuals representing university-based education research and university-based research on subjects other than education.
- (C) Parents.
- (D) Practicing educators, including classroom teachers, principals, administrators, school board members, and other local school officials.
- (E) Representatives of business.
- (F) Researchers.

(3) Recommendations

In choosing individuals for membership on a regional advisory committee, the Secretary shall consult with, and solicit recommenda-

tions from, the chief executive officers of States, chief State school officers, and education stakeholders within the applicable region.

(4) Special rule

(A) Total number

The total number of members on each committee who are selected under subparagraphs (A), (C), and (D) of paragraph (2), collectively, shall exceed the total number of members who are selected under paragraph (1)(C) and subparagraphs (B), (E), and (F) of paragraph (2), collectively.

(B) Dissolution

Each regional advisory committee shall be dissolved by the Secretary after submission of such committee's report described in subsection (c)(2) of this section to the Secretary, but each such committee may be reconvened at the discretion of the Secretary.

(c) Duties

Each regional advisory committee shall advise the Secretary on the following:

(1) An educational needs assessment of its region (using the results of the assessment conducted under subsection (d) of this section), in order to assist in making decisions regarding the regional educational priorities.

(2) Not later than 6 months after the committee is first convened, a report based on the assessment conducted under subsection (d) of this section.

(d) Regional assessments

Each regional advisory committee shall—

(1) assess the educational needs within the region to be served;

(2) in conducting the assessment under paragraph (1), seek input from chief executive officers of States, chief State school officers, educators, and parents (including through a process of open hearings to solicit the views and needs of schools (including public charter schools), teachers, administrators, members of the regional educational laboratory governing board, parents, local educational agencies, librarians, businesses, State educational agencies, and other customers (such as adult education programs) within the region) regarding the need for the activities described in section 9564 of this title and section 9602 of this title and how those needs would be most effectively addressed; and

(3) submit the assessment to the Secretary and to the Director of the Academy of Education Sciences, at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 107-279, title II, §206, Nov. 5, 2002, 116 Stat. 1979.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of

a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9602, 9606 of this title.

§ 9606. Priorities

The Secretary shall establish priorities for the regional educational laboratories (established under section 9564 of this title) and comprehensive centers (established under section 9602 of this title) to address, taking into account the regional assessments conducted under section 9605 of this title and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

(Pub. L. 107-279, title II, §207, Nov. 5, 2002, 116 Stat. 1981.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9564, 9602 of this title.

§ 9607. Grant program for statewide, longitudinal data systems

(a) Grants authorized

The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Applications

Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) Awarding of grants

In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 9573 of this title;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 9543(a)(5) of this title.

(d) Supplement not supplant

Funds made available under this section shall be used to supplement, and not supplant, other

State or local funds used for developing State data systems.

(e) Report

Not later than 1 year after November 5, 2002, and again 3 years after such date, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—

(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;

(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title; and

(3) identifying best practices and areas for improvement.

(Pub. L. 107-279, title II, §208, Nov. 5, 2002, 116 Stat. 1981.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a), (c)(2)(A), and (e)(2), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

§ 9608. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter \$80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 107-279, title II, §209, Nov. 5, 2002, 116 Stat. 1982.)

SUBCHAPTER III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 9513 of this title.

§ 9621. National Assessment Governing Board

(a) Establishment

There is established the National Assessment Governing Board (hereafter in this subchapter referred to as the “Assessment Board”), which shall formulate policy guidelines for the National Assessment (carried out under section 9622 of this title).

(b) Membership

(1) Appointment and composition

The Assessment Board shall be appointed by the Secretary and be composed as follows:

(A) Two Governors, or former Governors, who shall not be members of the same political party.

(B) Two State legislators, who shall not be members of the same political party.

(C) Two chief State school officers.

(D) One superintendent of a local educational agency.

(E) One member of a State board of education.

(F) One member of a local board of education.

(G) Three classroom teachers representing the grade levels at which the National Assessment is conducted.

(H) One representative of business or industry.

(I) Two curriculum specialists.

(J) Three testing and measurement experts, who shall have training and experience in the field of testing and measurement.

(K) One nonpublic school administrator or policymaker.

(L) Two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal.

(M) Two parents who are not employed by a local, State or Federal educational agency.

(N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

(2) Director of the Institute of Education Sciences

The Director of the Institute of Education Sciences shall serve as an ex officio, nonvoting member of the Assessment Board.

(3) Balance and diversity

The Secretary and the Assessment Board shall ensure at all times that the membership of the Assessment Board reflects regional, racial, gender, and cultural balance and diversity and that the Assessment Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) Terms

(1) In general

Terms of service of members of the Assessment Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

(2) Service limitation

Members of the Assessment Board may serve not more than two terms.

(3) Change of status

A member of the Assessment Board who changes status under subsection (b) of this section during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(4) Conforming provision

Members of the Assessment Board previously granted 3 year terms, whose terms are in effect on December 21, 2000, shall have their terms extended by 1 year.

(d) Vacancies

(1) In general

(A) Organizations

The Secretary shall appoint new members to fill vacancies on the Assessment Board from among individuals who are nominated

by organizations representing the type of individuals described in subsection (b)(1) of this section with respect to which the vacancy exists.

(B) Nominations

Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Assessment Board vacancy.

(C) Maintenance of Assessment Board

The Secretary's appointments shall maintain the composition, diversity, and balance of the Assessment Board required under subsection (b) of this section.

(2) Additional nominations

The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) Duties

(1) In general

In carrying out its functions under this section the Assessment Board shall—

(A) select the subject areas to be assessed (consistent with section 9622(b) of this title);

(B) develop appropriate student achievement levels as provided in section 9622(e) of this title;

(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys;

(F) consistent with section 9622 of this title, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

(G) develop guidelines for reporting and disseminating results;

(H) develop standards and procedures for regional and national comparisons;

(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 9622 of this title consistent with the provisions of this section and section 9622 of this title; and

(J) plan and execute the initial public release of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the

release of the reports described in subparagraph (J).

(2) Delegation

The Assessment Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) All cognitive and noncognitive assessment items

The Assessment Board shall have final authority on the appropriateness of all assessment items.

(4) Prohibition against bias

The Assessment Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

(5) Technical

In carrying out the duties required by paragraph (1), the Assessment Board may seek technical advice, as appropriate, from the Commissioner for Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student achievement levels under section 9622(e) of this title, the Assessment Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Assessment Board is taking to respond to each of the recommendations contained in such evaluation.

(f) Personnel

(1) In general

In the exercise of its responsibilities, the Assessment Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) In general

The Secretary may appoint, at the request of the Assessment Board, such staff as will enable the Assessment Board to carry out its responsibilities.

(B) Technical employees

Such appointments may include, for terms not to exceed 3 years and without regard to the provisions of title 5 governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) Coordination

The Commissioner for Education Statistics and the Assessment Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner for Education Statistics to report to the Assessment Board on the Department's actions to implement the decisions of the Assessment Board.

(h) Administration

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Assessment Board, other than sections 10, 11, and 12 of such Act.

(Pub. L. 107-279, title III, § 302, formerly Pub. L. 103-382, title IV, § 412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106-554, § 1(a)(1) [title III, § 307], Dec. 21, 2000, 114 Stat. 2763, 2763A-44; Pub. L. 107-110, title VI, § 602(b), Jan. 8, 2002, 115 Stat. 1904; renumbered Pub. L. 107-279, title III, § 302, and amended Pub. L. 107-279, title IV, § 401(c), Nov. 5, 2002, 116 Stat. 1983.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (f)(2)(B), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 9011 of this title prior to renumbering by Pub. L. 107-279.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 107-279 was renumbered section 304 and is classified to section 9623 of this title.

AMENDMENTS

2002—Pub. L. 107-110 amended section generally, restating and expanding provisions and inserting headings.

Subsec. (a). Pub. L. 107-279, § 401(c)(1), substituted “referred to as the ‘Assessment Board’” for “referred to as the ‘Board’” and inserted “(carried out under section 9622 of this title)” after “for the National Assessment”.

Subsec. (b)(1). Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board” in introductory provisions.

Subsec. (b)(2). Pub. L. 107-279, § 401(c)(4), substituted “Director of the Institute of Education Sciences” for “Assistant Secretary for Educational Research” in heading and “Assistant Secretary for Educational Research and Improvement” in text.

Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board”.

Subsecs. (b)(3) to (d)(1). Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board” wherever appearing.

Subsec. (e)(1). Pub. L. 107-279, § 401(c)(2), (5)(A)(vii), substituted “Assessment Board” for “Board” in introductory provisions and inserted concluding provisions.

Subsec. (e)(1)(A). Pub. L. 107-279, § 401(c)(5)(A)(i), substituted “section 9622(b)” for “section 9010(b)”.

Subsec. (e)(1)(B). Pub. L. 107-279, § 401(c)(5)(A)(ii), substituted “section 9622(e)” for “section 9010(e)”.

Subsec. (e)(1)(E). Pub. L. 107-279, § 401(c)(5)(A)(iii), struck out “, including the Advisory Council established under section 9006 of this title” before semicolon at end.

Subsec. (e)(1)(F), (I). Pub. L. 107-279, § 401(c)(5)(A)(iv), substituted “section 9622” for “section 9010” wherever appearing.

Subsec. (e)(1)(J). Pub. L. 107-279, § 401(c)(5)(A)(v)-(vii), added subpar. (J).

Subsec. (e)(2) to (4). Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board”.

Subsec. (e)(5). Pub. L. 107-279, §401(c)(5)(B), struck out “and the Advisory Council on Education Statistics” before “and other experts.”

Pub. L. 107-279, §401(c)(3), substituted “Commissioner for Education Statistics” for “Commissioner”.

Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board”.

Subsec. (e)(6). Pub. L. 107-279, §401(c)(5)(C), substituted “section 9622(e)” for “section 9010(e)”.

Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board” in two places.

Subsec. (f). Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board” wherever appearing.

Subsec. (g). Pub. L. 107-279, §401(c)(3), substituted “Commissioner for Education Statistics” for “Commissioner” in two places.

Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board” wherever appearing.

Subsec. (h). Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board”.

2000—Subsec. (c)(1). Pub. L. 106-554, §1(a)(1) [title III, §307(1)], substituted “4 years” for “3 years”.

Subsec. (c)(4). Pub. L. 106-554, §1(a)(1) [title III, §307(2)], added par. (4).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

SHORT TITLE

This subchapter known as the “National Assessment of Educational Progress Authorization Act”, see Short Title note set out under section 9501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9513, 9622, 9624 of this title.

§ 9622. National Assessment of Educational Progress

(a) Establishment

The Commissioner for Education Statistics shall, with the advice of the Assessment Board established under section 9621 of this title, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

(b) Purpose; State assessments

(1) Purpose

The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting of trends in such achievement in reading, mathematics, and other subject matter as specified in this section.

(2) Measurement and reporting

The Commissioner for Education Statistics, in carrying out the measurement and reporting described in paragraph (1), shall—

(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;

(B) conduct a national assessment and collect and report assessment data, including

achievement data trends, in a valid and reliable manner on student academic achievement in public and private elementary schools and secondary schools at least once every 2 years, in grades 4 and 8 in reading and mathematics;

(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to January 8, 2002;

(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for 1 year in which no such assessments are conducted in between each administration of such assessments;

(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines.

(3) State assessments

(A) In general

The Commissioner for Education Statistics—

(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (2)(B) and (2)(E);

(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (2)(C);

(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (2)(D); and

(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until the Commissioner for Education Statistics determines, as the result of an evaluation required by subsection (f) of this section, that such assessment produces high quality data that are valid and reliable.

(B) Agreement

(i) In general

States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3) of this section.

(ii) Content

Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

(C) Review and release

(i) In general

Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(ii) Special rule

A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if the State has an approved plan under section 6311 of this title.

(4) Prohibited activities

(A) In general

The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

(B) Special rule

Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

(C) Applicability to student educational decisions

Nothing in this section shall be construed to prescribe the use of any assessment au-

thorized under this section for student promotion or graduation purposes.

(D) Applicability to home schools

Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced or authorized under this section.

(5) Requirement

In carrying out any assessment authorized under this section, the Commissioner for Education Statistics, in a manner consistent with subsection (c)(3) of this section, shall—

(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and

(C) collect information on race, ethnicity, socioeconomic status, disability, limited English proficiency, and gender.

(6) Technical assistance

In carrying out any assessment authorized under this section, the Commissioner for Education Statistics may provide technical assistance to States, localities, and other parties.

(c) Access

(1) Public access

(A) In general

Except as provided in paragraph (3), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

(B) Timeline

The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties.

(C) Prohibition

To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

(2) Complaints

(A) In general

Parents and members of the public may submit written complaints to the Assessment Board.

(B) Forwarding of complaints

The Assessment Board shall forward such complaints to the Commissioner for Edu-

cation Statistics, the Secretary of Education, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

(C) Review

The Assessment Board, in consultation with the Commissioner for Education Statistics, shall review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

(D) Report

The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the Assessment Board pursuant to subparagraph (C) to the Chairman of the House Committee on Education and the Workforce, and the Chairman of the Senate Committee on Health, Education, Labor, and Pensions.

(E) Cognitive questions

(i) In general

The Commissioner for Education Statistics may decline to make available through public means, such as posting on the Internet, distribution to the media, distribution through public agencies, or in response to a request under section 552 of title 5, for a period, not to exceed 10 years after initial use, cognitive questions that the Commissioner for Education Statistics intends to reuse in the future.

(ii) Extension

Notwithstanding clause (i), the Commissioner for Education Statistics may decline to make cognitive questions available as described in clause (i) for a period longer than 10 years if the Commissioner for Education Statistics determines such additional period is necessary to protect the security and integrity of long-term trend data.

(3) Personally identifiable information

(A) In general

The Commissioner for Education Statistics shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5.

(B) Prohibition

The Assessment Board, the Commissioner for Education Statistics, and any contractor or subcontractor shall not maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

(4) Penalties

Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18 or charged with a class E felony.

(d) Participation

(1) Voluntary participation

Participation in any assessment authorized under this section shall be voluntary for students, schools, and local educational agencies.

(2) Student participation

Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

(3) State participation

(A) Voluntary

Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

(B) Agreement

For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this section. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

(4) Review

Representatives of State educational agencies and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c) of this section, except the review described in subparagraph (2)(C) of subsection (c) of this section shall take place in consultation with the representatives described in this paragraph.

(e) Student achievement levels

(1) Achievement levels

The Assessment Board shall develop appropriate student achievement levels for each grade or age in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(2)(F) of this section.

(2) Determination of levels

(A) In general

Such levels shall—

(i)¹ be determined by—

(I) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards; and

¹ So in original. No cl. (ii) has been enacted.

(II) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of subject matter knowledge for grade levels to be assessed, or the age of the students, as the case may be.

(B) National consensus approach

After the determinations described in subparagraph (A), devising a national consensus approach.

(C) Trial basis

The achievement levels shall be used on a trial basis until the Commissioner for Education Statistics determines, as a result of an evaluation under subsection (f) of this section, that such levels are reasonable, valid, and informative to the public.

(D) Status

The Commissioner for Education Statistics and the Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

(E) Updates

Such levels shall be updated as appropriate by the Assessment Board in consultation with the Commissioner for Education Statistics.

(3) Reporting

After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f) of this section, the Commissioner for Education Statistics shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(4) Review

The Assessment Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c) of this section, except the review described in paragraph (2)(C) of such subsection shall take place in consultation with the representatives described in this paragraph.

(f) Review of National and State assessments

(1) Review

(A) In general

The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by one or more professional assessment evaluation organizations.

(B) Issues addressed

Such continuing review shall address—

(i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise available to the State

(other than data comparing participating States to each other and the Nation);

(ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;—²

(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;

(iv) whether any of the test questions are biased, as described in section 9621(e)(4) of this title; and

(v) whether the appropriate authorized assessments are measuring, consistent with this section, reading ability and mathematical knowledge.

(2) Report

The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

(3) Use of findings and recommendations

The Commissioner for Education Statistics and the Assessment Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner for Education Statistics carries out the National Assessment.

(g) Coverage agreements

(1) Department of Defense schools

The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary schools and secondary schools operated by the Department of Defense.

(2) Bureau of Indian Affairs schools

The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

(Pub. L. 107-279, title III, § 303, formerly Pub. L. 103-382, title IV, § 411, Oct. 20, 1994, 108 Stat. 4036; Pub. L. 107-110, title VI, § 602(a), Jan. 8, 2002, 115 Stat. 1898; renumbered Pub. L. 107-279, title III, § 303, and amended Pub. L. 107-279, title IV, § 401(d), Nov. 5, 2002, 116 Stat. 1984.)

CODIFICATION

Section was formerly classified to section 9010 of this title prior to renumbering by Pub. L. 107-279.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 107-279 was renumbered section 305 and is classified to section 9624 of this title.

AMENDMENTS

2002—Pub. L. 107-110 amended section generally, restating and expanding provisions and inserting headings.

² So in original.

Subsec. (a). Pub. L. 107-279, § 401(d)(3), substituted “section 9621” for “section 9011” and struck out “and with the technical assistance of the Advisory Council established under section 9006 of this title,” before “carry out”.

Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Assessment Governing Board”.

Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner”.

Subsec. (b)(1). Pub. L. 107-279, § 401(d)(4)(A), inserted “of” after “academic achievement and reporting”.

Subsec. (b)(2), (3)(A). Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner” in introductory provisions.

Subsec. (b)(3)(A)(i). Pub. L. 107-279, § 401(d)(4)(B)(i), substituted “paragraphs (2)(B) and (2)(E)” for “paragraphs (1)(B) and (1)(E)”.

Subsec. (b)(3)(A)(ii). Pub. L. 107-279, § 401(d)(4)(B)(ii), substituted “paragraph (2)(C)” for “paragraph (1)(C)”.

Subsec. (b)(3)(A)(iii). Pub. L. 107-279, § 401(d)(4)(B)(iii), substituted “paragraph (2)(D)” for “paragraph (1)(D)”.

Subsec. (b)(3)(A)(iv). Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner”.

Subsec. (b)(5). Pub. L. 107-279, § 401(d)(4)(C), substituted “subsection (c)(3)” for “subsection (c)(2)” in introductory provisions.

Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner” in introductory provisions.

Subsec. (b)(6). Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner”.

Subsec. (c)(2). Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Assessment Governing Board” wherever appearing.

Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner” wherever appearing.

Subsec. (c)(2)(D). Pub. L. 107-279, § 401(d)(5), substituted “subparagraph (C)” for “subparagraph (B)”.

Subsec. (c)(3). Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner” in subpars. (A) and (B).

Subsec. (c)(3)(B). Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Board”.

Subsec. (e)(1). Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Assessment Governing Board”.

Subsec. (e)(2). Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner” wherever appearing.

Subsec. (e)(2)(E). Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Assessment Governing Board”.

Subsec. (e)(3). Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner”.

Subsec. (e)(4). Pub. L. 107-279, § 401(d)(6), substituted “paragraph (2)(C) of such subsection” for “subparagraph (2)(C)”.

Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Assessment Governing Board”.

Subsec. (f)(1)(B)(iv). Pub. L. 107-279, § 401(d)(7), substituted “section 9621(e)(4)” for “section 9011(e)(4)”.

Subsec. (f)(3). Pub. L. 107-279, § 401(d)(2), substituted “Assessment Board” for “National Assessment Governing Board”.

Pub. L. 107-279, § 401(d)(1), substituted “Commissioner for Education Statistics” for “Commissioner” in two places.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6311, 6312, 6491, 9621, 9624 of this title.

§ 9623. Definitions

In this subchapter:

(1) The term “Director” means the Director of the Institute of Education Sciences.

(2) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 107-279, title III, § 304, formerly § 302, Nov. 5, 2002, 116 Stat. 1982; renumbered § 304, Pub. L. 107-279, title IV, § 401(b), Nov. 5, 2002, 116 Stat. 1983.)

§ 9624. Authorization of appropriations

(a) In general

There are authorized to be appropriated—

(1) for fiscal year 2003—

(A) \$4,600,000 to carry out section 9621 of this title; and

(B) \$107,500,000 to carry out section 9622 of this title; and

(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 9621 and 9622 of this title.

(b) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107-279, title III, § 305, formerly § 303, Nov. 5, 2002, 116 Stat. 1982; renumbered § 305, Pub. L. 107-279, title IV, § 401(b), Nov. 5, 2002, 116 Stat. 1983.)