

108TH CONGRESS
1ST SESSION

H. R. 1350

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2003

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS**
 3 **WITH DISABILITIES EDUCATION ACT.**

4 Sections 601 through 603 of the Individuals with
 5 Disabilities Education Act (20 U.S.C. 1400–1402) are
 6 amended to read as follows:

7 **“PART A—GENERAL PROVISIONS**

8 **“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;**
 9 **PURPOSES.**

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

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

“PART A—GENERAL PROVISIONS

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

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

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

“Sec. 606. Employment of individuals with disabilities.

“Sec. 607. Requirements for prescribing regulations.

“Sec. 608. State administration.

“Sec. 609. GAO review; report.

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

“Sec. 611. Authorization; allotment; use of funds; authorization of appropri-
 ations.

“Sec. 612. State eligibility.

“Sec. 613. Local educational agency eligibility.

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

“Sec. 615. Procedural safeguards.

“Sec. 616. Withholding and judicial review.

“Sec. 617. Administration.

“Sec. 618. Program information.

“Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

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

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

- “Sec. 651. Findings.

“SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

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

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

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

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

- “Sec. 671. Purposes.
- “Sec. 672. Parent and community training and information centers.
- “Sec. 673. Technical assistance for parent and community training and information centers.
- “Sec. 674. Technology development, demonstration, and utilization; and media services.

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

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

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

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

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

4 “(A) having high expectations for such
5 children and ensuring their access to the gen-
6 eral education curriculum in the regular class-
7 room to the maximum extent possible in
8 order—

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

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

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

21 “(C) coordinating this Act with other local,
22 State, and Federal school improvement efforts,
23 including efforts under the Elementary and
24 Secondary Education Act of 1965, in order to
25 ensure that children with disabilities benefit

1 from such efforts and that special education
2 can become a service for such children rather
3 than a place where they are sent;

4 “(D) supporting high-quality, intensive
5 professional development for personnel who
6 work with children with disabilities;

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

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

16 “(G) supporting the development and use
17 of technology, including assistive technology de-
18 vices and services, to maximize accessibility for
19 children with disabilities.

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

1 with disabilities in order to improve results for such
2 children and to ensure equal protection of the law.

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

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

11 “(C) Minority children comprise an increasing
12 percentage of public school students.

13 “(D) With such changing demographics, re-
14 cruitment efforts for special education personnel
15 should focus on increasing the participation of mi-
16 norities in the teaching profession.

17 “(7)(A) Greater efforts are needed to prevent
18 the intensification of problems connected with
19 mislabeling and high dropout rates among minority
20 children with disabilities.

21 “(B) More minority children continue to be
22 served in special education than would be expected
23 from the percentage of minority students in the gen-
24 eral school population.

1 “(C) African-American children are overidenti-
2 fied as having mental retardation and emotional dis-
3 turbance at rates greater than their white counter-
4 parts.

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

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

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

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

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

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

1 change activities; coordinated research and personnel
2 preparation; coordinated technical assistance, dis-
3 semination, and support; and technology develop-
4 ment and media services; and

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

7 **“SEC. 602. DEFINITIONS.**

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

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

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

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

1 “(B) purchasing, leasing, or otherwise pro-
2 viding for the acquisition of assistive technology
3 devices by such child;

4 “(C) selecting, designing, fitting, custom-
5 izing, adapting, applying, maintaining, repair-
6 ing, or replacing of assistive technology devices;

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

12 “(E) training or technical assistance for
13 such child, or, where appropriate, the family of
14 such child; and

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

21 “(3) CHILD WITH A DISABILITY.—

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

24 “(i) with mental retardation, hearing
25 impairments (including deafness), speech

1 or language impairments, visual impair-
2 ments (including blindness), serious emo-
3 tional disturbance (hereinafter referred to
4 as ‘emotional disturbance’), orthopedic im-
5 pairments, autism, traumatic brain injury,
6 other health impairments, or specific learn-
7 ing disabilities; and

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

10 “(B) CHILD AGED 3 THROUGH 9.—The
11 term ‘child with a disability’ for a child aged 3
12 through 9 or any subset of that age range, in-
13 cluding ages 3 through 5, may, at the discretion
14 of the State and the local educational agency,
15 include a child—

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

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

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

3 “(A) means a regional public multiservice
4 agency—

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

8 “(ii) recognized as an administrative
9 agency for purposes of the provision of
10 special education and related services pro-
11 vided within public elementary and sec-
12 ondary schools of the State; and

13 “(B) includes any other public institution
14 or agency having administrative control and di-
15 rection over a public elementary or secondary
16 school.

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

21 “(6) EQUIPMENT.—The term ‘equipment’ in-
22 cludes—

23 “(A) machinery, utilities, and built-in
24 equipment and any necessary enclosures or

1 structures to house such machinery, utilities, or
2 equipment; and

3 “(B) all other items necessary for the
4 functioning of a particular facility as a facility
5 for the provision of educational services, includ-
6 ing items such as instructional equipment and
7 necessary furniture; printed, published, and
8 audio-visual instructional materials; tele-
9 communications, sensory, and other techno-
10 logical aids and devices; and books, periodicals,
11 documents, and other related materials.

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

19 “(A) amounts received—

20 “(i) under part B of this title;

21 “(ii) under part A of title I of the El-
22 ementary and Secondary Education Act of
23 1965; and

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

1 “(B) any State or local funds expended for
2 programs that would qualify for assistance
3 under any of the provisions of law described in
4 subparagraph (A).

5 “(8) FREE APPROPRIATE PUBLIC EDU-
6 CATION.—The term ‘free appropriate public edu-
7 cation’ means special education and related services
8 that—

9 “(A) have been provided at public expense,
10 under public supervision and direction, and
11 without charge;

12 “(B) meet the standards of the State edu-
13 cational agency;

14 “(C) include an appropriate preschool, ele-
15 mentary, or secondary school education in the
16 State involved; and

17 “(D) are provided in conformity with the
18 individualized education program required
19 under section 614(d).

20 “(9) HIGHLY QUALIFIED.—The term ‘highly
21 qualified’ has the same meaning as that term in sec-
22 tion 9101 of the Elementary and Secondary Edu-
23 cation Act of 1965.

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

1 “(11) INDIAN TRIBE.—The term ‘Indian tribe’
2 means any Federal or State Indian tribe, band,
3 rancheria, pueblo, colony, or community, including
4 any Alaska Native village or regional village corpora-
5 tion (as defined in or established under the Alaska
6 Native Claims Settlement Act).

7 “(12) INDIVIDUALIZED EDUCATION PRO-
8 GRAM.—The term ‘individualized education program’
9 or ‘IEP’ means a written statement for each child
10 with a disability that is developed, reviewed, and re-
11 vised in accordance with section 614(d).

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

15 “(14) INFANT OR TODDLER WITH A DIS-
16 ABILITY.—The term ‘infant or toddler with a dis-
17 ability’ has the meaning given such term in section
18 632.

19 “(15) INSTITUTION OF HIGHER EDUCATION.—
20 The term ‘institution of higher education’—

21 “(A) has the meaning given that term in
22 section 101(a) of the Higher Education Act of
23 1965; and

24 “(B) also includes any community college
25 receiving funding from the Secretary of the In-

1 terior under the Tribally Controlled Community
2 College Assistance Act of 1978.

3 “(16) LOCAL EDUCATIONAL AGENCY.—

4 “(A) The term ‘local educational agency’
5 means a public board of education or other pub-
6 lic authority legally constituted within a State
7 for either administrative control or direction of,
8 or to perform a service function for, public ele-
9 mentary or secondary schools in a city, county,
10 township, school district, or other political sub-
11 division of a State, or for such combination of
12 school districts or counties as are recognized in
13 a State as an administrative agency for its pub-
14 lic elementary or secondary schools.

15 “(B) The term includes—

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

18 “(ii) any other public institution or
19 agency having administrative control and
20 direction of a public elementary or sec-
21 ondary school.

22 “(C) The term includes an elementary or
23 secondary school funded by the Bureau of In-
24 dian Affairs, but only to the extent that such
25 inclusion makes the school eligible for programs

1 for which specific eligibility is not provided to
2 the school in another provision of law and the
3 school does not have a student population that
4 is smaller than the student population of the
5 local educational agency receiving assistance
6 under this Act with the smallest student popu-
7 lation, except that the school shall not be sub-
8 ject to the jurisdiction of any State educational
9 agency other than the Bureau of Indian Affairs.

10 “(17) NATIVE LANGUAGE.—The term ‘native
11 language’, when used with reference to an individual
12 of limited English proficiency, means the language
13 normally used by the individual, or in the case of a
14 child, the language normally used by the parents of
15 the child.

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

23 “(19) OUTLYING AREA.—The term ‘outlying
24 area’ means the United States Virgin Islands,

1 Guam, American Samoa, and the Commonwealth of
2 the Northern Mariana Islands.

3 “(20) PARENT.—The term ‘parent’—

4 “(A) includes a legal guardian; and

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

9 “(21) PARENT ORGANIZATION.—The term ‘par-
10 ent organization’ has the meaning given that term in
11 section 671(g).

12 “(22) PARENT AND COMMUNITY TRAINING AND
13 INFORMATION CENTER.—The term ‘parent and com-
14 munity training and information center’ means a
15 center assisted under section 671.

16 “(23) RELATED SERVICES.—The term ‘related
17 services’ means transportation, and such develop-
18 mental, corrective, and other supportive services (in-
19 cluding speech-language pathology and audiology
20 services, psychological services, physical and occupa-
21 tional therapy, recreation, including therapeutic
22 recreation, social work services, counseling services,
23 including rehabilitation counseling, orientation and
24 mobility services, and medical services, except that
25 such medical services shall be for diagnostic and

1 evaluation purposes only) as may be required to as-
2 sist a child with a disability to benefit from special
3 education, and includes the early identification and
4 assessment of disabling conditions in children.

5 “(24) SECONDARY SCHOOL.—The term ‘sec-
6 ondary school’ means a nonprofit institutional day or
7 residential school that provides secondary education,
8 as determined under State law, except that it does
9 not include any education beyond grade 12.

10 “(25) SECRETARY.—The term ‘Secretary’
11 means the Secretary of Education.

12 “(26) SPECIAL EDUCATION.—The term ‘special
13 education’ means specially designed instruction, at
14 no cost to parents, to meet the unique needs of a
15 child with a disability, including—

16 “(A) instruction conducted in the class-
17 room, in the home, in hospitals and institutions,
18 and in other settings; and

19 “(B) instruction in physical education.

20 “(27) SPECIFIC LEARNING DISABILITY.—

21 “(A) IN GENERAL.—The term ‘specific
22 learning disability’ means a disorder in one or
23 more of the basic psychological processes in-
24 volved in understanding or in using language,
25 spoken or written, which disorder may manifest

1 itself in imperfect ability to listen, think, speak,
2 read, write, spell, or do mathematical calcula-
3 tions.

4 “(B) DISORDERS INCLUDED.—Such term
5 includes such conditions as perceptual disabil-
6 ities, brain injury, minimal brain dysfunction,
7 dyslexia, and developmental aphasia.

8 “(C) DISORDERS NOT INCLUDED.—Such
9 term does not include a learning problem that
10 is primarily the result of visual, hearing, or
11 motor disabilities, of mental retardation, of
12 emotional disturbance, or of environmental, cul-
13 tural, or economic disadvantage.

14 “(28) STATE.—The term ‘State’ means each of
15 the 50 States, the District of Columbia, the Com-
16 monwealth of Puerto Rico, and each of the outlying
17 areas.

18 “(29) STATE EDUCATIONAL AGENCY.—The
19 term ‘State educational agency’ means the State
20 board of education or other agency or officer pri-
21 marily responsible for the State supervision of public
22 elementary and secondary schools, or, if there is no
23 such officer or agency, an officer or agency des-
24 ignated by the Governor or by State law.

1 “(30) SUPPLEMENTARY AIDS AND SERVICES.—
2 The term ‘supplementary aids and services’ means
3 aids, services, and other supports that are provided
4 in regular education classes or other education-re-
5 lated settings to enable children with disabilities to
6 be educated with nondisabled children to the max-
7 imum extent appropriate in accordance with section
8 612(a)(5).

9 “(31) TRANSITION SERVICES.—The term ‘tran-
10 sition services’ means a coordinated set of activities
11 for a child with a disability that—

12 “(A) is designed within a results-oriented
13 process, that is focused on improving the aca-
14 demic and developmental achievement of the
15 child with a disability to facilitate the child’s
16 move from school to post-school activities, in-
17 cluding post-secondary education, vocational
18 training, integrated employment (including sup-
19 ported employment), continuing and adult edu-
20 cation, adult services, independent living, or
21 community participation;

22 “(B) is based upon the individual child’s
23 needs, taking into account the child’s skills,
24 preferences, and interests; and

1 “(C) includes instruction, related services,
2 community experiences, the development of em-
3 ployment and other post-school adult living ob-
4 jectives, and, when appropriate, acquisition of
5 daily living skills and functional vocational eval-
6 uation.

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

8 “(a) ESTABLISHMENT.—There shall be, within the
9 Office of Special Education and Rehabilitative Services in
10 the Department of Education, an Office of Special Edu-
11 cation Programs, which shall be the principal agency in
12 such Department for administering and carrying out this
13 Act and other programs and activities concerning the edu-
14 cation of children with disabilities.

15 “(b) DIRECTOR.—The Office established under sub-
16 section (a) shall be headed by a Director who shall be se-
17 lected by the Secretary and shall report directly to the As-
18 sistant Secretary for Special Education and Rehabilitative
19 Services.

20 “(c) VOLUNTARY AND UNCOMPENSATED SERV-
21 ICES.—Notwithstanding section 1342 of title 31, United
22 States Code, the Secretary is authorized to accept vol-
23 untary and uncompensated services in furtherance of the
24 purposes of this Act.”.

1 **SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS**
2 **WITH DISABILITIES EDUCATION ACT.**

3 Sections 605 through 607 of the Individuals with
4 Disabilities Education Act (20 U.S.C. 1404–1406) are
5 amended to read as follows:

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

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

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

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

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

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

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

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

9 “(a) IN GENERAL.—The Secretary may issue such
10 regulations as are reasonably necessary to ensure that
11 there is compliance with this Act.

12 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The
13 Secretary may not implement, or publish in final form,
14 any regulation prescribed pursuant to this Act that
15 would—

16 “(1) violate or contradict any provision of this
17 Act; and

18 “(2) procedurally or substantively lessen the
19 protections provided to children with disabilities
20 under this Act, as embodied in regulations in effect
21 on July 20, 1983 (particularly as such protections
22 relate to parental consent to initial evaluation or ini-
23 tial placement in special education, least restrictive
24 environment, related services, timelines, attendance
25 of evaluation personnel at individualized education
26 program meetings, or qualifications of personnel),

1 except to the extent that such regulation reflects the
2 clear and unequivocal intent of the Congress in legis-
3 lation.

4 “(c) PUBLIC COMMENT PERIOD.—The Secretary
5 shall provide a public comment period of at least 30 days
6 on any regulation proposed under part B or part C of this
7 Act on which an opportunity for public comment is other-
8 wise required by law.

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

12 “(1) would violate or contradict any provision of
13 this Act; or

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

18 “(e) CORRESPONDENCE FROM DEPARTMENT OF
19 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
20 PART.—

21 “(1) IN GENERAL.—The Secretary shall, on a
22 quarterly basis, publish in the Federal Register, and
23 widely disseminate to interested entities through var-
24 ious additional forms of communication, a list of
25 correspondence from the Department of Education

1 received by individuals during the previous quarter
2 that describes the interpretations of the Department
3 of Education of this Act or the regulations imple-
4 mented pursuant to this Act.

5 “(2) ADDITIONAL INFORMATION.—For each
6 item of correspondence published in a list under
7 paragraph (1), the Secretary shall—

8 “(A) identify the topic addressed by the
9 correspondence and shall include such other
10 summary information as the Secretary deter-
11 mines to be appropriate; and

12 “(B) ensure that all such correspondence
13 is issued, where applicable, in compliance with
14 section 553 of title 5, United States Code.

15 “(f) EXPLANATION AND ASSURANCES.—Any written
16 response by the Secretary under subsection (e) regarding
17 a policy, question, or interpretation under this Act shall
18 include an explanation in the written response that the
19 response—

20 “(1) is provided as informal guidance and is not
21 legally binding;

22 “(2) is issued, when required, in compliance
23 with the requirements of section 553 of title 5,
24 United States Code; and

1 “(3) represents only the interpretation by the
2 Department of Education of the applicable statutory
3 or regulatory requirements in the context of the spe-
4 cific facts presented in the original question and is
5 not persuasive or binding as to any other set of
6 facts.”.

7 **SEC. 103. SECTIONS 608 AND 609 OF THE INDIVIDUALS WITH**
8 **DISABILITIES EDUCATION ACT.**

9 Part A of the Individuals with Disabilities Education
10 Act (20 U.S.C. 1400 et seq.) is amended by adding at
11 the end the following:

12 **“SEC. 608. STATE ADMINISTRATION.**

13 “(a) RULEMAKING.—Each State that receives funds
14 under this Act shall—

15 “(1) ensure that any State rules, regulations,
16 and policies relating to this Act conform to the pur-
17 poses of this Act;

18 “(2) minimize the number of rules, regulations,
19 and policies to which the State’s local educational
20 agencies and schools are subject relating to this Act;
21 and

22 “(3) identify in writing to its local educational
23 agencies and the Secretary any such rule, regulation,
24 or policy as a State-imposed requirement that is not
25 required by this Act and Federal regulations.

1 “(b) SUPPORT AND FACILITATION.—All State rules,
2 regulations, and policies relating to this Act shall support
3 and facilitate local educational agency and school-level sys-
4 temic reform designed to enable children with disabilities
5 to meet the challenging State student academic achieve-
6 ment standards.

7 **“SEC. 609. GAO REVIEW; REPORT.**

8 “(a) REVIEW.—The Comptroller General shall con-
9 duct a review of all Federal requirements under this Act,
10 and the requirements of a reasonable sample of State and
11 local educational agencies relating to this Act, to deter-
12 mine which requirements result in excessive paperwork
13 completion burdens for teachers, related services pro-
14 viders, and school administrators.

15 “(b) REPORT.—Not later than 2 years after the date
16 of the enactment of the Improving Education Results for
17 Children With Disabilities Act of 2003, the Comptroller
18 General shall prepare and submit to Congress a report
19 that contains the results of the review under subsection
20 (a).”.

1 **TITLE II—ASSISTANCE FOR EDU-**
 2 **CATION OF ALL CHILDREN**
 3 **WITH DISABILITIES**

4 **SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**
 5 **AUTHORIZATION OF APPROPRIATIONS.**

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

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

10 “(a) GRANTS TO STATES.—

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

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

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

23 “(i) aged 3 through 5 if the State is
 24 eligible for a grant under section 619; and

25 “(ii) aged 6 through 21; multiplied by

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

4 “(3) LIMITATION.—Notwithstanding subpara-
5 graphs (A) and (B) of paragraph (2), the maximum
6 amount of the grant a State may receive under this
7 section for a fiscal year may not be based on the
8 number of children ages 3 through 17, inclusive, in
9 excess of 12 percent of the number of all children
10 in that age range in the State.

11 “(b) OUTLYING AREAS.—

12 “(1) FUNDS RESERVED.—From the amount ap-
13 propriated for any fiscal year under subsection (j),
14 the Secretary shall reserve not more than one per-
15 cent, which shall be used to provide assistance to the
16 outlying areas in accordance with their respective
17 populations of individuals aged 3 through 21.

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

22 “(c) SECRETARY OF THE INTERIOR.—From the
23 amount appropriated for any fiscal year under subsection
24 (j), the Secretary shall reserve 1.226 percent to provide

1 assistance to the Secretary of the Interior in accordance
2 with subsection (i).

3 “(d) ALLOCATIONS TO STATES.—

4 “(1) IN GENERAL.—After reserving funds for
5 payments to the outlying areas and the Secretary of
6 the Interior under subsections (b) and (c), the Sec-
7 retary shall allocate the remaining amount among
8 the States in accordance with this subsection.

9 “(2) SPECIAL RULE FOR USE OF FISCAL YEAR
10 1999 AMOUNT.—If a State does not make a free ap-
11 propriate public education available to all children
12 with disabilities aged 3 through 5 in the State in
13 any fiscal year, the Secretary shall compute the
14 State’s amount for fiscal year 1999, solely for the
15 purpose of calculating the State’s allocation in the
16 subsequent year under paragraph (3) or (4), by sub-
17 tracting the amount allocated to the State for fiscal
18 year 1999 on the basis of those children.

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

24 “(A)(i) Except as provided in subpara-
25 graph (B), the Secretary shall allocate—

1 “(I) to each State the amount it re-
2 ceived for fiscal year 1999;

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

11 “(III) 15 percent of those remaining
12 funds to States on the basis of their rel-
13 ative populations of children described in
14 subclause (II) who are living in poverty.

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

20 “(B) Notwithstanding subparagraph (A), allo-
21 cations under this paragraph shall be subject to the
22 following:

23 “(i) No State’s allocation shall be less
24 than its allocation for the preceding fiscal
25 year.

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

3 “(I) the sum of—

4 “(aa) the amount it received
5 for fiscal year 1999; and

6 “(bb) one third of one per-
7 cent of the amount by which the
8 amount appropriated under sub-
9 section (j) exceeds the amount
10 appropriated under this section
11 for fiscal year 1999;

12 “(II) the sum of—

13 “(aa) the amount it received
14 for the preceding fiscal year; and

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

20 “(III) the sum of—

21 “(aa) the amount it received
22 for the preceding fiscal year; and

23 “(bb) that amount multi-
24 plied by 90 percent of the per-
25 centage increase in the amount

1 appropriated from the preceding
2 fiscal year.

3 “(iii) Notwithstanding clause (ii), no
4 State’s allocation under this paragraph
5 shall exceed the sum of—

6 “(I) the amount it received for
7 the preceding fiscal year; and

8 “(II) that amount multiplied by
9 the sum of 1.5 percent and the per-
10 centage increase in the amount appro-
11 priated.

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

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

22 “(A) If the amount available for allocations
23 is greater than the amount allocated to the
24 States for fiscal year 1999, each State shall be
25 allocated the sum of—

1 (i) the amount it received for fiscal
2 year 1999; and

3 (ii) an amount that bears the same re-
4 lation to any remaining funds as the in-
5 crease the State received for the preceding
6 fiscal year over fiscal year 1999 bears to
7 the total of all such increases for all
8 States.

9 “(B)(i) If the amount available for alloca-
10 tions is equal to or less than the amount allo-
11 cated to the States for fiscal year 1999, each
12 State shall be allocated the amount it received
13 for fiscal year 1999.

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

17 “(f) STATE-LEVEL ACTIVITIES.—

18 “(1) STATE ADMINISTRATION.—

19 “(A) IN GENERAL.—For the purpose of
20 administering this part, including section 619
21 (and including the coordination of activities
22 under this part with, and providing technical
23 assistance to, other programs that provide serv-
24 ices to children with disabilities)—

1 “(i) each State may retain not more
2 than 2 percent of the amount the State re-
3 ceives under subsection (e) for each fiscal
4 year or \$550,000 (adjusted by the cumu-
5 lative rate of inflation since fiscal year
6 2003, as measured by the percentage in-
7 crease, if any, in the Consumer Price
8 Index For All Urban Consumers, published
9 by the Bureau of Labor Statistics of the
10 Department of Labor), whichever is great-
11 er; and

12 “(ii) each outlying area may use up to
13 five percent of the amount it receives
14 under subsection (b) for any fiscal year or
15 \$35,000, whichever is greater.

16 “(B) ADMINISTRATION OF PART C.—
17 Funds described in subparagraph (A) may be
18 used for the administration of part C of this
19 Act, if the State educational agency is the lead
20 agency for the State under that part.

21 “(C) MONITORING, ENFORCEMENT, AND
22 COMPLAINT INVESTIGATION.—Funds described
23 in subparagraph (A) shall be used for the costs
24 of monitoring, enforcement, and complaint in-
25 vestigation.

1 “(2) OTHER STATE-LEVEL ACTIVITIES.—For
2 the purpose of providing State-level activities that
3 benefit children with disabilities, each State may re-
4 tain up to 6 percent of the amount described in sub-
5 section (e) for any of the following:

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

9 “(B) To establish and implement the early
10 dispute resolution, mediation, and voluntary
11 binding arbitration processes required by sec-
12 tion 612(a)(18) and 615(e), including providing
13 for the costs of mediators and arbitrators and
14 support personnel.

15 “(C) To assist local educational agencies in
16 meeting personnel shortages.

17 “(D) Activities at the State and local levels
18 to meet the performance goals established by
19 the State under section 612(a)(16) and to sup-
20 port implementation of the State Plan under
21 subpart 1 of part D if the State receives funds
22 under that subpart.

23 “(E) To support paperwork reduction ac-
24 tivities, including expanding the appropriate use

1 of technology in the IEP process under this
2 part.

3 “(F) To develop and maintain a coordi-
4 nated, comprehensive, educational support sys-
5 tem for students in kindergarten through grade
6 12 (with a particular emphasis on students in
7 kindergarten through grade 3) who are not en-
8 rolled in special education but who need addi-
9 tional academic and behavioral support to suc-
10 ceed in a general education environment.

11 “(G) To support capacity building activi-
12 ties and improve the delivery of services by local
13 educational agencies to improve results for chil-
14 dren with disabilities.

15 “(H) To provide technical assistance, or
16 direct services, to local educational agencies
17 identified as being in need of improvement
18 under section 1116 of the Elementary and Sec-
19 ondary Education Act of 1965 as a result of
20 the disaggregated subgroup of students with
21 disabilities.

22 “(3) STATE COST-SHARING.—Each State may
23 retain up to 4 percent of the amount described in
24 subsection (e) to establish and implement cost or
25 risk sharing funds, consortiums, or cooperatives to

1 assist local educational agencies in providing high
2 cost special education and related services.

3 “(4) CONDITION.—A State may use funds it re-
4 tains under this section without regard to the prohi-
5 bition on—

6 “(A) commingling of funds in section
7 612(a)(18)(B); and

8 “(B) supplanting other funds in section
9 612(a)(18)(C).

10 “(5) REPORT ON USE OF FUNDS.—As part of
11 the information required to be submitted to the Sec-
12 retary under section 612, each State shall annually
13 describe how amounts under this subsection—

14 “(A) will be used to meet the requirements
15 of this part; and

16 “(B) will be allocated among the activities
17 described in this section to meet State priorities
18 based on input from local educational agencies.

19 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
20 CIES.—

21 “(1) SUBGRANTS REQUIRED.—Each State that
22 receives a grant under this section for any fiscal
23 year shall distribute any funds it does not retain
24 under subsection (f) (at least 88 percent of the
25 grant funds) to local educational agencies, including

1 public charter schools that operate as local edu-
2 cational agencies, in the State that have established
3 their eligibility under section 613, for use in accord-
4 ance with this part.

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

10 “(A) BASE PAYMENTS.—The State shall
11 first award each agency described in paragraph
12 (1) the amount that agency would have received
13 under this section for fiscal year 1999, if the
14 State had distributed 75 percent of its grant for
15 that year under section 611(d), as then in ef-
16 fect.

17 “(B) ALLOCATION OF REMAINING
18 FUNDS.—After making allocations under sub-
19 paragraph (A), the State shall—

20 “(i) allocate 85 percent of any re-
21 maining funds to those agencies on the
22 basis of the relative numbers of children
23 enrolled in public and private elementary
24 and secondary schools within the agency’s
25 jurisdiction; and

1 “(ii) allocate 15 percent of those re-
2 remaining funds to those agencies in accord-
3 ance with their relative numbers of chil-
4 dren living in poverty, as determined by
5 the State educational agency.

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

19 “(h) DEFINITIONS.—For the purpose of this sec-
20 tion—

21 “(1) the term ‘average per-pupil expenditure in
22 public elementary and secondary schools in the
23 United States’ means—

24 “(A) without regard to the source of
25 funds—

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

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

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

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

20 “(i) USE OF AMOUNTS BY SECRETARY OF THE INTE-
21 RIOR.—

22 “(1) PROVISION OF AMOUNTS FOR ASSIST-
23 ANCE.—

24 “(A) IN GENERAL.—The Secretary of Edu-
25 cation shall provide amounts to the Secretary of

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

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

1 of this part for these children, in accordance
2 with paragraph (2).

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

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

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

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

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

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

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

1 therapeutic measures, and (where appropriate)
2 equipment and medical or personal supplies as
3 needed for a child to remain in school or a pro-
4 gram); and

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

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

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

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

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

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

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

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

17 “(E) ANNUAL REPORT.—To be eligible to
18 receive a grant pursuant to subparagraph (A),
19 the tribe or tribal organization shall provide to
20 the Secretary of the Interior an annual report
21 of activities undertaken under this paragraph,
22 including the number of contracts and coopera-
23 tive agreements entered into, the number of
24 children contacted and receiving services for
25 each year, and the estimated number of chil-

1 dren needing services during the year following
2 the one in which the report is made. The Sec-
3 retary of the Interior shall include a summary
4 of this information on an annual basis in the
5 report to the Secretary of Education required
6 under this subsection. The Secretary of Edu-
7 cation may require any additional information
8 from the Secretary of the Interior.

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

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

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

9 “(5) ESTABLISHMENT OF ADVISORY BOARD.—
10 To meet the requirements of section 612(a)(22), the
11 Secretary of the Interior shall establish, under the
12 BIA, an advisory board composed of individuals in-
13 volved in or concerned with the education and provi-
14 sion of services to Indian infants, toddlers, children,
15 and youth with disabilities, including Indians with
16 disabilities, Indian parents or guardians of such chil-
17 dren, teachers, service providers, State and local
18 educational officials, representatives of tribes or trib-
19 al organizations, representatives from State Inter-
20 agency Coordinating Councils under section 641 in
21 States having reservations, and other members rep-
22 resenting the various divisions and entities of the
23 BIA. The chairperson shall be selected by the Sec-
24 retary of the Interior. The advisory board shall—

1 “(A) assist in the coordination of services
2 within the BIA and with other local, State, and
3 Federal agencies in the provision of education
4 for infants, toddlers, and children with disabili-
5 ties;

6 “(B) advise and assist the Secretary of the
7 Interior in the performance of the Secretary’s
8 responsibilities described in this subsection;

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

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

20 “(E) provide assistance in the preparation
21 of information required under paragraph
22 (2)(D).

23 “(6) ANNUAL REPORTS.—

24 “(A) IN GENERAL.—The advisory board
25 established under paragraph (5) shall prepare

1 and submit to the Secretary of the Interior and
2 to the Congress an annual report containing a
3 description of the activities of the advisory
4 board for the preceding year.

5 “(B) AVAILABILITY.—The Secretary of the
6 Interior shall make available to the Secretary of
7 Education the report described in subparagraph
8 (A).

9 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
10 purpose of carrying out this part, other than section 619,
11 there are authorized to be appropriated—

12 “(1) \$10,301,184,000 for fiscal year 2004;

13 “(2) \$11,957,361,000 for fiscal year 2005;

14 “(3) \$13,879,812,000 for fiscal year 2006;

15 “(4) \$16,111,345,000 for fiscal year 2007;

16 “(5) \$18,701,654,000 for fiscal year 2008;

17 “(6) \$21,708,421,000 for fiscal year 2009;

18 “(7) \$25,198,603,000 for fiscal year 2010; and

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

21 **SEC. 202. STATE ELIGIBILITY.**

22 (a) IN GENERAL.—(1) Section 612(a) of the Individ-
23 uals with Disabilities Education Act (20 U.S.C. 1412(a))
24 is amended in the matter preceding paragraph (1) by

1 striking “demonstrates to the satisfaction of” and insert-
2 ing “provides assurances to”.

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

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

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

14 “(B) LIMITATION.—The obligation to
15 make a free appropriate public education avail-
16 able to all children with disabilities does not
17 apply with respect to children—

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

1 “(ii) aged 18 through 21 to the extent
2 that State law does not require that special
3 education and related services under this
4 part be provided to children with disabili-
5 ties who, in the educational placement
6 prior to their incarceration in an adult cor-
7 rectional facility—

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

11 “(II) did not have an individual-
12 ized education program under this
13 part.

14 “(2) FULL EDUCATIONAL OPPORTUNITY
15 GOAL.—The State has established a goal of pro-
16 viding full educational opportunity to all children
17 with disabilities and a detailed timetable for accom-
18 plishing that goal.

19 “(3) CHILD FIND.—

20 “(A) IN GENERAL.—All children with dis-
21 abilities residing in the State, including children
22 with disabilities attending private schools, re-
23 gardless of the severity of their disabilities, and
24 who are in need of special education and related
25 services, are identified, located, and evaluated

1 and a practical method is developed and imple-
2 mented to determine which children with dis-
3 abilities are currently receiving needed special
4 education and related services.

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

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

18 “(5) LEAST RESTRICTIVE ENVIRONMENT.—
19 “(A) IN GENERAL.—To the maximum ex-
20 tent appropriate, children with disabilities, in-
21 cluding children in public or private institutions
22 or other care facilities, are educated with chil-
23 dren who are not disabled, and special classes,
24 separate schooling, or other removal of children
25 with disabilities from the regular educational

1 environment occurs only when the nature or se-
2 verity of the disability of a child is such that
3 education in regular classes with the use of sup-
4 plementary aids and services cannot be achieved
5 satisfactorily.

6 “(B) ADDITIONAL REQUIREMENT.—

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

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

21 “(6) PROCEDURAL SAFEGUARDS.—

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

1 “(B) ADDITIONAL PROCEDURAL SAFE-
2 GUARDS.—Procedures to ensure that testing
3 and evaluation materials and procedures uti-
4 lized for the purposes of evaluation and place-
5 ment of children with disabilities for services
6 under this Act will be selected and administered
7 so as not to be racially or culturally discrimina-
8 tory. Such materials or procedures shall be pro-
9 vided and administered in the child’s native lan-
10 guage or mode of communication, unless it
11 clearly is not feasible to do so, and no single
12 procedure shall be the sole criterion for deter-
13 mining an appropriate educational program for
14 a child.

15 “(7) EVALUATION.—Children with disabilities
16 are evaluated in accordance with subsections (a)
17 through (c) of section 614.

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

21 “(9) TRANSITION FROM PART C TO PRESCHOOL
22 PROGRAMS.—Children participating in early-inter-
23 vention programs assisted under part C, and who
24 will participate in preschool programs assisted under
25 this part, experience a smooth and effective transi-

1 tion to those preschool programs in a manner con-
2 sistent with section 637(a)(8). By the third birthday
3 of such a child, an individualized education program
4 or, if consistent with section 636(d), an individual-
5 ized family service plan, has been developed and is
6 being implemented for the child. The local edu-
7 cational agency will participate in transition plan-
8 ning conferences arranged by the designated lead
9 agency under section 637(a)(8).

10 “(10) CHILDREN IN PRIVATE SCHOOLS.—

11 “(A) CHILDREN ENROLLED IN PRIVATE
12 SCHOOLS BY THEIR PARENTS.—

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

1 “(I) Amounts expended for the
2 provision of those services by a local
3 educational agency shall be equal to a
4 proportionate amount of Federal
5 funds made available under this part.

6 “(II) In calculating the propor-
7 tionate share of Federal funds, the
8 local educational agency, after timely
9 and meaningful consultation with rep-
10 resentatives of children enrolled in
11 private schools, conducts the child
12 find process to determine the number
13 of children with disabilities attending
14 private schools located in the district.

15 “(III) Such services may be pro-
16 vided to children with disabilities on
17 the premises of private, including pa-
18 rochial, schools, to the extent con-
19 sistent with law.

20 “(IV) Each local educational
21 agency maintains in its records and
22 provides to the State educational
23 agency the number of children evalu-
24 ated under this paragraph and the

1 number of children determined to be
2 children with disabilities.

3 “(ii) CHILD-FIND REQUIREMENT.—

4 The requirements of paragraph (3) of this
5 subsection (relating to child find) shall
6 apply with respect to children with disabili-
7 ties in the State who are enrolled in pri-
8 vate, including parochial, elementary and
9 secondary schools. Such child find process
10 shall be completed in a time period com-
11 parable to that for other students attend-
12 ing public schools in the local educational
13 agency.

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

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

1 applicable law requiring the provision of spe-
2 cial education and related services to all
3 children with disabilities within such State.

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

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

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

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

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

20 “(I) if—

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

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

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

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

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

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

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

9 “(I) shall not be reduced or de-
10 nied for failure to provide such notice
11 if—

12 “(aa) the school prevented
13 the parent from providing such
14 notice; or

15 “(bb) the parents had not
16 received notice, pursuant to sec-
17 tion 615, of the notice require-
18 ment in clause (iii)(I); and

19 “(II) may, in the discretion of a
20 court or a hearing officer, not be re-
21 duced or denied for failure to provide
22 such notice if the parent is illiterate
23 or cannot write in English.

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

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

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

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

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

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

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

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

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

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

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

16 “(14) PERSONNEL STANDARDS.—

17 “(A) IN GENERAL.—The State educational
18 agency has established and maintains standards
19 to ensure that personnel necessary to carry out
20 this part are appropriately and adequately pre-
21 pared and trained.

22 “(B) STANDARDS DESCRIBED.—Such
23 standards shall—

1 “(i) ensure that special education
2 teachers who teach in core academic sub-
3 jects are highly qualified in those subjects;

4 “(ii) be consistent with any State-ap-
5 proved or State-recognized certification, li-
6 censing, registration, or other comparable
7 requirements that apply to the professional
8 discipline in which those personnel are pro-
9 viding special education or related services;
10 and

11 “(iii) allow paraprofessionals and as-
12 sistants who are appropriately trained and
13 supervised, in accordance with State law,
14 regulations, or written policy, in meeting
15 the requirements of this part to be used to
16 assist in the provision of special education
17 and related services to children with dis-
18 abilities under this part.

19 “(15) PERFORMANCE GOALS AND INDICA-
20 TORS.—The State—

21 “(A) has established goals for the perform-
22 ance of children with disabilities in the State
23 that—

24 “(i) promote the purposes of this Act,
25 as stated in section 601(d);

1 “(ii) are the same as the State’s defi-
2 nition of adequate yearly progress, includ-
3 ing the State’s objectives for progress by
4 children with disabilities, under section
5 1111(b)(2)(C) of the Elementary and Sec-
6 ondary Education Act of 1965;

7 “(iii) address dropout rates, as well as
8 such other factors as the State may deter-
9 mine; and

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

13 “(B) has established performance indica-
14 tors the State will use to assess progress toward
15 achieving those goals described in subparagraph
16 (A), including measurable annual objectives for
17 progress by children with disabilities under sec-
18 tion 1111(b)(2)(C) of the Elementary and Sec-
19 ondary Education Act of 1965; and

20 “(C) will annually report to the Secretary
21 and the public on the progress of the State, and
22 of children with disabilities in the State, toward
23 meeting the goals established under subpara-
24 graph (A).

25 “(16) PARTICIPATION IN ASSESSMENTS.—

1 “(A) IN GENERAL.—(i) All children with
2 disabilities are included in all general State and
3 district-wide assessment programs, including
4 assessments described under title I of the Ele-
5 mentary and Secondary Education Act of 1965,
6 with reasonable and appropriate accommoda-
7 tions, where necessary and as indicated in their
8 respective individualized education programs.

9 “(ii) The State (or, in the case of a dis-
10 trict-wide assessment, the local educational
11 agency) has developed and implemented guide-
12 lines for the provision of accommodations de-
13 scribed in clause (i).

14 “(iii) The State (or, in the case of a dis-
15 trict-wide assessment the local educational
16 agency)—

17 “(I) has developed guidelines for the
18 participation of children with disabilities in
19 alternate assessments for those children
20 who cannot participate in regular assess-
21 ments under clause (i); and

22 “(II) conducts those alternate assess-
23 ments.

24 “(B) REPORTS.—The State educational
25 agency (or, in the case of a district-wide assess-

1 ment, the local educational agency) makes
2 available to the public, and reports to the public
3 with the same frequency and in the same detail
4 as it reports on the assessment of nondisabled
5 children, the following:

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

11 “(ii) The number of children with dis-
12 abilities participating in alternate assess-
13 ments.

14 “(iii) The performance of children
15 with disabilities on regular assessments
16 and on alternate assessments (if the num-
17 ber of children with disabilities partici-
18 pating in those assessments is sufficient to
19 yield statistically reliable information and
20 reporting that information would not re-
21 veal personally identifiable information
22 about an individual student), compared
23 with the achievement of all children, in-
24 cluding children with disabilities, on those
25 assessments.

1 “(17) EARLY DISPUTE RESOLUTION.—The
2 State has in effect early dispute resolution processes
3 that are available to parents and local educational
4 agencies in the State, which may include IEP
5 facilitators and training of school personnel in con-
6 flict resolution and parental communication skills,
7 and which shall include mediation and voluntary
8 binding arbitration pursuant to section 615(e).

9 “(18) SUPPLEMENTATION OF STATE, LOCAL,
10 AND OTHER FEDERAL FUNDS.—

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

14 “(B) PROHIBITION AGAINST COMMING-
15 GLING.—Funds paid to a State under this part
16 will not be commingled with State funds.

17 “(C) PROHIBITION AGAINST SUPPLAN-
18 TATION AND CONDITIONS FOR WAIVER BY SEC-
19 RETARY.—Except as provided in section 613,
20 funds paid to a State under this part will be
21 used to supplement the level of Federal, State,
22 and local funds (including funds that are not
23 under the direct control of State or local edu-
24 cational agencies) expended for special edu-
25 cation and related services provided to children

1 with disabilities under this part and in no case
2 to supplant such Federal, State, and local
3 funds, except that, where the State provides
4 clear and convincing evidence that all children
5 with disabilities have available to them a free
6 appropriate public education, the Secretary may
7 waive, in whole or in part, the requirements of
8 this subparagraph if the Secretary concurs with
9 the evidence provided by the State.

10 “(19) MAINTENANCE OF STATE FINANCIAL
11 SUPPORT.—

12 “(A) IN GENERAL.—The State does not re-
13 duce the amount of State financial support for
14 special education and related services for chil-
15 dren with disabilities, or otherwise made avail-
16 able because of the excess costs of educating
17 those children, below the amount of that sup-
18 port for the preceding fiscal year.

19 “(B) REDUCTION OF FUNDS FOR FAILURE
20 TO MAINTAIN SUPPORT.—The Secretary shall
21 reduce the allocation of funds under section 611
22 for any fiscal year following the fiscal year in
23 which the State fails to comply with the re-
24 quirement of subparagraph (A) by the same

1 amount by which the State fails to meet the re-
2 quirement.

3 “(C) WAIVERS FOR EXCEPTIONAL OR UN-
4 CONTROLLABLE CIRCUMSTANCES.—The Sec-
5 retary may waive the requirement of subpara-
6 graph (A) for a State, for one fiscal year at a
7 time, if the Secretary determines that—

8 “(i) granting a waiver would be equi-
9 table due to exceptional or uncontrollable
10 circumstances such as a natural disaster or
11 a precipitous and unforeseen decline in the
12 financial resources of the State; or

13 “(ii) the State meets the standard in
14 paragraph (18)(C) of this section for a
15 waiver of the requirement to supplement,
16 and not to supplant, funds received under
17 this part.

18 “(D) SUBSEQUENT YEARS.—If, for any
19 year, a State fails to meet the requirement of
20 subparagraph (A), including any year for which
21 the State is granted a waiver under subpara-
22 graph (C), the financial support required of the
23 State in future years under subparagraph (A)
24 shall be the amount that would have been re-

1 quired in the absence of that failure and not
2 the reduced level of the State’s support.

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

11 “(21) STATE ADVISORY PANEL.—

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

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

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

1 “(C) SPECIAL RULE.—A majority of the
2 members of the panel shall be individuals with
3 disabilities or parents of children with disabili-
4 ties ages birth through 21.

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

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

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

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

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

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

1 “(22) SUSPENSION AND EXPULSION RATES.—

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

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

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

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

22 (b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
23 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
24 SERVICES.—Section 612(b) of the Individuals with Dis-

1 abilities Education Act (20 U.S.C. 1412(b)) is amended
2 to read as follows:

3 “(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
4 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
5 SERVICES.—If the State educational agency provides free
6 appropriate public education to children with disabilities,
7 or provides direct services to such children, such agency—

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

11 “(2) may use amounts that are otherwise avail-
12 able to such agency under this part to serve those
13 children without regard to section 613(a)(2)(A)(i)
14 (relating to excess costs).”.

15 (c) EXCEPTION FOR PRIOR STATE PLANS.—Section
16 612(c) of the Individuals with Disabilities Education Act
17 (20 U.S.C. 1412(c)) is amended to read as follows:

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

19 “(1) IN GENERAL.—If a State has on file with
20 the Secretary policies and procedures that dem-
21 onstrate that such State meets any requirement of
22 subsection (a), including any policies and procedures
23 filed under this part as in effect before the effective
24 date of the Improving Education Results for Chil-
25 dren With Disabilities Act of 2003, the Secretary

1 shall consider such State to have met such require-
2 ment for purposes of receiving a grant under this
3 part.

4 “(2) MODIFICATIONS MADE BY STATE.—Sub-
5 ject to paragraph (3), an application submitted by a
6 State in accordance with this section shall remain in
7 effect until the State submits to the Secretary such
8 modifications as the State deems necessary. This
9 section shall apply to a modification to an applica-
10 tion to the same extent and in the same manner as
11 this section applies to the original plan.

12 “(3) MODIFICATIONS REQUIRED BY THE SEC-
13 RETARY.—If, after the effective date of the Improv-
14 ing Education Results for Children With Disabilities
15 Act of 2003, the provisions of this Act are amended
16 (or the regulations developed to carry out this Act
17 are amended), or there is a new interpretation of
18 this Act by a Federal court or a State’s highest
19 court, or there is an official finding of noncompli-
20 ance with Federal law or regulations, the Secretary
21 may require a State to modify its application only to
22 the extent necessary to ensure the State’s compli-
23 ance with this part.”.

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

4 “(d) APPROVAL BY THE SECRETARY.—

5 “(1) IN GENERAL.—If the Secretary determines
6 that a State is eligible to receive a grant under this
7 part, the Secretary shall notify the State of that de-
8 termination.

9 “(2) NOTICE AND HEARING.—The Secretary
10 shall not make a final determination that a State is
11 not eligible to receive a grant under this part until
12 after providing the State—

13 “(A) with reasonable notice; and

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

15 (e) ASSISTANCE UNDER OTHER FEDERAL PRO-
16 GRAMS.—Section 612(e) of the Individuals with Disabil-
17 ities Education Act (20 U.S.C. 1412(e)) is amended to
18 read as follows:

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

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

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

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

5 “(a) IN GENERAL.—A local educational agency is eli-
6 gible for assistance under this part for a fiscal year if such
7 agency provides assurances to the State educational agen-
8 cy that it meets each of the following conditions:

9 “(1) CONSISTENCY WITH STATE POLICIES.—

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

15 “(2) USE OF AMOUNTS.—

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

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

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

1 “(iii) shall not be used, except as pro-
2 vided in subparagraphs (B) and (C), to re-
3 duce the level of expenditures for the edu-
4 cation of children with disabilities made by
5 the local educational agency from local
6 funds below the level of those expenditures
7 for the preceding fiscal year.

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

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

15 “(ii) a decrease in the enrollment of
16 children with disabilities;

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

24 “(I) has left the jurisdiction of
25 the agency;

1 “(II) has reached the age at
2 which the obligation of the agency to
3 provide a free appropriate public edu-
4 cation to the child has terminated; or

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

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

11 “(C) TREATMENT OF FEDERAL FUNDS IN
12 CERTAIN FISCAL YEARS.—

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

23 “(ii) If a local educational agency
24 chooses to use the authority under clause
25 (i), then the agency shall use those local

1 funds to provide additional funding for
2 programs under the Elementary and Sec-
3 ondary Education Act of 1965, including,
4 but not limited to, programs that address
5 student achievement, comprehensive school
6 reform, literacy, teacher quality and pro-
7 fessional development, school safety,
8 before- and after- school learning opportu-
9 nities, or related elementary and secondary
10 education programs authorized under Fed-
11 eral or State law.

12 “(iii) Notwithstanding clause (i), if a
13 State educational agency determines that a
14 local educational agency is unable to estab-
15 lish and maintain programs of free appro-
16 priate public education that meet the re-
17 quirements of subsection (a), the State
18 educational agency shall prohibit the local
19 educational agency from treating funds re-
20 ceived under this part as local funds under
21 clause (i) for that fiscal year, only if it is
22 authorized to do so by the State constitu-
23 tion or a State statute.

24 “(D) SCHOOLWIDE PROGRAMS UNDER
25 TITLE I OF THE ESEA.—Notwithstanding sub-

1 paragraph (A) or any other provision of this
2 part, a local educational agency may use funds
3 received under this part for any fiscal year to
4 carry out a schoolwide program under section
5 1114 of the Elementary and Secondary Edu-
6 cation Act of 1965, except that the amount so
7 used in any such program shall not exceed—

8 “(i) the number of children with dis-
9 abilities participating in the schoolwide
10 program; multiplied by

11 “(ii)(I) the amount received by the
12 local educational agency under this part
13 for that fiscal year; divided by

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

16 “(3) PERSONNEL DEVELOPMENT.—The local
17 educational agency shall ensure that all personnel
18 necessary to carry out this part are appropriately
19 and adequately prepared, consistent with the re-
20 quirements of section 612 of this Act and section
21 1119 of the Elementary and Secondary Education
22 Act of 1965.

23 “(4) PERMISSIVE USE OF FUNDS.—Notwith-
24 standing paragraph (2)(A) or section 612(a)(18)(B)
25 (relating to commingled funds), funds provided to

1 the local educational agency under this part may be
2 used for the following activities:

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

12 “(B) PREREFERRAL SERVICES.—To de-
13 velop and implement comprehensive coordinated
14 prereferral education support services in accord-
15 ance with subsection (f).

16 “(C) HIGH COST EDUCATION AND RE-
17 LATED SERVICES.—To establish and implement
18 cost or risk sharing funds, consortiums, or co-
19 operatives for the agency itself, or for local edu-
20 cational agencies working in consortium of
21 which the local education agency is a part, to
22 pay for high cost special education and related
23 services.

24 “(D) CASE MANAGEMENT AND ADMINIS-
25 TRATION.—To purchase appropriate technology

1 for record keeping, data collection, and related
2 case management activities of teachers and re-
3 lated services personnel who are providing serv-
4 ices described in the individualized education
5 program of children with disabilities necessary
6 to the implementation of those case manage-
7 ment activities.

8 “(E) SUPPLEMENTAL EDUCATIONAL SERV-
9 ICES FOR CHILDREN WITH DISABILITIES IN
10 SCHOOLS DESIGNATED FOR IMPROVEMENT.—

11 For the reasonable additional expenses (as de-
12 termined by the local education agency) of any
13 necessary accommodations to allow children
14 with disabilities who are being educated in a
15 school identified for school improvement under
16 section 1116(b) of the Elementary and Sec-
17 ondary Education Act of 1965 (20 U.S.C.
18 6316(b)) to be provided supplemental edu-
19 cational services under section 1116(e) of such
20 Act on an equitable basis.

21 “(5) TREATMENT OF CHARTER SCHOOLS AND
22 THEIR STUDENTS.—In carrying out this part with
23 respect to charter schools that are public schools of
24 the local educational agency, the local educational
25 agency—

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

9 “(B) provides funds under this part to
10 those schools in accordance with the State’s
11 charter law, including distributing proportional
12 funding where allowed.

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

22 “(7) PUBLIC INFORMATION.—The local edu-
23 cational agency shall make available to parents of
24 children with disabilities and to the general public

1 all documents relating to the eligibility of such agen-
2 cy under this part.

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

4 “(1) IN GENERAL.—If a local educational agen-
5 cy or State agency has on file with the State edu-
6 cational agency policies and procedures that dem-
7 onstrate that such local educational agency, or such
8 State agency, as the case may be, meets any require-
9 ment of subsection (a), including any policies and
10 procedures filed under this part as in effect before
11 the effective date of the Improving Education Re-
12 sults for Children With Disabilities Act of 2003, the
13 State educational agency shall consider such local
14 educational agency or State agency, as the case may
15 be, to have met such requirement for purposes of re-
16 ceiving assistance under this part.

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

24 “(3) MODIFICATIONS REQUIRED BY STATE
25 EDUCATIONAL AGENCY.—If, after the date of the en-

1 actment of the Improving Education Results for
2 Children With Disabilities Act of 2003, the provi-
3 sions of this Act are amended (or the regulations de-
4 veloped to carry out this Act are amended), or there
5 is a new interpretation of this Act by Federal or
6 State courts, or there is an official finding of non-
7 compliance with Federal or State law or regulations,
8 the State educational agency may require a local
9 educational agency to modify its application only to
10 the extent necessary to ensure the local educational
11 agency’s compliance with this part or State law.

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

21 “(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

22 “(1) IN GENERAL.—If the State educational
23 agency, after reasonable notice and an opportunity
24 for a hearing, finds that a local educational agency
25 or State agency that has been determined to be eligi-

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

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

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

22 “(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

23 “(1) JOINT ESTABLISHMENT.—

24 “(A) IN GENERAL.—A State educational
25 agency may require a local educational agency

1 to establish its eligibility jointly with another
2 local educational agency if the State educational
3 agency determines that the local educational
4 agency would be ineligible under this section be-
5 cause the local educational agency would not be
6 able to establish and maintain programs of suf-
7 ficient size and scope to effectively meet the
8 needs of children with disabilities.

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

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

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

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

4 “(B) be jointly responsible for imple-
5 menting programs that receive assistance under
6 this part.

7 “(4) REQUIREMENTS FOR EDUCATIONAL SERV-
8 ICE AGENCIES.—

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

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

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

20 “(B) ADDITIONAL REQUIREMENT.—Not-
21 withstanding any other provision of this sub-
22 section, an educational service agency shall pro-
23 vide for the education of children with disabil-
24 ities in the least restrictive environment, as re-
25 quired by section 612(a)(5).

1 “(f) PREREFERRAL SERVICES.—

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

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

19 “(A) Professional development (which may
20 be provided by entities other than local edu-
21 cational agencies) for teachers to enable them
22 to deliver scientifically based academic and be-
23 havioral interventions, including scientifically
24 based literacy instruction.

1 “(B) Providing educational and behavioral
2 evaluations, services, and supports, including
3 scientifically based literacy instruction.

4 “(3) EXCLUSION.—Nothing in this subsection
5 shall be construed to either limit or create a right
6 to a free appropriate public education under this
7 part.

8 “(4) REPORTING.—Each local educational
9 agency that develops and maintains comprehensive
10 coordinated pre referral educational support services
11 under this subsection shall annually report to the
12 State educational agency on—

13 “(A) the number of students served under
14 this subsection; and

15 “(B) the number of students served under
16 this subsection who subsequently receive special
17 education and related services under this Act.

18 “(5) COORDINATION WITH THE ELEMENTARY
19 AND SECONDARY EDUCATION ACT OF 1965.—

20 “(A) IN GENERAL.—Funds made available
21 to carry out this subsection may be used to
22 carry out comprehensive coordinated pre-refer-
23 ral educational support services aligned with ac-
24 tivities funded by, and carried out under, the
25 Elementary and Secondary Education Act of

1 1965, such as Reading First and Early Reading
2 First.

3 “(B) MAINTANENCE OF EFFORT.—Funds
4 used under this section shall be used to supple-
5 ment, and not supplant, funds made available
6 under the Elementary and Secondary Education
7 Act of 1965.

8 “(g) DIRECT SERVICES BY THE STATE EDU-
9 CATIONAL AGENCY.—

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

19 (A) has not provided the information need-
20 ed to establish the eligibility of such agency
21 under this section;

22 (B) is unable to establish and maintain
23 programs of free appropriate public education
24 that meet the requirements of subsection (a);

1 “(C) is unable or unwilling to be consoli-
2 dated with one or more local educational agen-
3 cies in order to establish and maintain such
4 programs; or

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

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

17 “(h) STATE AGENCY ELIGIBILITY.—Any State agen-
18 cy that desires to receive a subgrant for any fiscal year
19 under section 611(g) shall demonstrate to the satisfaction
20 of the State educational agency that—

21 “(1) all children with disabilities who are par-
22 ticipating in programs and projects funded under
23 this part receive a free appropriate public education,
24 and that those children and their parents are pro-

1 vided all the rights and procedural safeguards de-
2 scribed in this part; and

3 “(2) the agency meets such other conditions of
4 this section as the Secretary determines to be appro-
5 priate.

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

1 **SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
2 **INDIVIDUALIZED EDUCATION PROGRAMS,**
3 **AND EDUCATIONAL PLACEMENTS.**

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

6 **“SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
7 **INDIVIDUALIZED EDUCATION PROGRAMS,**
8 **AND EDUCATIONAL PLACEMENTS.**

9 “(a) EVALUATIONS, PARENTAL CONSENT, AND RE-
10 EVALUATIONS.—

11 “(1) INITIAL EVALUATIONS.—

12 “(A) IN GENERAL.—A State educational
13 agency, other State agency, or local educational
14 agency shall conduct a full and individual initial
15 evaluation, in accordance with this paragraph
16 and subsection (b), before the initial provision
17 of special education and related services to a
18 child with a disability under this part.

19 “(B) REQUEST FOR INITIAL EVALUA-
20 TION.—Consistent with subparagraph (D), ei-
21 ther a parent of a child, a State educational
22 agency, other State agency as appropriate, or
23 local educational agency may initiate a request
24 for an initial evaluation to determine if the
25 child is a child with a disability.

1 “(C) PROCEDURES.—Such initial evalua-
2 tion shall consist of procedures—

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

6 “(ii) to determine the educational
7 needs of such child.

8 “(D) PARENTAL CONSENT.—

9 “(i) IN GENERAL.—

10 “(I) CONSENT FOR INITIAL
11 EVALUATION.—The agency proposing
12 to conduct an initial evaluation to de-
13 termine if the child qualifies as a child
14 with a disability as defined in section
15 602(3)(A) or 602(3)(B) shall obtain
16 informed consent from the parent of
17 such child before conducting the eval-
18 uation. Parental consent for evalua-
19 tion shall not be construed as consent
20 for placement for receipt of special
21 education and related services.

22 “(II) CONSENT FOR SERVICES.—
23 An agency that is responsible for
24 making a free appropriate public edu-
25 cation available to a child with a dis-

1 ability under this part shall seek to
2 obtain informed consent from the par-
3 ent of such child before providing spe-
4 cial education and related services to
5 the child.

6 “(ii) ABSENCE OF CONSENT.—

7 “(I) FOR INITIAL EVALUATION.—

8 If the parents of such child do not
9 provide consent for an initial evalua-
10 tion under clause (i)(I), or the parents
11 fail to respond to a request to provide
12 the consent, the local educational
13 agency may pursue the initial evalua-
14 tion of the child through the proce-
15 dures described in section 615, except
16 to the extent inconsistent with State
17 law relating to such parental consent.

18 “(II) FOR SERVICES.—If the par-
19 ents of such child do not provide con-
20 sent for services under clause (i)(II),
21 or the parents fail to respond to a re-
22 quest to provide the consent, the local
23 educational agency shall not provide
24 special education and related services

1 to the child through the procedures
2 described in section 615.

3 “(III) EFFECT ON AGENCY OBLI-
4 GATIONS.—In any case for which
5 there is an absence of consent for an
6 initial evaluation under subclause (I),
7 or for which there is an absence of
8 consent for services under subclause
9 (II)—

10 “(aa) the local educational
11 agency shall not be required to
12 convene an IEP meeting or de-
13 velop an IEP under this section
14 for the child; and

15 “(bb) the local educational
16 agency shall not be considered to
17 be in violation of any require-
18 ment under this part (including
19 the requirement to make avail-
20 able a free appropriate public
21 education to the child) with re-
22 spect to the lack of an initial
23 evaluation of the child, an IEP
24 meeting with respect to the child,

1 or the development of an IEP
2 under this section for the child.

3 “(2) REEVALUATIONS.—

4 “(A) IN GENERAL.—A local educational
5 agency shall ensure that a reevaluation of each
6 child with a disability is conducted in accord-
7 ance with subsections (b) and (c)—

8 “(i) if the local educational agency de-
9 termines that the educational needs, in-
10 cluding improved academic achievement, of
11 the child warrant a reevaluation; or

12 “(ii) if the child’s parent or teacher
13 requests a reevaluation.

14 “(B) LIMITATION.—A reevaluation con-
15 ducted under subparagraph (A) shall occur—

16 “(i) no more than once a year, unless
17 the parent and the local educational agen-
18 cy agree otherwise; and

19 “(ii) at least once every three years,
20 unless the parent and the local educational
21 agency agree that a reevaluation is unnec-
22 essary.

23 “(b) EVALUATION PROCEDURES.—

24 “(1) NOTICE.—The local educational agency
25 shall provide notice to the parent of a child with a

1 disability, in accordance with subsections (b)(3),
2 (b)(4), and (c) of section 615, that describes any
3 evaluation procedures such agency proposes to con-
4 duct.

5 “(2) CONDUCT OF EVALUATION.—In con-
6 ducting the evaluation, the local educational agency
7 shall—

8 “(A) use multiple up-to-date measures and
9 assessments to gather relevant functional, de-
10 velopmental, and academic information, includ-
11 ing information provided by the parent, to as-
12 sist in determining—

13 “(i) whether the child is a child with
14 a disability; and

15 “(ii) the content of the child’s individ-
16 ualized education program, including infor-
17 mation related to enabling the child to be
18 involved in and progress in the general
19 education curriculum or, for preschool chil-
20 dren, to participate in appropriate activi-
21 ties; and

22 “(B) not use any single measure or assess-
23 ment as the sole criterion for determining
24 whether a child is a child with a disability or

1 determining an appropriate educational pro-
2 gram for the child; and

3 “(C) use technically sound instruments
4 that may assess the relative contribution of cog-
5 nitive and behavioral factors, in addition to
6 physical or developmental factors.

7 “(3) ADDITIONAL REQUIREMENTS.—Each local
8 educational agency shall ensure that—

9 “(A) assessments and other evaluation
10 measures used to assess a child under this sec-
11 tion—

12 “(i) are selected and administered so
13 as not to be discriminatory on a racial or
14 cultural basis;

15 “(ii) are provided and administered,
16 to the extent practicable, in the language
17 and form most likely to yield accurate aca-
18 demic and developmental data;

19 “(iii) are used for the designed pur-
20 poses for which the assessments or meas-
21 ures are valid and reliable;

22 “(iv) are administered by trained and
23 knowledgeable personnel; and

1 “(v) are administered in accordance
2 with any instructions provided by the pro-
3 ducer of such tests;

4 “(B) the child is assessed in all areas for
5 which there is a reasonable basis to believe that
6 a disability may exist; and

7 “(C) assessment tools and strategies that
8 provide relevant information that directly as-
9 sists persons in determining the educational
10 needs of the child are provided.

11 “(4) DETERMINATION OF ELIGIBILITY AND
12 EDUCATIONAL NEED.—Upon completion of the ad-
13 ministration of assessments and other evaluation
14 measures used in the initial evaluation—

15 “(A) the determination of whether the
16 child is a child with a disability as defined in
17 section 602(3) and the educational needs of the
18 child shall be made by a team of qualified pro-
19 fessionals and the parent of the child in accord-
20 ance with paragraph (5); and

21 “(B) a copy of the evaluation report and
22 the documentation of determination of eligibility
23 will be given to the parent.

24 “(5) SPECIAL RULE FOR ELIGIBILITY DETER-
25 MINATION.—In making a determination of eligibility

1 under paragraph (4)(A), a child shall not be deter-
2 mined to be a child with a disability if the deter-
3 minant factor for such determination is—

4 “(A) lack of scientifically-based instruction
5 practices and programs that contain the essen-
6 tial components of reading instruction (as that
7 term is defined in section 1208(3) of the Ele-
8 mentary and Secondary Education Act of
9 1965);

10 “(B) lack of instruction in math; or

11 “(C) limited English proficiency.

12 “(6) SPECIFIC LEARNING DISABILITIES.—

13 “(A) IN GENERAL.—Notwithstanding sec-
14 tion 607 of this Act, or any other provision of
15 law, when determining whether a child has a
16 specific learning disability as defined under this
17 Act, the local educational agency shall not be
18 required to take into consideration whether the
19 child has a severe discrepancy between achieve-
20 ment and intellectual ability in oral expression,
21 listening comprehension, written expression,
22 basic reading skill, reading comprehension,
23 mathematical calculation, or mathematical rea-
24 soning.

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

6 “(c) ADDITIONAL REQUIREMENTS FOR EVALUATION
7 AND REEVALUATIONS.—

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

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

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

23 “(i) whether the child is a child with
24 a disability as defined in section 602(3),
25 and the educational needs of the child, or,

1 in case of a reevaluation of a child, wheth-
2 er the child continues to have such a dis-
3 ability and such educational needs;

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

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

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

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

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

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

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

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

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

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

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

9 “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

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

11 “(A) INDIVIDUALIZED EDUCATION PRO-
12 GRAM.—

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

19 “(I) a statement of the child’s
20 present levels of academic achieve-
21 ment and developmental needs, includ-
22 ing—

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

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

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

7 “(II) a statement of measurable
8 annual goals designed to—

9 “(aa) enable the child to be
10 involved in and make progress in
11 the general education curriculum;
12 and

13 “(bb) meet the child’s other
14 educational needs that result
15 from the child’s disability;

16 “(III) a statement of the special
17 education and related services and
18 supplementary aids and services,
19 based on peer-reviewed research, to be
20 provided to the child, or on behalf of
21 the child, and a statement of the pro-
22 gram modifications or supports for
23 school personnel that will be provided
24 for the child—

1 “(aa) to advance appro-
2 priately toward attaining the an-
3 nual goals;

4 “(bb) to be involved in and
5 make progress in the general
6 education curriculum in accord-
7 ance with subclause (I) and to
8 participate in extracurricular and
9 other nonacademic activities; and

10 “(cc) to be educated and
11 participate with other children
12 with disabilities and nondisabled
13 children in the activities de-
14 scribed in this paragraph;

15 “(IV) an explanation of the ex-
16 tent, if any, to which the child will not
17 participate with nondisabled children
18 in the regular class and in the activi-
19 ties described in subclause (III)(cc);

20 “(V)(aa) a statement of any indi-
21 vidual reasonable and appropriate ac-
22 commodations in the administration
23 of State or districtwide assessments of
24 student achievement that are nec-
25 essary to measure the academic

1 achievement of the child consistent
2 with section 612(a)(16)(A)(ii); and

3 “(bb) if the IEP Team deter-
4 mines that the child will not partici-
5 pate in a particular State or district-
6 wide assessment of student achieve-
7 ment (or part of such an assessment),
8 a statement of—

9 “(AA) why that assessment
10 is not appropriate for the child;
11 and

12 “(BB) how the child will be
13 assessed consistent with
14 612(a)(16)(A);

15 “(VI) the projected date for the
16 beginning of the services and modi-
17 fications described in subclause (III),
18 and the anticipated frequency, loca-
19 tion, and duration of those services
20 and modifications;

21 “(VII)(aa) beginning at age 14,
22 and updated annually, a statement of
23 the transition service needs of the
24 child under the applicable components
25 of the child’s IEP that focuses on the

1 child’s courses of study (such as par-
2 ticipation in advanced-placement
3 courses or a vocational education pro-
4 gram);

5 “(bb) beginning at age 16 (or
6 younger, if determined appropriate by
7 the IEP Team), a statement of need-
8 ed transition services for the child, in-
9 cluding, when appropriate, a state-
10 ment of the interagency responsibil-
11 ities or any needed linkages; and

12 “(cc) beginning at least one year
13 before the child reaches the age of
14 majority under State law, a statement
15 that the child has been informed of
16 his or her rights under this title, if
17 any, that will transfer to the child on
18 reaching the age of majority under
19 section 615(m); and

20 “(VIII) a statement of—

21 “(aa) how the child’s
22 progress toward the annual goals
23 described in subclause (II) will be
24 measured; and

1 “(bb) how the child’s par-
2 ents will be regularly informed
3 (by such means as periodic report
4 cards), at least as often as par-
5 ents are informed of their non-
6 disabled children’s progress, of
7 the sufficiency of their child’s
8 progress toward the annual goals
9 described in subclause (II).

10 “(ii) RULE OF CONSTRUCTION.—
11 Nothing in this subparagraph shall be con-
12 strued to require—

13 “(I) that additional information
14 be included in a child’s IEP beyond
15 what is explicitly required in this sub-
16 paragraph; and

17 “(II) the IEP Team to include
18 information under one component of a
19 child’s IEP that is already contained
20 under another component of such
21 IEP.

22 “(B) INDIVIDUALIZED EDUCATION PRO-
23 GRAM TEAM.—The term ‘individualized edu-
24 cation program team’ or ‘IEP Team’ means a
25 group of individuals composed of—

1 “(i) the parents of a child with a dis-
2 ability;

3 “(ii) a regular education teacher of
4 such child (if the child is, or may be, par-
5 ticipating the majority of the day in the
6 regular education environment), but such
7 teacher shall not be required to attend a
8 meeting or part of a meeting of the IEP
9 Team involving issues not related to the
10 child’s participation in the regular edu-
11 cation environment, nor shall multiple reg-
12 ular education teachers, if the child has
13 more than one regular education teacher,
14 be required to attend a meeting, or part of
15 a meeting, of the IEP team;

16 “(iii) at least one special education
17 teacher, or where appropriate, at least one
18 special education provider of such child;

19 “(iv) a representative of the local edu-
20 cational agency who—

21 “(I) is qualified to provide, or su-
22 pervise the provision of, specially de-
23 signed instruction to meet the unique
24 needs of children with disabilities;

1 “(II) is knowledgeable about the
2 general education curriculum; and

3 “(III) is knowledgeable about the
4 availability of resources of the local
5 educational agency;

6 “(v) an individual who can interpret
7 the instructional implications of evaluation
8 results, who may be a member of the team
9 described in clauses (ii) through (vi);

10 “(vi) at the discretion of the parent or
11 the agency, other individuals who have
12 knowledge or special expertise regarding
13 the child, including related services per-
14 sonnel as appropriate; and

15 “(vii) whenever appropriate, the child
16 with a disability.

17 “(2) REQUIREMENT THAT PROGRAM BE IN EF-
18 FECT.—

19 “(A) IN GENERAL.—At the beginning of
20 each school year, each local educational agency,
21 State educational agency, or other State agen-
22 cy, as the case may be, shall have in effect, for
23 each child with a disability in its jurisdiction,
24 an individualized education program, as defined
25 in paragraph (1)(A).

1 “(B) PROGRAM FOR CHILD AGED 3
2 THROUGH 5.—In the case of a child with a dis-
3 ability aged 3 through 5 (or, at the discretion
4 of the State educational agency, a 2 year-old
5 child with a disability who will turn age 3 dur-
6 ing the school year), an individualized family
7 service plan that contains the material de-
8 scribed in section 636, and that is developed in
9 accordance with this section, may serve as the
10 IEP of the child if using that plan as the IEP
11 is—

12 “(i) consistent with State policy; and

13 “(ii) agreed to by the agency and the
14 child’s parents.

15 “(3) DEVELOPMENT OF IEP.—

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

19 “(i) the results of the initial evalua-
20 tion or most recent evaluation of the child;

21 “(ii) the academic and developmental
22 needs of the child;

23 “(iii) the strengths of the child; and

24 “(iv) the concerns of the parents for
25 enhancing the education of their child.

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

3 “(i) in the case of a child whose be-
4 havior impedes his or her learning or that
5 of others, consider the use of positive be-
6 havioral interventions and supports, and
7 other strategies, to address that behavior;

8 “(ii) in the case of a child with limited
9 English proficiency, consider the language
10 needs of the child as such needs relate to
11 the child’s IEP;

12 “(iii) in the case of a child who is
13 blind or visually impaired, provide for in-
14 struction in Braille and the use of Braille
15 unless the IEP Team determines, after an
16 evaluation of the child’s reading and writ-
17 ing skills, needs, and appropriate reading
18 and writing media (including an evaluation
19 of the child’s future needs for instruction
20 in Braille or the use of Braille), that in-
21 struction in Braille or the use of Braille is
22 not appropriate for the child;

23 “(iv) consider the communication
24 needs of the child, and in the case of a
25 child who is deaf or hard of hearing, con-

1 sider the child’s language and communica-
2 tion needs, opportunities for direct commu-
3 nications with peers and professional per-
4 sonnel in the child’s language and commu-
5 nication mode, academic level, and full
6 range of needs, including opportunities for
7 direct instruction in the child’s language
8 and communication mode; and

9 “(v) consider whether the child re-
10 quires assistive technology devices and
11 services.

12 “(C) REQUIREMENT WITH RESPECT TO
13 REGULAR EDUCATION TEACHER.—The regular
14 education teacher of the child, if a member of
15 the IEP Team pursuant to paragraph
16 (1)(B)(ii), shall, to the extent appropriate, par-
17 ticipate in the development of the IEP of the
18 child, including the determination of appro-
19 priate positive behavioral interventions and sup-
20 ports, and other strategies and the determina-
21 tion of supplementary aids and services, pro-
22 gram modifications, and support for school per-
23 sonnel consistent with paragraph (1)(A)(i)(III).

24 “(D) IEP TEAM ATTENDANCE.—The par-
25 ent of a child with a disability and the local

1 educational agency may jointly excuse any
2 member of the IEP Team from attending all or
3 part of an IEP meeting if they agree that the
4 member's attendance is not necessary. The IEP
5 Team may obtain the member's input prior to
6 an IEP meeting from which the member is ex-
7 cused.

8 “(E) AGREEMENT ON MEETING.—In mak-
9 ing changes to a child's IEP after the annual
10 IEP meeting, the parent of a child with a dis-
11 ability and the local educational agency may
12 agree not to reconvene the IEP team and in-
13 stead develop a written document to amend or
14 modify the child's current IEP.

15 “(F) CONSOLIDATION OF IEP TEAM MEET-
16 INGS.—To the extent possible, the local edu-
17 cational agency shall encourage the consolida-
18 tion of IEP Team meetings for a child.

19 “(G) AMENDMENTS.—Changes to the IEP
20 may be made either by the entire IEP Team or,
21 as provided in subparagraph (E), by amending
22 the IEP rather than by redrafting the entire
23 IEP.

24 “(4) REVIEW AND REVISION OF IEP.—

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

4 “(i) reviews the child’s IEP periodi-
5 cally, but not less than annually, to deter-
6 mine whether the annual goals for the
7 child are being achieved; and

8 “(ii) revises the IEP as appropriate to
9 address—

10 “(I) any lack of expected
11 progress toward the annual goals and
12 in the general education curriculum,
13 where appropriate;

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

16 “(III) information about the
17 child provided to, or by, the parents,
18 as described in subsection (c)(1)(B);

19 “(IV) the child’s anticipated
20 needs; or

21 “(V) other matters.

22 “(B) REQUIREMENT WITH RESPECT TO
23 REGULAR EDUCATION TEACHER.—The regular
24 education teacher of the child, if a member of
25 the IEP Team, shall, consistent with section

1 614(d)(1)(B)(ii), participate in the review and
2 revision of the IEP of the child.

3 “(5) MULTI-YEAR IEP.—

4 “(A) DEVELOPMENT.—The local edu-
5 cational agency may offer to the parent of a
6 child with a disability the option of developing
7 a comprehensive multi-year IEP, not to exceed
8 3 years, that is designed to cover the natural
9 transition points for the child. With the consent
10 of the parent, the IEP Team shall develop an
11 IEP, as described in paragraphs (1) and (3),
12 that is designed to serve the child for the ap-
13 propriate multi-year period, which includes a
14 statement of—

15 “(i) measurable goals pursuant to
16 paragraph (1)(A)(i)(II), coinciding with
17 natural transition points for the child, that
18 will enable the child to be involved in and
19 make progress in the general education
20 curriculum and that will meet the child’s
21 other needs that result from the child’s
22 disability; and

23 “(ii) measurable annual goals for de-
24 termining progress toward meeting the
25 goals described in clause (i).

1 “(B) REVIEW AND REVISION OF MULTI-
2 YEAR IEP.—

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

7 “(ii) STREAMLINED ANNUAL REVIEW
8 PROCESS.—In years other than a child’s
9 natural transition points, the local edu-
10 cational agency shall ensure that the IEP
11 Team—

12 “(I) provides an annual review of
13 the child’s IEP to determine the
14 child’s current levels of progress and
15 determine whether the annual goals
16 for the child are being achieved; and

17 “(II) amends the IEP, as appro-
18 priate, to enable the child to continue
19 to meet the measurable goals set out
20 in the IEP.

21 “(iii) COMPREHENSIVE REVIEW PROC-
22 ESS.—If the IEP Team determines, on the
23 basis of the review under clause (i), that
24 the child is not making sufficient progress
25 toward the goals described in subpara-

1 graph (A), the local educational agency
2 shall ensure that the IEP Team reviews
3 the IEP under paragraph (4), within 30
4 calendar days.

5 “(iv) PARENTAL PREFERENCE.—At
6 the request of the parent, the IEP Team
7 shall conduct a review under paragraph (4)
8 of the child’s multi-year IEP rather than a
9 streamlined annual review under clause
10 (ii).

11 “(C) DEFINITION.—As used in this para-
12 graph, the term ‘natural transition points’
13 means those periods that are close in time to
14 the transition of a child with a disability from
15 preschool to elementary grades, from elemen-
16 tary grades to middle or junior high school
17 grades, from middle or junior high school
18 grades to high school grades, and from high
19 school grades to post-secondary activities, but
20 in no case longer than three years.

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

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

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

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

10 “(i) The requirements contained in
11 section 612(a)(16) and paragraph
12 (1)(A)(i)(V) of this subsection (relating to
13 participation of children with disabilities in
14 general assessments).

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

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

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

7 “(e) EDUCATIONAL PLACEMENTS.—Each local edu-
8 cational agency or State educational agency shall ensure
9 that the parents of each child with a disability are mem-
10 bers of any group that makes decisions on the educational
11 placement of their child.

12 “(f) ALTERNATIVE MEANS OF MEETING PARTICIPA-
13 TION.—When conducting IEP team meetings and place-
14 ment meetings pursuant to this section and 615, the par-
15 ent of a child with a disability and a local educational
16 agency may agree to use alternative means of meeting par-
17 ticipation, such as video conferences and conference
18 calls.”.

19 **SEC. 205. PROCEDURAL SAFEGUARDS.**

20 (a) ESTABLISHMENT OF PROCEDURES.—Section
21 615(a) of the Individuals with Disabilities Education Act
22 (20 U.S.C. 1415(a)) is amended to read as follows:

23 “(a) ESTABLISHMENT OF PROCEDURES.—Any State
24 educational agency, State agency, or local educational
25 agency that receives assistance under this part shall estab-

1 lish and maintain procedures in accordance with this sec-
2 tion to ensure that children with disabilities and their par-
3 ents are guaranteed procedural safeguards with respect to
4 the provision of free appropriate public education by such
5 agencies.”.

6 (b) TYPES OF PROCEDURES.—Section 615(b) of the
7 Individuals with Disabilities Education Act (20 U.S.C.
8 1415(b)) is amended to read as follows:

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

11 “(1) an opportunity for the parents of a child
12 with a disability to examine all records relating to
13 such child and to participate in meetings with re-
14 spect to the identification, evaluation, and edu-
15 cational placement of the child, and the provision of
16 a free appropriate public education to such child,
17 and to obtain an independent educational evaluation
18 of the child;

19 “(2) procedures to protect the rights of the
20 child whenever the parents of the child are not
21 known, the agency cannot, after reasonable efforts,
22 locate the parents, or the child is a ward of the
23 State, including the assignment of an individual
24 (who shall not be an employee of the State edu-
25 cational agency, the local educational agency, or any

1 other agency that is involved in the education or
2 care of the child) to act as a surrogate for the par-
3 ents;

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

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

7 “(B) refuses to initiate or change;

8 the identification, evaluation, or educational place-
9 ment of the child, in accordance with subsection (c),
10 or the provision of a free appropriate public edu-
11 cation to the child;

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

16 “(5) an opportunity for mediation and vol-
17 untary binding arbitration, in accordance with sub-
18 section (e);

19 “(6) an opportunity to present complaints—

20 “(A) with respect to any matter relating to
21 the identification, evaluation, or educational
22 placement of the child, or the provision of a free
23 appropriate public education to such child; and

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

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

8 “(i) to the local educational agency or
9 State educational agency (if the State edu-
10 cational agency is the direct provider of services
11 pursuant to section 613(g)), in the complaint
12 filed under paragraph (6); and

13 “(ii) that shall include—

14 “(I) the name of the child, the ad-
15 dress of the residence of the child, and the
16 name of the school the child is attending;

17 “(II) a description of the specific
18 issues regarding the nature of the problem
19 of the child relating to such proposed initi-
20 ation or change, including facts relating to
21 such problem; and

22 “(III) a proposed resolution of the
23 problem to the extent known and available
24 to the parents at the time;

1 “(B) a requirement that a parent of a child
2 with a disability may not have a due process hearing
3 until the parent, or the attorney representing the
4 child, files a notice that meets the requirements of
5 this paragraph; and

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

10 (c) CONTENT OF PRIOR WRITTEN NOTICE.—Section
11 615(c) of the Individuals with Disabilities Education Act
12 (20 U.S.C. 1415(c)) is amended to read as follows:

13 “(c) CONTENT OF PRIOR WRITTEN NOTICE.—

14 “(1) CONTENT.—The notice required by sub-
15 section (b)(3) shall include—

16 “(A) a description of the action proposed
17 or refused by the agency;

18 “(B) an explanation of why the agency
19 proposes or refuses to take the action and a de-
20 scription of each evaluation procedure, test,
21 record, or report the agency used as a basis for
22 the proposed or refused action;

23 “(C) a statement that the parents of a
24 child with a disability have protection under the
25 procedural safeguards of this part and, if this

1 notice is not an initial referral for evaluation,
2 the means by which a copy of a description of
3 the procedural safeguards can be obtained; and

4 “(D) sources for parents to contact to ob-
5 tain assistance in understanding the provisions
6 of this part.

7 “(2) RULE OF CONSTRUCTION.—The failure to
8 provide notice under subsection (b)(3) shall not, in
9 and of itself, result in a finding by a hearing officer
10 at a due process hearing conducted pursuant to sub-
11 section (f), that the local educational agency’s pro-
12 posed action was not appropriate.”.

13 (d) PROCEDURAL SAFEGUARDS NOTICE.—Section
14 615(d) of the Individuals with Disabilities Education Act
15 (20 U.S.C. 1415(d)) is amended to read as follows:

16 “(d) PROCEDURAL SAFEGUARDS NOTICE.—

17 “(1) IN GENERAL.—A copy of the procedural
18 safeguards available to the parents of a child with
19 a disability shall be given to the parents, at a min-
20 imum—

21 “(A) upon initial referral or parental re-
22 quest for evaluation;

23 “(B) annually, at the beginning of the
24 school year; and

25 “(C) upon written request by a parent.

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

8 “(A) independent educational evaluation;

9 “(B) prior written notice;

10 “(C) parental consent;

11 “(D) access to educational records;

12 “(E) opportunity to present complaints;

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

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

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

21 “(I) mediation, early dispute resolution,
22 and voluntary binding arbitration;

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

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

3 “(L) civil actions; and

4 “(M) attorneys’ fees.”.

5 (e) MEDIATION AND VOLUNTARY BINDING ARBITRA-
6 TION.—Section 615(e) of the Individuals with Disabilities
7 Education Act (20 U.S.C. 1415(e)) is amended to read
8 as follows:

9 “(e) MEDIATION AND VOLUNTARY BINDING ARBI-
10 TRATION.—

11 “(1) MEDIATION.—

12 “(A) IN GENERAL.—Any State educational
13 agency or local educational agency that receives
14 assistance under this part shall ensure that pro-
15 cedures are established and implemented to
16 allow parties to disputes involving any matter,
17 including matters arising prior to the filing of
18 a complaint pursuant to subsection (b)(6), to
19 resolve such disputes through a mediation pro-
20 cess.

21 “(B) REQUIREMENTS.—Such procedures
22 shall meet the following requirements:

23 “(i) The procedures shall ensure that
24 the mediation process—

1 “(I) is voluntary on the part of
2 the parties;

3 “(II) is not used to deny or delay
4 a parent’s right to a due process hear-
5 ing under subsection (f), or to deny
6 any other rights afforded under this
7 part; and

8 “(III) is conducted by a qualified
9 and impartial mediator who is trained
10 in effective mediation techniques.

11 “(ii) A local educational agency or a
12 State agency may establish procedures to
13 offer to parents who choose not to use the
14 mediation process, an opportunity to meet,
15 at a time and location convenient to the
16 parents, with a disinterested party who is
17 under contract with—

18 “(I) a parent and community
19 training and information center in the
20 State established under section 671;
21 or

22 “(II) an appropriate alternative
23 dispute resolution entity;

1 to encourage the use, and explain the bene-
2 fits, of the mediation process to the par-
3 ents.

4 “(iii) The State shall maintain a list
5 of individuals who are qualified mediators
6 and knowledgeable in laws and regulations
7 relating to the provision of special edu-
8 cation and related services.

9 “(iv) The State shall bear the cost of
10 the mediation process, including the costs
11 of meetings described in clause (ii).

12 “(v) Each session in the mediation
13 process shall be scheduled in a timely man-
14 ner and shall be held in a location that is
15 convenient to the parties to the dispute.

16 “(vi) An agreement reached by the
17 parties to the dispute in the mediation
18 process shall be set forth in a written me-
19 diation agreement.

20 “(vii) Discussions that occur during
21 the mediation process shall be confidential
22 and may not be used as evidence in any
23 subsequent due process hearings or civil
24 proceedings and the parties to the medi-
25 ation process may be required to sign a

1 confidentiality pledge prior to the com-
2 mencement of such process.

3 “(2) VOLUNTARY BINDING ARBITRATION.—

4 “(A) IN GENERAL.—A State educational
5 agency that receives assistance under this part
6 shall ensure that procedures are established and
7 implemented to allow parties to disputes involv-
8 ing any matter described in subsection (b)(6) to
9 resolve such disputes through voluntary binding
10 arbitration, which shall be available when a
11 hearing is requested under subsection (f) or (k).

12 “(B) REQUIREMENTS.—Such procedures
13 shall meet the following requirements:

14 “(i) The procedures shall ensure that
15 the voluntary binding arbitration process—

16 “(I) is voluntarily and knowingly
17 agreed to in writing by the parties;
18 and

19 “(II) is conducted by a qualified
20 and impartial arbitrator.

21 “(ii) A local educational agency or a
22 State agency shall ensure that parents who
23 choose to use voluntary binding arbitration
24 understand that the process is in lieu of a
25 due process hearing under subsection (f) or

1 (k) and that the decision made by the arbi-
2 trator is final, unless there is fraud by a
3 party or the arbitrator or misconduct on
4 the part of the arbitrator.

5 “(iii) The parties shall jointly agree to
6 use an arbitrator from a list that the State
7 shall maintain of individuals who are quali-
8 fied arbitrators and knowledgeable in laws
9 and regulations relating to the provision of
10 special education and related services.

11 “(iv) The arbitration shall be con-
12 ducted according to State law on arbitra-
13 tion or, if no such applicable State law,
14 consistent with the Revised Uniform Arbi-
15 tration Act.

16 “(v) The voluntary binding arbitration
17 shall be scheduled in a timely manner and
18 shall be held in a location that is conven-
19 ient to the parties to the dispute.”.

20 (f) IMPARTIAL DUE PROCESS HEARING.—Section
21 615(f) of the Individuals with Disabilities Education Act
22 (20 U.S.C. 1415(f)) is amended to read as follows:

23 “(f) IMPARTIAL DUE PROCESS HEARING.—

24 “(1) IN GENERAL.—

1 “(A) ACCESS TO HEARING.—Whenever a
2 complaint has been received under subsection
3 (b)(6) or (k) of this section, the parents or the
4 local educational agency involved in such com-
5 plaint shall have an opportunity for an impar-
6 tial due process hearing, which shall be con-
7 ducted by the State educational agency.

8 “(B) RESOLUTION SESSION.—

9 “(i) IN GENERAL.—Prior to the op-
10 portunity for an impartial due process
11 hearing under subparagraph (A), the local
12 educational agency shall convene a meeting
13 with the parents and a team of qualified
14 professionals consisting of individuals list-
15 ed in section 614(d)(1)(B)—

16 “(I) within 15 days of receiving
17 notice of the parents’ complaint; and

18 “(II) where the parents of the
19 child discuss their complaint, and the
20 specific issues that form the basis of
21 the complaint, and the local edu-
22 cational agency is provided the oppor-
23 tunity to resolve the complaint;

1 unless the parents and the local edu-
2 cational agency agree in writing to waive
3 such meeting.

4 “(ii) DUE PROCESS HEARING.—If the
5 local educational agency has not resolved
6 the complaint to the satisfaction of the
7 parents within 30 days of the receipt of
8 the complaint, the due process hearing
9 shall occur.

10 “(iii) DEFINITION OF MEETING.—A
11 meeting conducted pursuant to clause (i)
12 shall not be considered—

13 “(I) a meeting convened as a re-
14 sult of an administrative hearing or
15 judicial action; or

16 “(II) an administrative hearing
17 or judicial action for purposes of sub-
18 section (h)(3).

19 “(2) DISCLOSURE OF EVALUATIONS AND REC-
20 OMMENDATIONS.—

21 “(A) IN GENERAL.—At least 5 business
22 days prior to a hearing conducted pursuant to
23 paragraph (1), each party shall disclose to all
24 other parties all evaluations completed by that
25 date and recommendations based on the offer-

1 ing party's evaluations that the party intends to
2 use at the hearing.

3 “(B) FAILURE TO DISCLOSE.—A hearing
4 officer may bar any party that fails to comply
5 with subparagraph (A) from introducing the
6 relevant evaluation or recommendation at the
7 hearing without the consent of the other party.

8 “(3) LIMITATION ON HEARING.—

9 “(A) HEARING OFFICER.—A hearing con-
10 ducted pursuant to paragraph (1)(A) may not
11 be conducted by—

12 “(i) an employee of the State educational
13 agency involved in the education or care of the
14 child; or

15 “(ii) any person having a personal or pro-
16 fessional interest that would conflict with his or
17 her objectivity in the hearing.

18 “(B) SUBJECT MATTER OF HEARING.—
19 The parents of the child shall not be allowed to
20 raise issues at the due process hearing that
21 were not raised in the complaint or discussed
22 during the meeting conducted pursuant to sub-
23 paragraph (1)(B), unless the local educational
24 agency agrees otherwise.

1 “(C) DECISION OF HEARING OFFICER.—A
2 decision made by a hearing officer must be
3 based on a determination of whether or not the
4 child received a free appropriate public edu-
5 cation.”.

6 (g) APPEAL.—Section 615 of the Individuals with
7 Disabilities Education Act (20 U.S.C. 1415) is amended
8 by striking subsection (g).

9 (h) SAFEGUARDS.—Section 615 of the Individuals
10 with Disabilities Education Act (20 U.S.C. 1415) is
11 amended—

12 (1) by redesignating subsection (h) as sub-
13 section (g); and

14 (2) by amending subsection (g) (as redesign-
15 ated) to read as follows:

16 “(g) SAFEGUARDS.—Any party to a hearing con-
17 ducted pursuant to subsection (f) or (j) shall be ac-
18 corded—

19 “(1) the right to be represented by counsel and
20 by non-attorney advocates and to be accompanied
21 and advised by individuals with special knowledge or
22 training with respect to the problems of children
23 with disabilities;

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

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

7 “(4) the right to written, or, at the option of
8 the parents, electronic findings of fact and decisions
9 (which findings and decisions shall be made available
10 to the public consistent with the requirements of sec-
11 tion 617(c)) (relating to the confidentiality of data,
12 information, and records).”.

13 (i) ADMINISTRATIVE PROCEDURES.—Section 615 of
14 the Individuals with Disabilities Education Act (20 U.S.C.
15 1415) is amended by redesignating subsection (i) as sub-
16 section (h).

17 (j) MAINTENANCE OF CURRENT EDUCATIONAL
18 PLACEMENT.—Section 615 of the Individuals with Dis-
19 abilities Education Act (20 U.S.C. 1415) is amended—

20 (1) by redesignating subsection (j) as sub-
21 section (i); and

22 (2) by amending subsection (i) (as redesign-
23 ated) to read as follows:

24 “(i) MAINTENANCE OF CURRENT EDUCATIONAL
25 PLACEMENT.—Except as provided in subsection (j)(4),

1 during the pendency of any proceedings conducted pursu-
2 ant to this section, unless the State or local educational
3 agency and the parents otherwise agree, the child shall
4 remain in the then-current educational placement of such
5 child, or, if applying for initial admission to a public
6 school, shall, with the consent of the parents, be placed
7 in the public school program until all such proceedings
8 have been completed.”.

9 (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL
10 SETTING.—Section 615 of the Individuals with Disabil-
11 ities Education Act (20 U.S.C. 1415) is amended—

12 (1) by redesignating subsection (k) as sub-
13 section (j); and

14 (2) by amending subsection (j) (as redesign-
15 nated) to read as follows:

16 “(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL
17 SETTING.—

18 “(1) AUTHORITY OF SCHOOL PERSONNEL.—

19 “(A) IN GENERAL.—School personnel
20 under this section may order a change in the
21 placement of a child with a disability who vio-
22 lates a code of student conduct policy to an ap-
23 propriate interim alternative educational set-
24 ting, another setting, or suspension, for not
25 more than 10 school days (to the extent such

1 alternatives would be applied to children with-
2 out disabilities).

3 “(B) ADDITIONAL AUTHORITY.—Subject
4 to subparagraph (C), and notwithstanding any
5 other provision of this Act, school personnel
6 under this section may order a change in the
7 placement of a child with a disability who vio-
8 lates a code of student conduct policy to an ap-
9 propriate interim alternative educational setting
10 selected so as to enable the child to continue to
11 participate in the general education curriculum,
12 although in another setting, and to progress to-
13 ward meeting the goals set out in the child’s
14 IEP, for not more than 45 school days (to the
15 extent such alternative and such duration would
16 be applied to children without disabilities), ex-
17 cept that the change in placement may last be-
18 yond 45 school days if required by State law or
19 regulation for the violation in question, to en-
20 sure the safety and appropriate educational at-
21 mosphere in the schools under the jurisdiction
22 of the local educational agency.

23 “(C) SERVICES.—A child with a disability
24 who is removed from the child’s current place-
25 ment under subparagraph (B) shall—

1 “(i) continue to receive educational
2 services selected so as to enable the child
3 to continue to participate in the general
4 education curriculum, although in another
5 setting, and to progress toward meeting
6 the goals set out in the child’s IEP; and

7 “(ii) continue to receive behavioral
8 intervention services designed to address
9 the behavior violation so that it does not
10 recur.

11 “(2) DETERMINATION OF SETTING.—The alter-
12 native educational setting described in paragraph
13 (1)(B) shall be determined by the IEP Team.

14 “(3) PARENT APPEAL.—

15 “(A) IN GENERAL.—If the parent of a
16 child with a disability disagrees with any deci-
17 sion regarding placement under this section, the
18 parent may request a hearing.

19 “(B) HEARING.—The State or local edu-
20 cational agency shall arrange for a hearing in
21 any case described in this subsection when re-
22 quested by a parent.

23 “(4) PLACEMENT DURING APPEALS.—When a
24 parent requests a hearing regarding a disciplinary
25 action described in paragraph (1)(B) to challenge

1 the interim alternative educational setting or the vio-
2 lation of the code of student conduct policy, the child
3 shall remain in the interim alternative educational
4 setting pending the decision of the hearing officer or
5 until the expiration of the time period provided for
6 in paragraph (1)(B), whichever occurs first, unless
7 the parent and the State or local educational agency
8 agree otherwise.

9 “(5) PROTECTIONS FOR CHILDREN NOT YET
10 ELIGIBLE FOR SPECIAL EDUCATION AND RELATED
11 SERVICES.—

12 “(A) IN GENERAL.—A child who has not
13 been determined to be eligible for special edu-
14 cation and related services under this part and
15 who has engaged in behavior that violates a
16 code of student conduct policy, may assert any
17 of the protections provided for in this part if
18 the local educational agency had knowledge (as
19 determined in accordance with this paragraph)
20 that the child was a child with a disability be-
21 fore the behavior that precipitated the discipli-
22 nary action occurred.

23 “(B) BASIS OF KNOWLEDGE.—A local edu-
24 cational agency shall be deemed to have knowl-
25 edge that a child is a child with a disability if,

1 before the behavior that precipitated the dis-
2 ciplinary action occurred—

3 “(i) the parent of the child has ex-
4 pressed concern in writing (unless the par-
5 ent is illiterate or has a disability that pre-
6 vents compliance with the requirements
7 contained in this clause) to personnel of
8 the appropriate educational agency that
9 the child is in need of special education
10 and related services;

11 “(ii) the parent of the child has re-
12 quested an evaluation of the child pursuant
13 to section 614; or

14 “(iii) the teacher of the child, or other
15 personnel of the local educational agency,
16 has expressed concern in writing about the
17 behavior or performance of the child to the
18 director of special education of such agen-
19 cy or to other personnel of the agency.

20 “(C) CONDITIONS THAT APPLY IF NO
21 BASIS OF KNOWLEDGE.—

22 “(i) IN GENERAL.—If a local edu-
23 cational agency does not have knowledge
24 that a child is a child with a disability (in
25 accordance with subparagraph (B)) prior

1 to taking disciplinary measures against the
2 child, the child may be subjected to dis-
3 ciplinary measures applied to children
4 without disabilities who engaged in com-
5 parable behaviors consistent with clause
6 (ii).

7 “(ii) LIMITATIONS.—If a request is
8 made for an evaluation of a child during
9 the time period in which the child is sub-
10 jected to disciplinary measures under para-
11 graph (1) or (2), the evaluation shall be
12 conducted in an expedited manner. If the
13 child is determined to be a child with a dis-
14 ability, taking into consideration informa-
15 tion from the evaluation conducted by the
16 agency and information provided by the
17 parents, the agency shall provide special
18 education and related services in accord-
19 ance with this part, except that, pending
20 the results of the evaluation, the child shall
21 remain in the educational placement deter-
22 mined by school authorities.

23 “(6) REFERRAL TO AND ACTION BY LAW EN-
24 FORCEMENT AND JUDICIAL AUTHORITIES.—

1 “(A) IN GENERAL.—Nothing in this part
2 shall be construed to prohibit an agency from
3 reporting a crime committed by a child with a
4 disability to appropriate authorities or to pre-
5 vent State law enforcement and judicial au-
6 thorities from exercising their responsibilities
7 with regard to the application of Federal and
8 State law to crimes committed by a child with
9 a disability.

10 “(B) TRANSMISSION OF RECORDS.—An
11 agency reporting a crime committed by a child
12 with a disability shall ensure that copies of the
13 special education and disciplinary records of the
14 child are transmitted for consideration by the
15 appropriate authorities to whom it reports the
16 crime.”.

17 (l) RULE OF CONSTRUCTION.—Section 615 of the In-
18 dividuals with Disabilities Education Act (20 U.S.C.
19 1415) is amended by redesignating subsection (l) as sub-
20 section (k).

21 (m) RULE OF CONSTRUCTION.—Section 615 of the
22 Individuals with Disabilities Education Act (20 U.S.C.
23 1415) is amended—

24 (1) by redesignating subsection (m) as sub-
25 section (l); and

1 (2) by amending subsection (1) (as redesignated) to read as follows:

2 “(1) TRANSFER OF PARENTAL RIGHTS AT AGE OF
3 MAJORITY.—

4 “(1) IN GENERAL.—A State that receives
5 amounts from a grant under this part may provide
6 that, when a child with a disability reaches the age
7 of majority under State law (except for a child with
8 a disability who has been determined to be incompetent under State law)—

9 “(A) the public agency shall provide any
10 notice required by this section to both the individual and the parents;

11 “(B) all other rights accorded to parents
12 under this part transfer to the child;

13 “(C) the agency shall notify the individual
14 and the parents of the transfer of rights; and

15 “(D) all rights accorded to parents under
16 this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or
17 local correctional institution.

18 “(2) SPECIAL RULE.—If, under State law, a
19 child with a disability who has reached the age of
20 majority under State law, who has not been determined to be incompetent, but who is determined not
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1 to have the ability to provide informed consent with
2 respect to the educational program of the child, the
3 State shall establish procedures for appointing the
4 parent of the child, or if the parent is not available,
5 another appropriate individual, to represent the edu-
6 cational interests of the child throughout the period
7 of eligibility of the child under this part.”.

8 **SEC. 206. ADMINISTRATION.**

9 Section 617 of the Individuals with Disabilities Edu-
10 cation Act (20 U.S.C. 1417) is amended to read as follows:

11 **“SEC. 617. ADMINISTRATION.**

12 “(a) RESPONSIBILITIES OF SECRETARY.—In car-
13 rying out this part, the Secretary shall—

14 “(1) cooperate with, and (directly or by grant
15 or contract) furnish technical assistance necessary
16 to, the State in matters relating to—

17 “(A) the education of children with disabil-
18 ities; and

19 “(B) carrying out this part; and

20 “(2) provide short-term training programs and
21 institutes.

22 “(b) CONFIDENTIALITY.—The Secretary shall take
23 appropriate action, in accordance with section 444 of the
24 General Education Provisions Act (20 U.S.C. 1232g), to
25 assure the protection of the confidentiality of any person-

1 ally identifiable data, information, and records collected
2 or maintained by the Secretary and by State and local
3 educational agencies pursuant to this part.

4 “(c) PERSONNEL.—The Secretary is authorized to
5 hire qualified personnel necessary to carry out the Sec-
6 retary’s duties under subsection (a) and under sections
7 618 and 661 without regard to the provisions of title 5,
8 United States Code, relating to appointments in the com-
9 petitive service and without regard to chapter 51 and sub-
10 chapter III of chapter 53 of such title relating to classi-
11 fication and general schedule pay rates, except that no
12 more than twenty such personnel shall be employed at any
13 time.

14 “(e) PILOT PROGRAM.—The Secretary is authorized
15 to grant waivers of paperwork requirements under this
16 part for a period of time not to exceed 4 years with respect
17 to not more than 10 States based on proposals submitted
18 by States for addressing reduction of paperwork and non-
19 instructional time spent fulfilling statutory and regulatory
20 requirements.

21 “(f) REPORT.—The Secretary shall include in the an-
22 nual report to Congress under section 426 of the Depart-
23 ment of Education Organization Act information related
24 to the effectiveness of waivers granted under subsection
25 (e)—

1 “(1) in reducing the paperwork burden on
2 teachers, administrators, and related services pro-
3 viders and non-instructional time spent by teachers
4 in complying with this part, including any specific
5 recommendations for broader implementation; and

6 “(2) in enhancing longer-term educational plan-
7 ning, improving positive outcomes for children with
8 disabilities, promoting collaboration between IEP
9 Team members, and ensuring satisfaction of family
10 members, including any specific recommendations
11 for broader implementation.

12 “(g) MODEL FORMS.—Not later than the date on
13 which the Secretary publishes final regulations to imple-
14 ment this part (as amended by the Improving Education
15 Results for Children With Disabilities Act of 2003), the
16 Secretary shall publish and disseminate widely to States,
17 local educational agencies, and parent and community
18 training and information centers—

19 “(1) a model individualized education program
20 form;

21 “(2) a model form for the procedural safe-
22 guards notice described in section 615(d); and

23 “(3) a model form for the prior written notice
24 described in section 615(b)(3);

1 that would be consistent with the requirements of this part
2 and be deemed to be sufficient to meet such require-
3 ments.”.

4 **SEC. 207. PROGRAM INFORMATION.**

5 Section 618 of the Individuals with Disabilities Edu-
6 cation Act (20 U.S.C. 1418) is amended to read as follows:

7 **“SEC. 618. PROGRAM INFORMATION.**

8 “(a) IN GENERAL.—Each State that receives assist-
9 ance under this part, and the Secretary of the Interior,
10 shall provide data each year to the Secretary—

11 “(1)(A) on—

12 “(i) the number of children with disabil-
13 ities, by race, ethnicity, and disability category,
14 who are receiving a free appropriate public edu-
15 cation;

16 “(ii) the number of children with disabil-
17 ities, by race and ethnicity, who are receiving
18 early intervention services;

19 “(iii) the number of children with disabil-
20 ities, by race, ethnicity, and disability category,
21 who are participating in regular education;

22 “(iv) the number of children with disabil-
23 ities, by race, ethnicity, and disability category,
24 who are in separate classes, separate schools or

1 facilities, or public or private residential facili-
2 ties;

3 “(v) the number of children with disabil-
4 ities, by race, ethnicity, and disability category,
5 who, for each year of age from age 14 to 21,
6 stopped receiving special education and related
7 services because of program completion or other
8 reasons and the reasons why those children
9 stopped receiving special education and related
10 services;

11 “(vi) the number of children with disabil-
12 ities, by race and ethnicity, who, from birth
13 through age 2, stopped receiving early interven-
14 tion services because of program completion or
15 for other reasons;

16 “(vii)(I) the number of children with dis-
17 abilities, by race, ethnicity, and disability cat-
18 egory, who under subparagraph (A) or (B) of
19 section 615(j)(1), are removed to an interim al-
20 ternative educational setting;

21 “(II) the acts or items precipitating those
22 removals; and

23 “(III) the number of children with disabil-
24 ities who are subject to long-term suspensions
25 or expulsions;

1 “(viii) the number of complaints resolved
2 through voluntary binding arbitration; and

3 “(ix) the number of mediations held and
4 the number of settlement agreements reached
5 through mediation;

6 “(B) on the number of infants and toddlers, by
7 race and ethnicity, who are at risk of having sub-
8 stantial developmental delays (as defined in section
9 632), and who are receiving early intervention serv-
10 ices under part C; and

11 “(C) on the number of children served with
12 funds under section 613(f); and

13 “(2) on any other information that may be re-
14 quired by the Secretary.

15 “(b) SAMPLING.—The Secretary may permit States
16 and the Secretary of the Interior to obtain the data de-
17 scribed in subsection (a) through sampling.

18 “(c) DISPROPORTIONALITY.—

19 “(1) IN GENERAL.—Each State that receives
20 assistance under this part, and the Secretary of the
21 Interior, shall provide for the collection and exam-
22 ination of data to determine if significant
23 disproportionality based on race is occurring in the
24 State with respect to—

1 “(A) the identification of children as chil-
2 dren with disabilities, including the identifica-
3 tion of children as children with disabilities in
4 accordance with a particular impairment de-
5 scribed in section 602(3); and

6 “(B) the placement in particular edu-
7 cational settings of such children.

8 “(2) REVIEW AND REVISION OF POLICIES,
9 PRACTICES, AND PROCEDURES.—In the case of a de-
10 termination of significant disproportionality with re-
11 spect to the identification of children as children
12 with disabilities, or the placement in particular edu-
13 cational settings of such children, in accordance with
14 paragraph (1), the State or the Secretary of the In-
15 terior, as the case may be—

16 “(A) shall provide for the review and, if
17 appropriate, revision of the policies, procedures,
18 and practices used in such identification or
19 placement to ensure that such policies, proce-
20 dures, and practices comply with the require-
21 ments of this Act; and

22 “(B) shall require any local educational
23 agency identified under paragraph (1) to re-
24 serve the maximum amount of funds under sec-
25 tion 613(f) to provide comprehensive coordi-

1 nated pre-referral support services to serve chil-
2 dren in the local educational agency, particu-
3 larly children in those groups that were signifi-
4 cantly overidentified under paragraph (1).”.

5 **SEC. 208. PRESCHOOL GRANTS.**

6 Section 619 of the Individuals with Disabilities Edu-
7 cation Act (20 U.S.C. 1419) is amended to read as follows:

8 **“SEC. 619. PRESCHOOL GRANTS.**

9 “(a) **IN GENERAL.**—The Secretary shall provide
10 grants under this section to assist States to provide special
11 education and related services, in accordance with this
12 part—

13 (1) to children with disabilities aged 3 through
14 5, inclusive; and

15 “(2) at the State’s discretion, to 2-year-old chil-
16 dren with disabilities who will turn 3 during the
17 school year.

18 “(b) **ELIGIBILITY.**—A State shall be eligible for a
19 grant under this section if such State—

20 “(1) is eligible under section 612 to receive a
21 grant under this part; and

22 “(2) makes a free appropriate public education
23 available to all children with disabilities, aged 3
24 through 5, residing in the State.

25 “(c) **ALLOCATIONS TO STATES.**—

1 “(1) IN GENERAL.—The Secretary shall allo-
2 cate funds among the States in accordance with
3 paragraph (2) or (3), as appropriate.

4 “(2) INCREASE IN FUNDS.—If the amount
5 available for allocations to States under paragraph
6 (1) is equal to or greater than the amount allocated
7 to the States under this section for the preceding
8 fiscal year, those allocations shall be calculated as
9 follows:

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

12 “(I) allocate to each State the amount
13 it received for fiscal year 1997;

14 “(II) allocate 85 percent of any re-
15 maining funds to States on the basis of
16 their relative populations of children aged
17 3 through 5; and

18 “(III) allocate 15 percent of those re-
19 maining funds to States on the basis of
20 their relative populations of all children
21 aged 3 through 5 who are living in poverty.

22 “(ii) For the purpose of making grants
23 under this paragraph, the Secretary shall use
24 the most recent population data, including data

1 on children living in poverty, that are available
2 and satisfactory to the Secretary.

3 “(B) Notwithstanding subparagraph (A),
4 allocations under this paragraph shall be sub-
5 ject to the following:

6 “(i) No State’s allocation shall be less
7 than its allocation for the preceding fiscal
8 year.

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

11 “(I) the sum of—

12 “(aa) the amount it received
13 for fiscal year 1997; and

14 “(bb) one third of one per-
15 cent of the amount by which the
16 amount appropriated under sub-
17 section (j) exceeds the amount
18 appropriated under this section
19 for fiscal year 1997;

20 “(II) the sum of—

21 “(aa) the amount it received
22 for the preceding fiscal year; and

23 “(bb) that amount multi-
24 plied by the percentage by which
25 the increase in the funds appro-

1 appropriated from the preceding fiscal
2 year exceeds 1.5 percent; or

3 “(III) the sum of—

4 “(aa) the amount it received
5 for the preceding fiscal year; and

6 “(bb) that amount multi-
7 plied by 90 percent of the per-
8 centage increase in the amount
9 appropriated from the preceding
10 fiscal year.

11 “(iii) Notwithstanding clause (ii), no
12 State’s allocation under this paragraph
13 shall exceed the sum of—

14 “(I) the amount it received for
15 the preceding fiscal year; and

16 “(II) that amount multiplied by
17 the sum of 1.5 percent and the per-
18 centage increase in the amount appro-
19 priated.

20 “(C) If the amount available for allocations
21 under this paragraph is insufficient to pay
22 those allocations in full, those allocations shall
23 be ratably reduced, subject to subparagraph
24 (B)(i).

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

6 “(A) If the amount available for allocations
7 is greater than the amount allocated to the
8 States for fiscal year 1997, each State shall be
9 allocated the sum of—

10 “(i) the amount it received for fiscal
11 year 1997; and

12 “(ii) an amount that bears the same
13 relation to any remaining funds as the in-
14 crease the State received for the preceding
15 fiscal year over fiscal year 1997 bears to
16 the total of all such increases for all
17 States.

18 “(B) If the amount available for alloca-
19 tions is equal to or less than the amount allo-
20 cated to the States for fiscal year 1997, each
21 State shall be allocated the amount it received
22 for that year, ratably reduced, if necessary.

23 “(d) RESERVATION FOR STATE ACTIVITIES.—

24 “(1) IN GENERAL.—Each State may retain not
25 more than the amount described in paragraph (2)

1 for administration and other State-level activities in
2 accordance with subsections (e) and (f).

3 “(2) AMOUNT DESCRIBED.—For each fiscal
4 year, the Secretary shall determine and report to the
5 State educational agency an amount that is 25 per-
6 cent of the amount the State received under this sec-
7 tion for fiscal year 1997, cumulatively adjusted by
8 the Secretary for each succeeding fiscal year by the
9 lesser of—

10 “(A) the percentage increase, if any, from
11 the preceding fiscal year in the State’s alloca-
12 tion under this section; or

13 “(B) the percentage increase, if any, from
14 the preceding fiscal year in the Consumer Price
15 Index For All Urban Consumers published by
16 the Bureau of Labor Statistics of the Depart-
17 ment of Labor.

18 “(e) STATE ADMINISTRATION.—

19 “(1) IN GENERAL.—For the purpose of admin-
20 istering this section (including the coordination of
21 activities under this part with, and providing tech-
22 nical assistance to, other programs that provide
23 services to children with disabilities) a State may
24 use not more than 20 percent of the maximum

1 amount it may retain under subsection (d) for any
2 fiscal year.

3 “(2) ADMINISTRATION OF PART C.—Funds de-
4 scribed in paragraph (1) may also be used for the
5 administration of part C of this Act, if the State
6 educational agency is the lead agency for the State
7 under that part.

8 “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State
9 shall use any funds it retains under subsection (d) and
10 does not use for administration under subsection (e)—

11 “(1) for support services (including establishing
12 and implementing the mediation and voluntary bind-
13 ing arbitration process required by section 615(e)),
14 which may benefit children with disabilities younger
15 than 3 or older than 5 as long as those services also
16 benefit children with disabilities aged 3 through 5;

17 “(2) for direct services for children eligible for
18 services under this section;

19 “(3) for activities at the State and local levels
20 to meet the performance goals established by the
21 State under section 612(a)(16) and to support im-
22 plementation of the State plan under subpart 1 of
23 part D if the State receives funds under that sub-
24 part; or

1 “(4) to supplement other funds used to develop
2 and implement a Statewide coordinated services sys-
3 tem designed to improve results for children and
4 families, including children with disabilities and their
5 families, but not to exceed one percent of the
6 amount received by the State under this section for
7 a fiscal year.

8 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
9 CIES.—

10 “(1) SUBGRANTS REQUIRED.—Each State that
11 receives a grant under this section for any fiscal
12 year shall distribute all of the grant funds that it
13 does not reserve under subsection (d) to local edu-
14 cational agencies in the State that have established
15 their eligibility under section 613, as follows:

16 “(A) BASE PAYMENTS.—The State shall
17 first award each agency described in paragraph
18 (1) the amount that agency would have received
19 under this section for fiscal year 1997 if the
20 State had distributed 75 percent of its grant for
21 that year under section 619(c)(3), as then in ef-
22 fect.

23 “(B) ALLOCATION OF REMAINING
24 FUNDS.—After making allocations under sub-
25 paragraph (A), the State shall—

1 “(i) allocate 85 percent of any re-
2 remaining funds to those agencies on the
3 basis of the relative numbers of children
4 enrolled in public and private elementary
5 and secondary schools within the agency’s
6 jurisdiction; and

7 “(ii) allocate 15 percent of those re-
8 remaining funds to those agencies in accord-
9 ance with their relative numbers of chil-
10 dren living in poverty, as determined by
11 the State educational agency.

12 “(2) REALLOCATION OF FUNDS.—If a State
13 educational agency determines that a local edu-
14 cational agency is adequately providing a free appro-
15 priate public education to all children with disabili-
16 ties aged 3 through 5 residing in the area served by
17 that agency with State and local funds, the State
18 educational agency may reallocate any portion of the
19 funds under this section that are not needed by that
20 local agency to provide a free appropriate public
21 education to other local educational agencies in the
22 State that are not adequately providing special edu-
23 cation and related services to all children with dis-
24 abilities aged 3 through 5 residing in the areas they
25 serve.

1 “(h) PART C INAPPLICABLE.—Part C of this Act
2 does not apply to any child with a disability receiving a
3 free appropriate public education, in accordance with this
4 part, with funds received under this section.

5 “(i) DEFINITION.—For the purpose of this section,
6 the term ‘State’ means each of the 50 States, the District
7 of Columbia, and the Commonwealth of Puerto Rico.

8 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
9 purpose of carrying out this section, there are authorized
10 to be appropriated to the Secretary such sums as may be
11 necessary for each of the fiscal years 2004 through
12 2008.”.

13 **TITLE III—INFANTS AND**
14 **TODDLERS WITH DISABILITIES**
15 **SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS**
16 **WITH DISABILITIES EDUCATION ACT.**

17 Sections 631 through 638 of the Individuals with
18 Disabilities Education Act (20 U.S.C. 1431–1438) are
19 amended to read as follows:

20 **“SEC. 631. FINDINGS AND POLICY.**

21 “(a) FINDINGS.—The Congress finds that there is an
22 urgent and substantial need—

23 “(1) to enhance the development of infants and
24 toddlers with disabilities and to minimize their po-
25 tential for developmental delay;

1 “(2) to reduce the educational costs to our soci-
2 ety, including our Nation’s schools, by minimizing
3 the need for special education and related services
4 after infants and toddlers with disabilities reach
5 school age;

6 “(3) to minimize the likelihood of institutional-
7 ization of individuals with disabilities and maximize
8 the potential for their independently living in society;

9 “(4) to enhance the capacity of families to meet
10 the special needs of their infants and toddlers with
11 disabilities; and

12 “(5) to enhance the capacity of State and local
13 agencies and service providers to identify, evaluate,
14 and meet the needs of historically underrepresented
15 populations, particularly minority, low-income, inner-
16 city, and rural populations.

17 “(b) POLICY.—It is the policy of the United States
18 to provide financial assistance to States—

19 “(1) to develop and implement a statewide,
20 comprehensive, coordinated, multidisciplinary, inter-
21 agency system that provides early intervention serv-
22 ices for infants and toddlers with disabilities and
23 their families;

24 “(2) to facilitate the coordination of payment
25 for early intervention services from Federal, State,

1 local, and private sources (including public and pri-
2 vate insurance coverage);

3 “(3) to enhance their capacity to provide qual-
4 ity early intervention services and expand and im-
5 prove existing early intervention services being pro-
6 vided to infants and toddlers with disabilities and
7 their families; and

8 “(4) to encourage States to expand opportuni-
9 ties for children under 3 years of age who would be
10 at risk of having substantial developmental delay if
11 they did not receive early intervention services.

12 **“SEC. 632. DEFINITIONS.**

13 “As used in this part:

14 “(1) **AT-RISK INFANT OR TODDLER.**—The term
15 ‘at-risk infant or toddler’ means an individual under
16 3 years of age who would be at risk of experiencing
17 a substantial developmental delay if early interven-
18 tion services were not provided to the individual.

19 “(2) **COUNCIL.**—The term ‘council’ means a
20 State interagency coordinating council established
21 under section 641.

22 “(3) **DEVELOPMENTAL DELAY.**—The term ‘de-
23 velopmental delay’, when used with respect to an in-
24 dividual residing in a State, has the meaning given
25 such term by the State under section 635(a)(1).

1 “(4) EARLY INTERVENTION SERVICES.—The
2 term ‘early intervention services’ means develop-
3 mental services that—

4 “(A) are provided under public supervision;

5 “(B) are provided at no cost except where
6 Federal or State law provides for a system of
7 payments by families, including a schedule of
8 sliding fees;

9 “(C) are designed to address family-identi-
10 fied priorities and concerns that are determined
11 by individualized family service plan team to re-
12 late to enhancing the child’s development in any
13 one or more of the following areas—

14 “(i) physical development;

15 “(ii) cognitive development;

16 “(iii) communication development;

17 “(iv) social or emotional development;

18 or

19 “(v) adaptive development;

20 “(D) meet the standards of the State in
21 which they are provided, including the require-
22 ments of this part;

23 “(E) include—

24 “(i) family training, counseling, and
25 home visits;

- 1 “(ii) special instruction;
- 2 “(iii) speech-language pathology and
3 audiology services;
- 4 “(iv) occupational therapy;
- 5 “(v) physical therapy;
- 6 “(vi) psychological services;
- 7 “(vii) service coordination services;
- 8 “(viii) medical services only for diag-
9 nostic or evaluation purposes;
- 10 “(ix) early identification, screening,
11 and assessment services;
- 12 “(x) health services necessary to en-
13 able the infant or toddler to benefit from
14 the other early intervention services;
- 15 “(xi) social work services;
- 16 “(xii) vision services;
- 17 “(xiii) assistive technology devices and
18 assistive technology services; and
- 19 “(xiv) transportation and related costs
20 that are necessary to enable an infant or
21 toddler and the infant’s or toddler’s family
22 to receive another service described in this
23 paragraph;
- 24 “(F) are provided by qualified personnel,
25 including—

- 1 “(i) special educators;
- 2 “(ii) speech-language pathologists and
- 3 audiologists;
- 4 “(iii) occupational therapists;
- 5 “(iv) physical therapists;
- 6 “(v) psychologists;
- 7 “(vi) social workers;
- 8 “(vii) nurses;
- 9 “(viii) registered dietitians;
- 10 “(ix) family therapists;
- 11 “(x) orientation and mobility special-
- 12 ists; and
- 13 “(xi) pediatricians and other physi-
- 14 cians;
- 15 “(G) to the maximum extent appropriate,
- 16 are provided in natural environments, including
- 17 the home, and community settings in which
- 18 children without disabilities participate; and
- 19 “(H) are provided in conformity with an
- 20 individualized family service plan adopted in ac-
- 21 cordance with section 636.
- 22 “(5) INFANT OR TODDLER WITH A DIS-
- 23 ABILITY.—The term ‘infant or toddler with a dis-
- 24 ability’—

1 “(A) means an individual under 3 years of
2 age who needs early intervention services be-
3 cause the individual—

4 “(i) is experiencing developmental
5 delays, as measured by appropriate diag-
6 nostic instruments and procedures in one
7 or more of the areas of cognitive develop-
8 ment, physical development, communica-
9 tion development, social or emotional devel-
10 opment, and adaptive development; or

11 “(ii) has a diagnosed physical or men-
12 tal condition which has a high probability
13 of resulting in developmental delay; and

14 “(B) may also include, at a State’s discre-
15 tion, at-risk infants and toddlers.

16 **“SEC. 633. GENERAL AUTHORITY.**

17 “The Secretary shall, in accordance with this part,
18 make grants to States (from their allotments under sec-
19 tion 643) to assist each State to maintain and implement
20 a statewide, comprehensive, coordinated, multidisciplinary,
21 interagency system to provide early intervention services
22 for infants and toddlers with disabilities and their families.

1 **“SEC. 634. ELIGIBILITY.**

2 “In order to be eligible for a grant under section 633,
3 a State shall provide assurances to the Secretary that the
4 State—

5 “(1) has adopted a policy that appropriate early
6 intervention services are available to all infants and
7 toddlers with disabilities in the State and their fami-
8 lies, including Indian infants and toddlers with dis-
9 abilities and their families residing on a reservation
10 geographically located in the State; and

11 “(2) has in effect a statewide system that meets
12 the requirements of section 635.

13 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

14 “(a) IN GENERAL.—A statewide system described in
15 section 633 shall include, at a minimum, the following
16 components:

17 “(1) A definition of the term ‘developmental
18 delay’ that will be used by the State in carrying out
19 programs under this part.

20 “(2) A State policy that is in effect and that
21 ensures that appropriate early intervention services
22 based on scientifically based research are available to
23 all infants and toddlers with disabilities and their
24 families, including Indian infants and toddlers and
25 their families residing on a reservation geographi-
26 cally located in the State.

1 “(3) A timely, comprehensive, multidisciplinary
2 evaluation of the functioning of each infant or tod-
3 dler with a disability in the State, and a family-di-
4 rected identification of the needs of each family of
5 such an infant or toddler, to appropriately assist in
6 the development of the infant or toddler.

7 “(4) For each infant or toddler with a disability
8 in the State, an individualized family service plan in
9 accordance with section 636, including service co-
10 ordination services in accordance with such service
11 plan.

12 “(5) A comprehensive child find system, con-
13 sistent with part B, including a system for making
14 referrals to service providers that includes timelines
15 and provides for participation by primary referral
16 sources.

17 “(6) A public awareness program focusing on
18 early identification of infants and toddlers with dis-
19 abilities, including the preparation and dissemination
20 by the lead agency designated or established under
21 paragraph (10) to all primary referral sources, espe-
22 cially hospitals and physicians, of information for
23 parents on the availability of early intervention serv-
24 ices, and procedures for determining the extent to

1 which such sources disseminate such information to
2 parents of infants and toddlers.

3 “(7) A central directory that includes informa-
4 tion on early intervention services, resources, and ex-
5 perts available in the State and research and dem-
6 onstration projects being conducted in the State.

7 “(8) A comprehensive system of personnel de-
8 velopment, including the training of paraprofes-
9 sionals and the training of primary referral sources
10 respecting the basic components of early intervention
11 services available in the State that—

12 “(A) shall include—

13 “(i) implementing innovative strate-
14 gies and activities for the recruitment and
15 retention of early education service pro-
16 viders;

17 “(ii) promoting the preparation of
18 early intervention providers who are fully
19 and appropriately qualified to provide early
20 intervention services under this part; and

21 “(iii) training personnel to coordinate
22 transition services for infants and toddlers
23 served under this part from a program
24 providing early intervention services under
25 this part and under part B (other than

1 section 619), to a preschool program re-
2 ceiving funds under section 619, or an-
3 other appropriate program; and

4 “(B) may include—

5 “(i) training personnel to work in
6 rural and inner-city areas; and

7 “(ii) training personnel in the emo-
8 tional and social development of young
9 children.

10 “(9) Subject to subsection (b), policies and pro-
11 cedures relating to the establishment and mainte-
12 nance of standards to ensure that personnel nec-
13 essary to carry out this part are appropriately and
14 adequately prepared and trained, including the es-
15 tablishment and maintenance of standards that are
16 consistent with any State-approved or recognized
17 certification, licensing, registration, or other com-
18 parable requirements that apply to the area in which
19 such personnel are providing early intervention serv-
20 ices.

21 “(10) A single line of responsibility in a lead
22 agency designated or established by the Governor for
23 carrying out—

24 “(A) the general administration and super-
25 vision of programs and activities receiving as-

1 sistance under section 633, and the monitoring
2 of programs and activities used by the State to
3 carry out this part, whether or not such pro-
4 grams or activities are receiving assistance
5 made available under section 633, to ensure
6 that the State complies with this part;

7 “(B) the identification and coordination of
8 all available resources within the State from
9 Federal, State, local, and private sources;

10 “(C) the assignment of financial responsi-
11 bility in accordance with section 637(a)(2) to
12 the appropriate agencies;

13 “(D) the development of procedures to en-
14 sure that services are provided to infants and
15 toddlers with disabilities and their families
16 under this part in a timely manner pending the
17 resolution of any disputes among public agen-
18 cies or service providers;

19 “(E) the resolution of intra- and inter-
20 agency disputes; and

21 “(F) the entry into formal interagency
22 agreements that define the financial responsi-
23 bility of each agency for paying for early inter-
24 vention services (consistent with State law) and
25 procedures for resolving disputes and that in-

1 clude all additional components necessary to en-
2 sure meaningful cooperation and coordination.

3 “(11) A policy pertaining to the contracting or
4 making of other arrangements with service providers
5 to provide early intervention services in the State,
6 consistent with the provisions of this part, including
7 the contents of the application used and the condi-
8 tions of the contract or other arrangements.

9 “(12) A procedure for securing timely reim-
10 bursements of funds used under this part in accord-
11 ance with section 640(a).

12 “(13) Procedural safeguards with respect to
13 programs under this part, as required by section
14 639.

15 “(14) A system for compiling data requested by
16 the Secretary under section 618 that relates to this
17 part.

18 “(15) A State interagency coordinating council
19 that meets the requirements of section 641.

20 “(16) Policies and procedures to ensure that,
21 consistent with section 636(d)(5)—

22 “(A) to the maximum extent appropriate,
23 early intervention services are provided in nat-
24 ural environments; and

1 “(B) the provision of early intervention
2 services for any infant or toddler occurs in a
3 setting other than a natural environment only
4 when early intervention cannot be achieved sat-
5 isfactorily for the infant or toddler in a natural
6 environment.

7 “(b) POLICY.—In implementing subsection (a)(9), a
8 State may adopt a policy that includes making ongoing
9 good-faith efforts to recruit and hire appropriately and
10 adequately trained personnel to provide early intervention
11 services to infants and toddlers with disabilities, including,
12 in a geographic area of the State where there is a shortage
13 of such personnel, the most qualified individuals available
14 who are making satisfactory progress toward completing
15 applicable course work necessary to meet the standards
16 described in subsection (a)(9), consistent with State law
17 within 3 years.

18 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

19 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—
20 A statewide system described in section 633 shall provide,
21 at a minimum, for each infant or toddler with a disability,
22 and the infant’s or toddler’s family, to receive—

23 “(1) a multidisciplinary assessment of the
24 unique strengths and needs of the infant or toddler

1 and the identification of services appropriate to meet
2 such needs;

3 “(2) a family-directed assessment of the re-
4 sources, priorities, and concerns of the family and
5 the identification of the supports and services nec-
6 essary to enhance the family’s capacity to meet the
7 developmental needs of the infant or toddler; and

8 “(3) a written individualized family service plan
9 developed by a multidisciplinary team, including the
10 parents, as required by subsection (e), including a
11 description of the appropriate transition services for
12 the child’s entrance in school.

13 “(b) PERIODIC REVIEW.—The individualized family
14 service plan shall be evaluated once a year and the family
15 shall be provided a review of the plan at 6-month intervals
16 (or more often where appropriate based on infant or tod-
17 dler and family needs).

18 “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-
19 vidualized family service plan shall be developed within a
20 reasonable time after the assessment required by sub-
21 section (a)(1) is completed. With the parents’ consent,
22 early intervention services may commence prior to the
23 completion of the assessment.

24 “(d) CONTENT OF PLAN.—The individualized family
25 service plan shall be in writing and contain—

1 “(1) a statement of the infant’s or toddler’s
2 present levels of physical development, cognitive de-
3 velopment, communication development, social or
4 emotional development, and adaptive development,
5 based on objective criteria;

6 “(2) a statement of the family’s resources, pri-
7 orities, and concerns relating to enhancing the devel-
8 opment of the family’s infant or toddler with a dis-
9 ability;

10 “(3) a statement of the measurable goals ex-
11 pected to be achieved for the infant or toddler and
12 the family, including pre-literacy and language skills,
13 and the criteria, procedures, and timelines used to
14 determine the degree to which progress toward
15 achieving the goals is being made and whether modi-
16 fications or revisions of the goals or services are nec-
17 essary;

18 “(4) a statement of specific early intervention
19 services based on peer-reviewed research necessary
20 to meet the unique needs of the infant or toddler
21 and the family, including the frequency, intensity,
22 and method of delivering services;

23 “(5) a statement of the natural environments in
24 which early intervention services will appropriately
25 be provided, including a justification of the extent,

1 if any, to which the services will not be provided in
2 a natural environment;

3 “(6) the projected dates for initiation of serv-
4 ices and the anticipated length, duration, and fre-
5 quency of the services;

6 “(7) the identification of the service coordinator
7 from the profession most immediately relevant to the
8 infant’s or toddler’s or family’s needs (or who is oth-
9 erwise qualified to carry out all applicable respon-
10 sibilities under this part) who will be responsible for
11 the implementation of the plan and coordination
12 with other agencies and persons, including transition
13 services; and

14 “(8) the steps to be taken to support the transi-
15 tion of the toddler with a disability to preschool or
16 other appropriate services.

17 “(e) PARENTAL CONSENT.—The contents of the indi-
18 vidualized family service plan shall be fully explained to
19 the parents and informed written consent from the par-
20 ents shall be obtained prior to the provision of early inter-
21 vention services described in such plan. If the parents do
22 not provide consent with respect to a particular early
23 intervention service, then only the early intervention serv-
24 ices to which consent is obtained shall be provided.

1 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

2 “(a) APPLICATION.—A State desiring to receive a
3 grant under section 633 shall submit an application to the
4 Secretary at such time and in such manner as the Sec-
5 retary may reasonably require. The application shall con-
6 tain—

7 “(1) a designation of the lead agency in the
8 State that will be responsible for the administration
9 of funds provided under section 633;

10 “(2) a designation of an individual or entity re-
11 sponsible for assigning financial responsibility
12 among appropriate agencies;

13 “(3) information demonstrating eligibility of the
14 State under section 634, including a description of
15 services to be provided to infants and toddlers with
16 disabilities and their families through the system;

17 “(4) if the State provides services to at-risk in-
18 fants and toddlers through the State-wide system, a
19 description of such services;

20 “(5) a description of the State policies and pro-
21 cedures requiring the referral of a child under the
22 age 3 who is involved in a substantiated case of child
23 abuse or neglect for an evaluation consistent with
24 section 635(a)(5).

25 “(6) a description of the uses for which funds
26 will be expended in accordance with this part;

1 “(7) a description of the procedure used to en-
2 sure that resources are made available under this
3 part for all geographic areas within the State;

4 “(8) a description of State policies and proce-
5 dures that ensure that, prior to the adoption by the
6 State of any other policy or procedure necessary to
7 meet the requirements of this part, there are public
8 hearings, adequate notice of the hearings, and an
9 opportunity for comment available to the general
10 public, including individuals with disabilities and
11 parents of infants and toddlers with disabilities;

12 “(9) a description of the policies and procedures
13 to be used—

14 “(A) to ensure a smooth transition for tod-
15 dlers receiving early intervention services under
16 this part to preschool or other appropriate serv-
17 ices, including a description of how—

18 “(i) the families of such toddlers will
19 be included in the transition plans required
20 by subparagraph (C); and

21 “(ii) the lead agency designated or es-
22 tablished under section 635(a)(10) will—

23 “(I) notify the local educational
24 agency for the area in which such a
25 child resides that the child will shortly

1 reach the age of eligibility for pre-
2 school services under part B, as deter-
3 mined in accordance with State law;

4 “(II) in the case of a child who
5 may be eligible for such preschool
6 services, with the approval of the fam-
7 ily of the child, convene a conference
8 among the lead agency, the family,
9 and the local educational agency at
10 least 90 days (and at the discretion of
11 all such parties, up to 6 months) be-
12 fore the child is eligible for the pre-
13 school services, to discuss any such
14 services that the child may receive;
15 and

16 “(III) in the case of a child who
17 may not be eligible for such preschool
18 services, with the approval of the fam-
19 ily, make reasonable efforts to con-
20 vene a conference among the lead
21 agency, the family, and providers of
22 other appropriate services for children
23 who are not eligible for preschool serv-
24 ices under part B, to discuss the ap-

1 appropriate services that the child may
2 receive;

3 “(B) to review the child’s program options
4 for the period from the child’s third birthday
5 through the remainder of the school year; and

6 “(C) to establish a transition plan; and

7 “(10) such other information and assurances as
8 the Secretary may reasonably require.

9 “(b) ASSURANCES.—The application described in
10 subsection (a)—

11 “(1) shall provide satisfactory assurance that
12 Federal funds made available under section 643 to
13 the State will be expended in accordance with this
14 part;

15 “(2) shall contain an assurance that the State
16 will comply with the requirements of section 640;

17 “(3) shall provide satisfactory assurance that
18 the control of funds provided under section 643, and
19 title to property derived from those funds, will be in
20 a public agency for the uses and purposes provided
21 in this part and that a public agency will administer
22 such funds and property;

23 “(4) shall provide for—

24 “(A) making such reports in such form
25 and containing such information as the Sec-

1 retary may require to carry out the Secretary's
2 functions under this part; and

3 “(B) keeping such records and affording
4 such access to them as the Secretary may find
5 necessary to ensure the correctness and
6 verification of those reports and proper dis-
7 bursement of Federal funds under this part;

8 “(5) provide satisfactory assurance that Federal
9 funds made available under section 643 to the
10 State—

11 “(A) will not be commingled with State
12 funds; and

13 “(B) will be used so as to supplement the
14 level of State and local funds expended for in-
15 fants and toddlers with disabilities and their
16 families and in no case to supplant those State
17 and local funds;

18 “(6) shall provide satisfactory assurance that
19 such fiscal control and fund accounting procedures
20 will be adopted as may be necessary to ensure prop-
21 er disbursement of, and accounting for, Federal
22 funds paid under section 643 to the State;

23 “(7) shall provide satisfactory assurance that
24 policies and procedures have been adopted to ensure
25 meaningful involvement of underserved groups, in-

1 including minority, low-income, and rural families, in
2 the planning and implementation of all the require-
3 ments of this part; and

4 “(8) shall contain such other information and
5 assurances as the Secretary may reasonably require
6 by regulation.

7 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-
8 TION.—The Secretary may not disapprove such an appli-
9 cation unless the Secretary determines, after notice and
10 opportunity for a hearing, that the application fails to
11 comply with the requirements of this section.

12 “(d) SUBSEQUENT STATE APPLICATION.—If a State
13 has on file with the Secretary a policy, procedure, or as-
14 surance that demonstrates that the State meets a require-
15 ment of this section, including any policy or procedure
16 filed under this part (as in effect before the date of the
17 enactment of the Improving Education Results for Chil-
18 dren With Disabilities Act of 2003), the Secretary shall
19 consider the State to have met the requirement for pur-
20 poses of receiving a grant under this part.

21 “(e) MODIFICATION OF APPLICATION.—An applica-
22 tion submitted by a State in accordance with this section
23 shall remain in effect until the State submits to the Sec-
24 retary such modifications as the State determines nec-
25 essary. This section shall apply to a modification of an

1 application to the same extent and in the same manner
2 as this section applies to the original application.

3 “(f) MODIFICATIONS REQUIRED BY THE SEC-
4 RETARY.—The Secretary may require a State to modify
5 its application under this section, but only to the extent
6 necessary to ensure the State’s compliance with this part,
7 if—

8 “(1) an amendment is made to this Act, or a
9 Federal regulation issued under this Act;

10 “(2) a new interpretation of this Act is made by
11 a Federal court or the State’s highest court; or

12 “(3) an official finding of noncompliance with
13 Federal law or regulations is made with respect to
14 the State.

15 **“SEC. 638. USES OF FUNDS.**

16 “In addition to using funds provided under section
17 633 to maintain and implement the statewide system re-
18 quired by such section, a State may use such funds—

19 “(1) for direct early intervention services for in-
20 fants and toddlers with disabilities, and their fami-
21 lies, under this part that are not otherwise funded
22 through other public or private sources;

23 “(2) to expand and improve on services for in-
24 fants and toddlers and their families under this part
25 that are otherwise available;

1 “(3) to provide a free appropriate public edu-
2 cation, in accordance with part B, to children with
3 disabilities from their third birthday to the begin-
4 ning of the following school year; and

5 “(4) in any State that does not provide services
6 for at-risk infants and toddlers under section
7 637(a)(4), to strengthen the statewide system by ini-
8 tiating, expanding, or improving collaborative efforts
9 related to at-risk infants and toddlers, including es-
10 tablishing linkages with appropriate public or private
11 community-based organizations, services, and per-
12 sonnel for the purposes of—

13 “(A) identifying and evaluating at-risk in-
14 fants and toddlers;

15 “(B) making referrals of the infants and
16 toddlers identified and evaluated under sub-
17 paragraph (A); and

18 “(C) conducting periodic follow-up on each
19 such referral to determine if the status of the
20 infant or toddler involved has changed with re-
21 spect to the eligibility of the infant or toddler
22 for services under this part.”.

1 **SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS**
2 **WITH DISABILITIES EDUCATION ACT.**

3 Sections 641 through 645 of the Individuals with
4 Disabilities Education Act (20 U.S.C. 1441–1445) are
5 amended to read as follows:

6 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

7 “(a) ESTABLISHMENT.—

8 “(1) IN GENERAL.—A State that desires to re-
9 ceive financial assistance under this part shall estab-
10 lish a State interagency coordinating council.

11 “(2) APPOINTMENT.—The council shall be ap-
12 pointed by the Governor. In making appointments to
13 the council, the Governor shall ensure that the mem-
14 bership of the council reasonably represents the pop-
15 ulation of the State.

16 “(3) CHAIRPERSON.—The Governor shall des-
17 ignate a member of the council to serve as the chair-
18 person of the council, or shall require the council to
19 so designate such a member. Any member of the
20 council who is a representative of the lead agency
21 designated under section 635(a)(10) may not serve
22 as the chairperson of the council.

23 “(b) COMPOSITION.—

24 “(1) IN GENERAL.—The council shall be com-
25 posed as follows:

1 “(A) PARENTS.—At least 20 percent of
2 the members shall be parents of infants or tod-
3 dlers with disabilities or children with disabil-
4 ities aged 12 or younger, with knowledge of, or
5 experience with, programs for infants and tod-
6 dlers with disabilities. At least one such mem-
7 ber shall be a parent of an infant or toddler
8 with a disability or a child with a disability
9 aged 6 or younger.

10 “(B) SERVICE PROVIDERS.—At least 20
11 percent of the members shall be public or pri-
12 vate providers of early intervention services.

13 “(C) STATE LEGISLATURE.—At least one
14 member shall be from the State legislature.

15 “(D) PERSONNEL PREPARATION.—At least
16 one member shall be involved in personnel prep-
17 aration.

18 “(E) AGENCY FOR EARLY INTERVENTION
19 SERVICES.—At least one member shall be from
20 each of the State agencies involved in the provi-
21 sion of, or payment for, early intervention serv-
22 ices to infants and toddlers with disabilities and
23 their families and shall have sufficient authority
24 to engage in policy planning and implementa-
25 tion on behalf of such agencies.

1 “(F) AGENCY FOR PRESCHOOL SERV-
2 ICES.—At least one member shall be from the
3 State educational agency responsible for pre-
4 school services to children with disabilities and
5 shall have sufficient authority to engage in pol-
6 icy planning and implementation on behalf of
7 such agency.

8 “(G) AGENCY FOR HEALTH INSURANCE.—
9 At least one member shall be from the agency
10 responsible for the State governance of health
11 insurance.

12 “(H) HEAD START AGENCY.—At least one
13 representative from a Head Start agency or
14 program in the State.

15 “(I) CHILD CARE AGENCY.—At least one
16 representative from a State agency responsible
17 for child care.

18 “(2) OTHER MEMBERS.—The council may in-
19 clude other members selected by the Governor, in-
20 cluding a representative from the Bureau of Indian
21 Affairs, or where there is no BIA-operated or BIA-
22 funded school, from the Indian Health Service or the
23 tribe or tribal council.

24 “(c) MEETINGS.—The council shall meet at least
25 quarterly and in such places as it deems necessary. The

1 meetings shall be publicly announced, and, to the extent
2 appropriate, open and accessible to the general public.

3 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-
4 proval of the Governor, the council may prepare and ap-
5 prove a budget using funds under this part to conduct
6 hearings and forums, to reimburse members of the council
7 for reasonable and necessary expenses for attending coun-
8 cil meetings and performing council duties (including child
9 care for parent representatives), to pay compensation to
10 a member of the council if the member is not employed
11 or must forfeit wages from other employment when per-
12 forming official council business, to hire staff, and to ob-
13 tain the services of such professional, technical, and cler-
14 ical personnel as may be necessary to carry out its func-
15 tions under this part.

16 “(e) FUNCTIONS OF COUNCIL.—

17 “(1) DUTIES.—The council shall—

18 “(A) advise and assist the lead agency des-
19 igned or established under section 635(a)(10)
20 in the performance of the responsibilities set
21 forth in such section, particularly the identifica-
22 tion of the sources of fiscal and other support
23 for services for early intervention programs, as-
24 signment of financial responsibility to the ap-

1 appropriate agency, and the promotion of the
2 interagency agreements;

3 “(B) advise and assist the lead agency in
4 the preparation of applications and amend-
5 ments thereto;

6 “(C) advise and assist the State edu-
7 cational agency regarding the transition of tod-
8 dlers with disabilities to preschool and other ap-
9 propriate services; and

10 “(D) prepare and submit an annual report
11 to the Governor and to the Secretary on the
12 status of early intervention programs for in-
13 fants and toddlers with disabilities and their
14 families operated within the State.

15 “(2) AUTHORIZED ACTIVITY.—The council may
16 advise and assist the lead agency and the State edu-
17 cational agency regarding the provision of appro-
18 priate services for children from birth through age
19 5. The council may advise appropriate agencies in
20 the State with respect to the integration of services
21 for infants and toddlers with disabilities and at-risk
22 infants and toddlers and their families, regardless of
23 whether at-risk infants and toddlers are eligible for
24 early intervention services in the State.

1 “(f) CONFLICT OF INTEREST.—No member of the
2 council shall cast a vote on any matter that would provide
3 direct financial benefit to that member or otherwise give
4 the appearance of a conflict of interest under State law.

5 **“SEC. 642. FEDERAL ADMINISTRATION.**

6 “Sections 616, 617, and 618 shall, to the extent not
7 inconsistent with this part, apply to the program author-
8 ized by this part, except that—

9 “(1) any reference in such sections to a State
10 educational agency shall be considered to be a ref-
11 erence to a State’s lead agency established or des-
12 igned under section 635(a)(10);

13 “(2) any reference in such sections to a local
14 educational agency, educational service agency, or a
15 State agency shall be considered to be a reference to
16 an early intervention service provider under this
17 part; and

18 “(3) any reference to the education of children
19 with disabilities or the education of all children with
20 disabilities shall be considered to be a reference to
21 the provision of appropriate early intervention serv-
22 ices to infants and toddlers with disabilities.

23 **“SEC. 643. ALLOCATION OF FUNDS.**

24 “(a) RESERVATION OF FUNDS FOR OUTLYING
25 AREAS.—

1 “(1) IN GENERAL.—From the sums appro-
2 priated to carry out this part for any fiscal year, the
3 Secretary may reserve up to one percent for pay-
4 ments to Guam, American Samoa, the Virgin Is-
5 lands, and the Commonwealth of the Northern Mar-
6 iana Islands in accordance with their respective
7 needs.

8 “(2) CONSOLIDATION OF FUNDS.—The provi-
9 sions of Public Law 95–134, permitting the consoli-
10 dation of grants to the outlying areas, shall not
11 apply to funds those areas receive under this part.

12 “(b) PAYMENTS TO INDIANS.—

13 “(1) IN GENERAL.—The Secretary shall, sub-
14 ject to this subsection, make payments to the Sec-
15 retary of the Interior to be distributed to tribes,
16 tribal organizations (as defined under section 4 of
17 the Indian Self-Determination and Education Assist-
18 ance Act), or consortia of the above entities for the
19 coordination of assistance in the provision of early
20 intervention services by the States to infants and
21 toddlers with disabilities and their families on res-
22 ervations served by elementary and secondary
23 schools for Indian children operated or funded by
24 the Department of the Interior. The amount of such
25 payment for any fiscal year shall be 1.25 percent of

1 the aggregate of the amount available to all States
2 under this part for such fiscal year.

3 “(2) ALLOCATION.—For each fiscal year, the
4 Secretary of the Interior shall distribute the entire
5 payment received under paragraph (1) by providing
6 to each tribe, tribal organization, or consortium an
7 amount based on the number of infants and toddlers
8 residing on the reservation, as determined annually,
9 divided by the total number of such children served
10 by all tribes, tribal organizations, or consortia.

11 “(3) INFORMATION.—To receive a payment
12 under this subsection, the tribe, tribal organization,
13 or consortium shall submit such information to the
14 Secretary of the Interior as is needed to determine
15 the amounts to be distributed under paragraph (2).

16 “(4) USE OF FUNDS.—The funds received by a
17 tribe, tribal organization, or consortium shall be
18 used to assist States in child find, screening, and
19 other procedures for the early identification of In-
20 dian children under 3 years of age and for parent
21 training. Such funds may also be used to provide
22 early intervention services in accordance with this
23 part. Such activities may be carried out directly or
24 through contracts or cooperative agreements with
25 the BIA, local educational agencies, and other public

1 or private nonprofit organizations. The tribe, tribal
2 organization, or consortium is encouraged to involve
3 Indian parents in the development and implementa-
4 tion of these activities. The above entities shall, as
5 appropriate, make referrals to local, State, or Fed-
6 eral entities for the provision of services or further
7 diagnosis.

8 “(5) REPORTS.—To be eligible to receive a
9 grant under paragraph (2), a tribe, tribal organiza-
10 tion, or consortium shall make an annual report to
11 the Secretary of the Interior of activities undertaken
12 under this subsection, including the number of con-
13 tracts and cooperative agreements entered into, the
14 number of children contacted and receiving services
15 for each year, and the estimated number of children
16 needing services during the year following the year
17 in which the report is made. The Secretary of the
18 Interior shall include a summary of this information
19 on an annual basis to the Secretary of Education
20 along with such other information as required under
21 section 611(i)(3)(E). The Secretary of Education
22 may require any additional information from the
23 Secretary of the Interior.

24 “(6) PROHIBITED USES OF FUNDS.—None of
25 the funds under this subsection may be used by the

1 Secretary of the Interior for administrative pur-
2 poses, including child count, and the provision of
3 technical assistance.

4 “(c) STATE ALLOTMENTS.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graphs (2) and (3) from the funds remaining for
7 each fiscal year after the reservation and payments
8 under subsections (a) and (b), the Secretary shall
9 first allot to each State an amount that bears the
10 same ratio to the amount of such remainder as the
11 number of infants and toddlers in the State bears to
12 the number of infants and toddlers in all States.

13 “(2) MINIMUM ALLOTMENTS.—Except as pro-
14 vided in paragraph (3) no State shall receive an
15 amount under this section for any fiscal year that is
16 less than the greatest of—

17 “(A) one-half of one percent of the remain-
18 ing amount described in paragraph (1); or

19 “(B) \$500,000.

20 “(3) RATABLE REDUCTION.—

21 “(A) IN GENERAL.—If the sums made
22 available under this part for any fiscal year are
23 insufficient to pay the full amounts that all
24 States are eligible to receive under this sub-
25 section for such year, the Secretary shall rat-

1 ably reduce the allotments to such States for
2 such year.

3 “(B) ADDITIONAL FUNDS.—If additional
4 funds become available for making payments
5 under this subsection for a fiscal year, allot-
6 ments that were reduced under subparagraph
7 (A) shall be increased on the same basis they
8 were reduced.

9 “(4) DEFINITIONS.—For the purpose of this
10 subsection—

11 “(A) the terms ‘infants’ and ‘toddlers’
12 mean children under 3 years of age; and

13 “(B) the term ‘State’ means each of the 50
14 States, the District of Columbia, and the Com-
15 monwealth of Puerto Rico.

16 “(d) REALLOTMENT OF FUNDS.—If a State elects
17 not to receive its allotment under subsection (c), the Sec-
18 retary shall reallocate, among the remaining States, amounts
19 from such State in accordance with such subsection.

20 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

21 “For the purpose of carrying out this part, there are
22 authorized to be appropriated \$447,000,000 for fiscal year
23 2004 and such sums as may be necessary for each of the
24 fiscal years 2005 through 2009.”.

1 **TITLE IV—NATIONAL ACTIVITIES**
2 **TO IMPROVE EDUCATION OF**
3 **CHILDREN WITH DISABIL-**
4 **ITIES**

5 **SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION**
6 **OF CHILDREN WITH DISABILITIES.**

7 Part D of the Individuals with Disabilities Education
8 Act (20 U.S.C. 1451 et seq.) is amended to read as fol-
9 lows:

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

12 **“SEC. 651. FINDINGS.**

13 “The Congress finds the following:

14 “(1) The Federal Government has an ongoing
15 obligation to support activities that contribute to
16 positive results for children with disabilities, ena-
17 bling them to lead productive and independent adult
18 lives.

19 “(2) Systemic change benefiting all students,
20 including children with disabilities, requires the in-
21 volvement of States, local educational agencies, par-
22 ents, individuals with disabilities and their families,
23 teachers and other service providers, and other inter-
24 ested individuals and organizations, to develop and

1 implement comprehensive strategies that improve
2 educational results for children with disabilities.

3 “(3) State educational agencies, in partnership
4 with local educational agencies, parents of children
5 with disabilities, and other individuals and organiza-
6 tions, are in the best position to improve education
7 for children with disabilities and to address their
8 special needs.

9 “(4) An effective educational system serving
10 students with disabilities should—

11 “(A) maintain high academic standards
12 and clear achievement goals for children, con-
13 sistent with the standards and expectations for
14 all students in the educational system, and pro-
15 vide for appropriate and effective strategies and
16 methods to ensure that all children with disabili-
17 ties have the opportunity to achieve those
18 standards and goals;

19 “(B) clearly define, in objective, measur-
20 able terms, the school and post-school results
21 that children with disabilities are expected to
22 achieve; and

23 “(C) promote transition services, as de-
24 scribed in section 602(31), and coordinate State
25 and local education, social, health, mental

1 health, and other services, to address the full
2 range of student needs, particularly the needs
3 of children with disabilities who require signifi-
4 cant levels of support to participate and learn
5 in school and the community.

6 “(5) The availability of an adequate number of
7 qualified personnel is critical in order to serve effec-
8 tively children with disabilities, assume leadership
9 positions in administrative and direct-service, pro-
10 vide teacher training, and conduct high-quality re-
11 search to improve special education.

12 “(6) High-quality, comprehensive professional
13 development programs are essential to ensure that
14 the persons responsible for the education or transi-
15 tion of children with disabilities possess the skills
16 and knowledge necessary to address the educational
17 and related needs of those children.

18 “(7) Models of professional development should
19 be scientifically based and reflect successful prac-
20 tices, including strategies for recruiting, preparing,
21 and retaining personnel.

22 “(8) Continued support is essential for the de-
23 velopment and maintenance of a coordinated and
24 high-quality program of research to inform success-

1 ful teaching practices and model curricula for edu-
2 cating children with disabilities.

3 “(9) A comprehensive research agenda should
4 be established and pursued to promote the highest
5 quality and rigor in special education research, and
6 to address the full range of issues facing children
7 with disabilities, parents of children with disabilities,
8 school personnel, and others.

9 “(10) Technical assistance, support, and dis-
10 semination activities are necessary to ensure that
11 parts B and C are fully implemented and achieve
12 quality early intervention, educational, and transi-
13 tional results for children with disabilities and their
14 families.

15 “(11) Parents, teachers, administrators, and re-
16 lated services personnel need technical assistance
17 and information in a timely, coordinated, and acces-
18 sible manner in order to improve early intervention,
19 educational, and transitional services and results at
20 the State and local levels for children with disabil-
21 ities and their families.

22 “(12) Parent and community training and in-
23 formation activities assist parents of a child with a
24 disability in dealing with the multiple pressures of

1 parenting such a child and are of particular impor-
2 tance in—

3 “(A) creating and preserving constructive
4 relationships between parents of children with
5 disabilities and schools by facilitating open com-
6 munication between such parents and schools,
7 encouraging dispute resolution at the earliest
8 point in time possible, and discouraging the es-
9 calation of an adversarial process between such
10 parents and schools;

11 “(B) ensuring the involvement of such par-
12 ents in planning and decision-making with re-
13 spect to early intervention, educational, and
14 transitional services;

15 “(C) achieving high-quality early interven-
16 tion, educational, and transitional results for
17 children with disabilities;

18 “(D) providing such parents information
19 on their rights, protections, and responsibilities
20 under this Act to ensure improved early inter-
21 vention, educational, and transitional results for
22 children with disabilities;

23 “(E) assisting such parents in the develop-
24 ment of skills to participate effectively in the

1 education and development of their children and
2 in the transitions described in section 602(31);

3 “(F) supporting the roles of such parents
4 as participants within partnerships seeking to
5 improve early intervention, educational, and
6 transitional services and results for children
7 with disabilities and their families; and

8 “(G) supporting those parents who may
9 have limited access to services and supports due
10 to economic, cultural, or linguistic barriers.

11 “(13) Support is needed to improve techno-
12 logical resources and integrate technology into the
13 lives of children with disabilities, parents of children
14 with disabilities, school personnel, and others
15 through curricula, services, and assistive tech-
16 nologies.

17 **“Subpart 1—State Professional Development Grants**

18 **“SEC. 652. PURPOSE.**

19 “The purpose of this subpart is to assist State edu-
20 cational agencies in reforming and improving their sys-
21 tems for professional development in early intervention,
22 educational, and transition services in order to improve re-
23 sults for children with disabilities.

1 **“SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.**

2 “(a) **ELIGIBLE APPLICANTS.**—A State educational
3 agency may apply for a grant under this subpart for a
4 grant period of not less than 1 year and not more than
5 5 years.

6 “(b) **PARTNERS.**—

7 “(1) **REQUIRED PARTNERS.**—In order to be
8 considered for a grant under this subpart, a State
9 educational agency shall enter into a partnership
10 agreement with local educational agencies and other
11 State agencies involved in, or concerned with, the
12 education of children with disabilities.

13 “(2) **OPTIONAL PARTNERS.**—In addition, a
14 State educational agency may enter into a partner-
15 ship agreement with any of the following:

16 “(A) The Governor.

17 “(B) Parents of children with disabilities
18 ages birth through 21.

19 “(C) Parents of nondisabled children ages
20 birth through 21.

21 “(D) Individuals with disabilities.

22 “(E) Organizations representing individ-
23 uals with disabilities and their parents, such as
24 parent and community training and information
25 centers.

1 “(F) Community-based and other non-
2 profit organizations involved in the education
3 and employment of individuals with disabilities.

4 “(G) The lead State agency for part C.

5 “(H) General and special education teach-
6 ers, and early intervention personnel.

7 “(I) The State advisory panel established
8 under part C.

9 “(J) The State interagency coordinating
10 council established under part C.

11 “(K) Institutions of higher education with-
12 in the State.

13 “(L) Individuals knowledgeable about voca-
14 tional education.

15 “(M) The State agency for higher edu-
16 cation.

17 “(O) The State vocational rehabilitation
18 agency.

19 “(P) Public agencies with jurisdiction in
20 the areas of health, mental health, social serv-
21 ices, and juvenile justice.

22 “(Q) Other providers of professional devel-
23 opment that work with students with disabil-
24 ities.

25 “(R) Other individuals.

1 **“SEC. 654. APPLICATIONS.**

2 “(a) IN GENERAL.—

3 “(1) SUBMISSION.—A State educational agency
4 that desires to receive a grant under this subpart
5 shall submit to the Secretary an application at such
6 time, in such manner, and including such informa-
7 tion as the Secretary may require.

8 “(2) STATE PLAN.—The application shall in-
9 clude a plan that addresses the State and local
10 needs for the professional development of adminis-
11 trators, principals, teachers, and individuals who
12 provide direct supplementary aids and services to
13 children with disabilities, and that—

14 “(A) is integrated, to the maximum extent
15 possible, with State plans under the Elementary
16 and Secondary Education Act of 1965, the Re-
17 habilitation Act of 1973, and the Higher Edu-
18 cation Act of 1965, as appropriate; and

19 “(B) is designed to enable the State to
20 meet the requirements of section 612(a)(15) of
21 this Act.

22 “(b) ELEMENTS OF STATE PLAN.—Each State plan
23 shall—

24 “(1) describe a partnership agreement that—

25 “(A) specifies—

1 “(i) the nature and extent of the part-
2 nership among the State educational agen-
3 cy, local educational agencies, and other
4 State agencies involved in, or concerned
5 with, the education of children with disabil-
6 ities, and the respective roles of each mem-
7 ber of the partnership; and

8 “(ii) how such agencies will work in
9 partnership with other persons and organi-
10 zations involved in, and concerned with,
11 the education of children with disabilities,
12 including the respective roles of each of
13 these persons and organizations; and

14 “(B) is in effect for the period of the
15 grant;

16 “(2) describe how grant funds, including part B
17 funds retained for use at the State level under sec-
18 tions 611(f) and 619(d), and other Federal funds
19 will be used to support activities conducted under
20 this section;

21 “(3) describe the strategies the State will use to
22 implement the plan to improve results for children
23 with disabilities, including—

24 “(A) how the State will align its profes-
25 sional development plan with the plans sub-

1 mitted by the State under sections 1115 and
2 2112 of the Elementary and Secondary Edu-
3 cation Act of 1965;

4 “(B) how the State will provide technical
5 assistance to local educational agencies and
6 schools to improve the quality of professional
7 development available to meet the needs of per-
8 sonnel that serve children with disabilities;

9 “(C) how the State will assess, on a reg-
10 ular basis, the extent to which the strategies
11 implemented under this subpart have been ef-
12 fective in meeting the achievement goals and in-
13 dicators in section 612(a)(16);

14 “(4) describe, as appropriate, how the strate-
15 gies described in paragraph (3) will be coordinated
16 with public and private sector resources; and

17 “(5) include an assurance that the State will
18 use funds received under this subpart to carry out
19 each of the activities specified in the plan.

20 “(c) COMPETITIVE AWARDS.—

21 “(1) IN GENERAL.—The Secretary shall make
22 grants under this subpart on a competitive basis.

23 “(2) PRIORITY.—The Secretary may give pri-
24 ority to applications on the basis of need.

25 “(d) PEER REVIEW.—

1 “(1) IN GENERAL.—The Secretary shall evalu-
2 ate applications under this subpart using a panel of
3 experts who are qualified by virtue of their training,
4 expertise, or experience.

5 “(2) COMPOSITION OF PANEL.—A majority of a
6 panel described in paragraph (1) shall be composed
7 of individuals who are not employees of the Federal
8 Government.

9 “(3) PAYMENT OF FEES AND EXPENSES OF
10 CERTAIN MEMBERS.—The Secretary may use avail-
11 able funds appropriated to carry out this subpart to
12 pay the expenses and fees of panel members who are
13 not employees of the Federal Government.

14 “(e) REPORTING PROCEDURES.—Each State edu-
15 cational agency that receives a grant under this subpart
16 shall submit annual performance reports to the Secretary.
17 The reports shall—

18 “(1) describe the progress of the State in imple-
19 menting its plan;

20 “(2) analyze the effectiveness of the State’s ac-
21 tivities under this subpart and of the State’s strate-
22 gies for meeting its goals under section 612(a)(16);
23 and

24 “(3) identify any changes in such strategies
25 needed to improve its performance.

1 **“SEC. 655. USE OF FUNDS.**

2 “(a) IN GENERAL.—

3 “(1) ACTIVITIES.—A State educational agency
4 that receives a grant under this subpart shall use
5 the grant funds, subject to subsection (b), for the
6 following:

7 “(A) PROFESSIONAL DEVELOPMENT.—

8 “(i) Carrying out programs that sup-
9 port the professional development of both
10 special education and regular education
11 teachers of children with disabilities, such
12 as programs that—

13 “(I) provide teacher mentoring,
14 team teaching, reduced class sched-
15 ules, and intensive professional devel-
16 opment; and

17 “(II) use standards or assess-
18 ments for guiding beginning teachers
19 that are consistent with challenging
20 State student academic achievement
21 standards and with the requirements
22 for professional development activities
23 described in section 9101 of the Ele-
24 mentary and Secondary Education
25 Act of 1965.

1 “(ii) Encouraging and supporting the
2 training of special education and regular
3 education teachers and administrators to
4 effectively integrate technology into cur-
5 ricula and instruction, including training
6 to improve the ability to collect, manage,
7 and analyze data to improve teaching, deci-
8 sionmaking, school improvement efforts,
9 and accountability.

10 “(iii) Providing professional develop-
11 ment activities that improve the knowledge
12 of special education and regular education
13 teachers concerning—

14 “(I) the academic and develop-
15 mental needs of students with disabili-
16 ties; and

17 “(II) effective instructional strat-
18 egies, methods, and skills, use of chal-
19 lenging State academic content stand-
20 ards and student academic achieve-
21 ment standards, and use of State as-
22 sessments, to improve teaching prac-
23 tices and student academic achieve-
24 ment.

1 “(iv) Providing professional develop-
2 ment activities that—

3 “(I) improve the knowledge of
4 special education and regular edu-
5 cation teachers and principals and, in
6 appropriate cases, paraprofessionals,
7 concerning effective instructional
8 practices;

9 “(II) provide training in how to
10 teach and address the needs of stu-
11 dents with different learning styles;

12 “(III) involve collaborative
13 groups of teachers and administra-
14 tors;

15 “(IV) provide training in meth-
16 ods of—

17 “(aa) positive behavior inter-
18 ventions and supports to improve
19 student behavior in the class-
20 room;

21 “(bb) scientifically based
22 reading instruction, including
23 early literacy instruction; and

1 “(cc) early and appropriate
2 interventions to identify and help
3 students with disabilities;

4 “(V) provide training to enable
5 special education and regular edu-
6 cation teachers and principals to in-
7 volve parents in their child’s edu-
8 cation, especially parents of low in-
9 come and limited English proficient
10 children with disabilities; or

11 “(VI) train administrators and
12 other relevant school personnel in con-
13 ducting facilitated individualized edu-
14 cation program meetings.

15 “(v) Developing and implementing ini-
16 tiatives to promote retention of highly
17 qualified special education teachers, includ-
18 ing programs that provide—

19 “(I) teacher mentoring from ex-
20 emplary special education teachers,
21 principals, or superintendents;

22 “(II) induction and support for
23 special education teachers during their
24 first 3 years of employment as teach-
25 ers; or

1 “(III) incentives, including finan-
2 cial incentives, to retain special edu-
3 cation teachers who have a record of
4 success in helping students with dis-
5 abilities improve their academic
6 achievement.

7 “(vi) Carrying out programs and ac-
8 tivities that are designed to improve the
9 quality of the teacher force that serves stu-
10 dents with disabilities, such as—

11 “(I) innovative professional devel-
12 opment programs (which may be pro-
13 vided through partnerships including
14 institutions of higher education), in-
15 cluding programs that train teachers
16 and principals to integrate technology
17 into curricula and instruction to im-
18 prove teaching, learning, and tech-
19 nology literacy, are consistent with the
20 requirements of section 9101 of the
21 Elementary and Secondary Assistance
22 Act of 1965, and are coordinated with
23 activities carried out under this part;
24 and

1 “(II) development and use of
2 proven, cost-effective strategies for the
3 implementation of professional devel-
4 opment activities, such as through the
5 use of technology and distance learn-
6 ing.

7 “(B) STATE ACTIVITIES.—

8 “(i) Reforming special education and
9 regular education teacher certification (in-
10 cluding recertification) or licensing require-
11 ments to ensure that—

12 “(I) special education and reg-
13 ular education teachers have the
14 training and information necessary to
15 address the wide variety of needs of
16 children with disabilities across dis-
17 ability categories;

18 “(II) special education and reg-
19 ular education teachers have the nec-
20 essary subject matter knowledge and
21 teaching skills in the academic sub-
22 jects that the teachers teach;

23 “(III) special education and reg-
24 ular education teacher certification
25 (including recertification) or licensing

1 requirements are aligned with chal-
2 lenging State academic content stand-
3 ards; and

4 “(IV) special education and reg-
5 ular education teachers have the sub-
6 ject matter knowledge and teaching
7 skills, including technology literacy,
8 necessary to help students meet chal-
9 lenging State student academic
10 achievement standards.

11 “(ii) Carrying out programs that es-
12 tablish, expand, or improve alternative
13 routes for State certification of special
14 education teachers for individuals who
15 demonstrate the potential to become highly
16 effective special education teachers, such
17 as individuals with a baccalaureate or mas-
18 ter’s degree (including mid-career profes-
19 sionals from other occupations), para-
20 professionals, former military personnel,
21 and recent college or university graduates
22 with records of academic distinction.

23 “(iii) Carrying out teacher advance-
24 ment initiatives for special education
25 teachers that promote professional growth

1 and emphasize multiple career paths (such
2 as paths to becoming a career teacher,
3 mentor teacher, or exemplary teacher) and
4 pay differentiation.

5 “(iv) Developing and implementing
6 mechanisms to assist local educational
7 agencies and schools in effectively recruit-
8 ing and retaining highly qualified special
9 education teachers.

10 “(v) Reforming tenure systems, imple-
11 menting teacher testing for subject matter
12 knowledge, and implementing teacher test-
13 ing for State certification or licensing, con-
14 sistent with title II of the Higher Edu-
15 cation Act of 1965.

16 “(vi) Developing and implementing
17 mechanisms to assist schools in effectively
18 recruiting and retaining highly qualified
19 special education teachers.

20 “(vii) Funding projects to promote
21 reciprocity of teacher certification or li-
22 censing between or among States for spe-
23 cial education teachers, except that no reci-
24 procity agreement developed under this
25 clause or developed using funds provided

1 under this subpart may lead to the weak-
2 ening of any State teaching certification or
3 licensing requirement.

4 “(viii) Developing or assisting local
5 educational agencies to serve children with
6 disabilities through the development and
7 use of proven, innovative strategies to de-
8 liver intensive professional development
9 programs that are both cost-effective and
10 easily accessible, such as strategies that in-
11 volve delivery through the use of tech-
12 nology, peer networks, and distance learn-
13 ing.

14 “(ix) Developing, or assisting local
15 educational agencies in developing, merit-
16 based performance systems, and strategies
17 that provide differential and bonus pay for
18 special education teachers.

19 “(x) Supporting activities that ensure
20 that teachers are able to use challenging
21 State academic content standards and stu-
22 dent academic achievement standards, and
23 State assessments, to improve instructional
24 practices and improve the academic
25 achievement of children with disabilities.

1 “(xi) Coordinate with, and expand,
2 centers established under section 2113(18)
3 of the Elementary and Secondary Edu-
4 cation Act of 1965 to benefit special edu-
5 cation teachers.

6 “(2) CONTRACTS AND SUBGRANTS.—Each such
7 State educational agency—

8 “(A) shall, consistent with its partnership
9 agreement under section 653(b), award con-
10 tracts or subgrants to local educational agen-
11 cies, institutions of higher education, and par-
12 ent and community training and information
13 centers, as appropriate, to carry out its State
14 plan under this subpart; and

15 “(B) may award contracts and subgrants
16 to other public and private entities, including
17 the lead agency under part C, to carry out such
18 plan.

19 “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-
20 MENT.—A State educational agency that receives a grant
21 under this subpart shall use—

22 “(1) not less than 90 percent of the funds it re-
23 ceives under the grant for any fiscal year for activi-
24 ties under subsection (a)(1)(A); and

1 “(2) not more than 10 percent of the funds it
2 receives under the grant for any fiscal year for ac-
3 tivities under subsection (a)(1)(B).

4 “(c) GRANTS TO OUTLYING AREAS.—Public Law 95–
5 134, permitting the consolidation of grants to the outlying
6 areas, shall not apply to funds received under this subpart.

7 **“SEC. 656. STATE GRANT AMOUNTS.**

8 “(a) IN GENERAL.—The Secretary shall make a
9 grant to each State educational agency whose application
10 the Secretary has selected for funding under this subpart
11 in an amount for each fiscal year that is—

12 “(1) not less than \$500,000, nor more than
13 \$2,000,000, in the case of the 50 States, the Dis-
14 trict of Columbia, and the Commonwealth of Puerto
15 Rico; and

16 “(2) not less than \$80,000, in the case of an
17 outlying area.

18 “(b) FACTORS.—The Secretary shall set the amount
19 of each grant under subsection (a) after considering—

20 “(1) the amount of funds available for making
21 the grants;

22 “(2) the relative population of the State or out-
23 lying area; and

24 “(3) the types of activities proposed by the
25 State or outlying area, including—

1 “(A) the alignment of proposed activities
2 with paragraphs (15) and (16) of section
3 612(a);

4 “(B) the alignment of proposed activities
5 with the plans submitted under sections 1111
6 and 2112 of the Elementary and Secondary
7 Education Act of 1965; and

8 “(C) the use, as appropriate, of scientif-
9 ically-based research.

10 **“SEC. 657. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to carry out
12 this subpart such sums as may be necessary for each of
13 the fiscal years 2004 through 2008.

14 **Subpart 2—Scientifically Based Research; Technical**
15 **Assistance; Model Demonstration Projects; Dis-**
16 **semination of Information; and Personnel Pro-**
17 **grams**

18 **“SEC. 661. PURPOSE.**

19 “The purpose of this subpart is to provide Federal
20 funding for scientifically based research, technical assist-
21 ance, model demonstration projects, information dissemi-
22 nation, and personnel preparation programs to improve
23 early intervention, educational, and transitional results for
24 children with disabilities.

1 **“SEC. 662. ADMINISTRATIVE PROVISIONS.**

2 “(a) COMPREHENSIVE PLAN.—

3 “(1) IN GENERAL.—The Secretary shall develop
4 and implement a comprehensive plan for activities
5 carried out under this subpart in order to enhance
6 the provision of educational, related, transitional,
7 and early intervention services to children with dis-
8 abilities under parts B and C. The plan shall include
9 mechanisms to address educational, related services,
10 transitional, and early intervention needs identified
11 by State educational agencies in applications sub-
12 mitted under subpart 1.

13 “(2) PUBLIC COMMENT.—The Secretary shall
14 provide a public comment period of at least 30 days
15 on the plan.

16 “(3) DISTRIBUTION OF FUNDS.—In imple-
17 menting the plan, the Secretary shall, to the extent
18 appropriate, ensure that funds are awarded to re-
19 cipients under this subpart to carry out activities
20 that benefit, directly or indirectly, children with dis-
21 abilities of all ages.

22 “(4) REPORTS TO CONGRESS.—The Secretary
23 shall annually report to the Congress on the Sec-
24 retary’s activities under this subsection, including an
25 initial report not later than the date that is 12
26 months after the date of the enactment of Improving

1 Education Results for Children With Disabilities Act
2 of 2003.

3 “(b) ELIGIBLE APPLICANTS.—

4 “(1) IN GENERAL.—Except as otherwise pro-
5 vided in this subpart, the following entities are eligi-
6 ble to apply for a grant, contract, or cooperative
7 agreement under this subpart:

8 “(A) A State educational agency.

9 “(B) A local educational agency.

10 “(C) A public charter school that is a local
11 educational agency under State law.

12 “(D) An institution of higher education.

13 “(E) Any other public agency.

14 “(F) A private nonprofit organization.

15 “(G) An outlying area.

16 “(H) An Indian tribe or a tribal organiza-
17 tion (as defined under section 4 of the Indian
18 Self-Determination and Education Assistance
19 Act (25 U.S.C. 450b)).

20 “(I) A for-profit organization.

21 “(2) SPECIAL RULE.—The Secretary may limit
22 the entities eligible for an award of a grant, con-
23 tract, or cooperative agreement to one or more cat-
24 egories of eligible entities described in paragraph
25 (1).

1 “(c) SPECIAL POPULATIONS.—

2 “(1) APPLICATION REQUIREMENT.—In making
3 an award of a grant, contract, or cooperative agree-
4 ment under this subpart, the Secretary shall, as ap-
5 propriate, require an applicant to demonstrate how
6 the applicant will address the needs of children with
7 disabilities from minority backgrounds.

8 “(2) REQUIRED OUTREACH AND TECHNICAL AS-
9 SISTANCE.—Notwithstanding any other provision of
10 this Act, the Secretary shall reserve at least one per-
11 cent of the total amount of funds appropriated to
12 carry out this subpart for either or both of the fol-
13 lowing activities:

14 “(A) Providing outreach and technical as-
15 sistance to historically black colleges and uni-
16 versities, and to institutions of higher education
17 with minority enrollments of at least 25 per-
18 cent, to promote the participation of such col-
19 leges, universities, and institutions in activities
20 under this subpart.

21 “(B) Enabling historically black colleges
22 and universities, and the institutions described
23 in subparagraph (A), to assist other colleges,
24 universities, institutions, and agencies in im-
25 proving educational and transitional results for

1 children with disabilities, if such grant appli-
2 cants meet the criteria established by the Sec-
3 retary under this subpart.

4 “(d) PRIORITIES.—The Secretary, in making an
5 award of a grant, contract, or cooperative agreement
6 under this subpart, may, without regard to the rulemaking
7 procedures under section 553 of title 5, United States
8 Code, limit competitions to, or otherwise give priority to—

9 “(1) projects that address one or more—

10 “(A) age ranges;

11 “(B) disabilities;

12 “(C) school grades;

13 “(D) types of educational placements or
14 early intervention environments;

15 “(E) types of services;

16 “(F) content areas, such as reading; or

17 “(G) effective strategies for helping chil-
18 dren with disabilities learn appropriate behavior
19 in the school and other community-based edu-
20 cational settings;

21 “(2) projects that address the needs of children
22 based on the severity or incidence of their disability;

23 “(3) projects that address the needs of—

24 “(A) low-achieving students;

25 “(B) underserved populations;

1 “(C) children from low-income families;

2 “(D) children with limited English pro-
3 ficiency;

4 “(E) unserved and underserved areas;

5 “(F) rural or urban areas;

6 “(G) children whose behavior interferes
7 with their learning and socialization;

8 “(H) children with intractable reading dif-
9 ficulties; and

10 “(I) children in public charter schools;

11 “(4) projects to reduce inappropriate identifica-
12 tion of children as children with disabilities, particu-
13 larly among minority children; and

14 “(5) any activity that is expressly authorized in
15 this subpart or subpart 3.

16 “(e) APPLICANT AND RECIPIENT RESPONSIBIL-
17 ITIES.—

18 “(1) DEVELOPMENT AND ASSESSMENT OF
19 PROJECTS.—The Secretary shall require that an ap-
20 plicant for, and a recipient of, a grant, contract, or
21 cooperative agreement for a project under this sub-
22 part—

23 “(A) involve individuals with disabilities, or
24 parents of individuals with disabilities ages

1 birth through 21, in planning, implementing,
2 and evaluating the project; and

3 “(B) where appropriate, determine whether
4 the project has any potential for replication and
5 adoption by other entities.

6 “(2) ADDITIONAL RESPONSIBILITIES.—The
7 Secretary may require a recipient of a grant, con-
8 tract, or cooperative agreement for a project under
9 this subpart—

10 “(A) to share in the cost of the project;

11 “(B) to prepare the research and evalua-
12 tion findings and products from the project in
13 formats that are useful for specific audiences,
14 including parents, administrators, teachers,
15 early intervention personnel, related services
16 personnel, and individuals with disabilities;

17 “(C) to disseminate such findings and
18 products; and

19 “(D) to collaborate with other such recipi-
20 ents in carrying out subparagraphs (B) and
21 (C).

22 “(f) APPLICATION MANAGEMENT.—

23 “(1) STANDING PANEL.—

24 “(A) IN GENERAL.—The Secretary shall
25 establish and use a standing panel of experts

1 who are qualified, by virtue of their training,
2 expertise, or experience, to evaluate applications
3 under this subpart that, individually, request
4 more than \$75,000 per year in Federal finan-
5 cial assistance.

6 “(B) MEMBERSHIP.—The standing panel
7 shall include, at a minimum—

8 “(i) individuals who are representa-
9 tives of institutions of higher education
10 that plan, develop, and carry out high
11 quality programs of personnel preparation;

12 “(ii) individuals who design and carry
13 out scientifically-based research targeted to
14 the improvement of special education pro-
15 grams and services;

16 “(iii) individuals who have recognized
17 experience and knowledge necessary to in-
18 tegrate and apply scientifically-based re-
19 search findings to improve educational and
20 transitional results for children with dis-
21 abilities;

22 “(iv) individuals who administer pro-
23 grams at the State or local level in which
24 children with disabilities participate;

1 “(v) individuals who prepare parents
2 of children with disabilities to participate
3 in making decisions about the education of
4 their children;

5 “(vi) individuals who establish policies
6 that affect the delivery of services to chil-
7 dren with disabilities;

8 “(vii) individuals who are parents of
9 children with disabilities ages birth
10 through 21 who are benefiting, or have
11 benefited, from coordinated research, per-
12 sonnel preparation, and technical assist-
13 ance; and

14 “(viii) individuals with disabilities.

15 “(C) TERM.—No individual shall serve on
16 the standing panel for more than 3 consecutive
17 years.

18 “(2) PEER-REVIEW PANELS FOR PARTICULAR
19 COMPETITIONS.—

20 “(A) COMPOSITION.—The Secretary shall
21 ensure that each sub-panel selected from the
22 standing panel that reviews applications under
23 this subpart includes—

1 “(i) individuals with knowledge and
2 expertise on the issues addressed by the
3 activities authorized by the subpart; and

4 “(ii) to the extent practicable, parents
5 of children with disabilities ages birth
6 through 21, individuals with disabilities,
7 and persons from diverse backgrounds.

8 “(B) FEDERAL EMPLOYMENT LIMITA-
9 TION.—A majority of the individuals on each
10 sub-panel that reviews an application under this
11 subpart shall be individuals who are not em-
12 ployees of the Federal Government.

13 “(3) USE OF DISCRETIONARY FUNDS FOR AD-
14 MINISTRATIVE PURPOSES.—

15 “(A) EXPENSES AND FEES OF NON-FED-
16 ERAL PANEL MEMBERS.—The Secretary may
17 use funds available under this subpart to pay
18 the expenses and fees of the panel members
19 who are not officers or employees of the Fed-
20 eral Government.

21 “(B) ADMINISTRATIVE SUPPORT.—The
22 Secretary may use not more than 1 percent of
23 the funds appropriated to carry out this sub-
24 part to pay non-Federal entities for administra-

1 tive support related to management of applica-
2 tions submitted under this subpart.

3 “(g) PROGRAM EVALUATION.—The Secretary may
4 use funds appropriated to carry out this subpart to evalu-
5 ate activities carried out under the subpart.

6 “(h) MINIMUM FUNDING REQUIRED.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 the Secretary shall ensure that, for each fiscal year,
9 at least the following amounts are provided under
10 this subpart to address the following needs:

11 “(A) \$12,832,000 to address the edu-
12 cational, related services, transitional, and early
13 intervention needs of children with deaf-blind-
14 ness.

15 “(B) \$4,000,000 to address the postsec-
16 ondary, vocational, technical, continuing, and
17 adult education needs of individuals with deaf-
18 ness.

19 “(C) \$4,000,000 to address the edu-
20 cational, related services, and transitional needs
21 of children with an emotional disturbance and
22 those who are at risk of developing an emo-
23 tional disturbance.

24 “(2) RATABLE REDUCTION.—If the total
25 amount appropriated to carry out this subpart for

1 any fiscal year is less than \$130,000,000, the
2 amounts listed in paragraph (1) shall be ratably re-
3 duced.

4 “(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Ef-
5 fective for fiscal years for which the Secretary may make
6 grants under section 619(b), no State or local educational
7 agency or educational service agency or other public insti-
8 tution or agency may receive a grant under this subpart
9 which relates exclusively to programs, projects, and activi-
10 ties pertaining to children aged 3 through 5, inclusive, un-
11 less the State is eligible to receive a grant under section
12 619(b).

13 **“SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHIL-**
14 **DREN WITH DISABILITIES.**

15 “(a) IN GENERAL.—

16 “(1) COMPETITIVE GRANTS.—The Secretary
17 shall make competitive grants to, or enter into con-
18 tracts or cooperative agreements with, eligible enti-
19 ties to expand the fundamental knowledge and un-
20 derstanding of the education of children with disabil-
21 ities in order to improve educational results for chil-
22 dren with disabilities, in accordance with the prior-
23 ities determined under this section.

24 “(2) DELEGATION.—Notwithstanding any other
25 provision of law, the Secretary shall delegate the

1 Secretary's responsibilities under this section to the
2 Director of the Institute for Education Sciences.

3 “(b) AUTHORIZED ACTIVITIES.—Activities that may
4 be carried out under this section include research activities
5 to obtain knowledge and understanding in order—

6 “(1) to improve services provided under this
7 Act in order to improve academic achievement for
8 children with disabilities;

9 “(2) to investigate scientifically based edu-
10 cational practices that support learning and improve
11 academic achievement and progress for all students
12 with disabilities;

13 “(3) to examine the special needs of preschool-
14 aged children and infants and toddlers with disabil-
15 ities, including factors that may result in develop-
16 mental delays;

17 “(4) to improve the alignment, compatibility,
18 and development of valid and reliable assessment
19 methods, including alternative assessment methods
20 and evaluation methods for assessing adequate year-
21 ly progress, as described under section
22 1111(b)(2)(B) of the Elementary and Secondary
23 Education Act of 1965;

1 “(5) to examine the educational and develop-
2 mental needs of children with high-incidence and
3 low-incidence disabilities;

4 “(6) to examine the extent to which over-identi-
5 fication and under-identification of children with dis-
6 abilities occurs, and the causes thereof;

7 “(7) to improve reading and literacy skills for
8 children with disabilities;

9 “(8) to examine and improve secondary and
10 postsecondary education and transitional needs of
11 children with disabilities;

12 “(9) to examine methods of early intervention
13 for children with disabilities who need significant
14 levels of support;

15 “(10) to examine universal design concepts in
16 the development of assessments, curricula, and in-
17 structional methods as a method to improve results
18 for children with disabilities;

19 “(11) to improve the preparation for personnel
20 who provide educational and related services to chil-
21 dren with disabilities to increase academic achieve-
22 ment of students with disabilities; and

23 “(12) to examine the excess costs of educating
24 a child with a disability and expenses associated with
25 high-cost special education and related services.

1 “(c) QUALITY OF RESEARCH.—In carrying out these
2 activities, Director of the Institute of Education Sciences,
3 with the advice of the Assistant Secretary for Special Edu-
4 cation and Rehabilitative Services, shall conduct and sup-
5 port scientifically valid research activities, including basic
6 and applied research, statistics activities, scientifically
7 valid evaluation, development, and dissemination that—

8 “(1) conform to high standards of quality, in-
9 tegrity, accuracy, validity, and reliability;

10 “(2) are carried out in conjunction with the
11 standards for the conduct and evaluation of all re-
12 search and development established by the National
13 Center for Education Research; and

14 “(3) are objective, secular, neutral, nonideolog-
15 ical, and are free of partisan political influence, and
16 racial, cultural, gender, regional, or disability bias.

17 “(d) RESEARCH AGENDA.—

18 “(1) IN GENERAL.—In carrying out this sec-
19 tion, the Secretary shall develop a comprehensive re-
20 search agenda.

21 “(2) REQUIREMENTS.—The Secretary shall en-
22 sure that the comprehensive research agenda—

23 “(A) is consistent with the purposes of this
24 Act and includes activities authorized under

1 subsection (b) and, as appropriate, activities re-
2 quired under subsection (c);

3 “(B) reflects an appropriate balance across
4 all age ranges of children with disabilities;

5 “(C) is objective and uses measurable indi-
6 cators to assess the progress and results of re-
7 search;

8 “(D) includes both basic research and ap-
9 plied research, which shall include research con-
10 ducted through field-initiated studies and may
11 include ongoing research initiatives; and

12 “(E) ensures that the research conducted
13 under this subpart is relevant to special edu-
14 cation practice and policy.

15 “(3) PUBLIC COMMENT PERIOD.—The Sec-
16 retary shall provide a public comment period of at
17 least 30 days on the research agenda.

18 “(4) SUBMISSION OF FINAL AGENDA.—The
19 Secretary shall submit a final comprehensive re-
20 search agenda to the House Committee on Edu-
21 cation and the Workforce and the Senate Committee
22 on Health, Education, Labor, and Pensions no later
23 than July 1, 2004.

24 “(e) APPLICATIONS.—An eligible entity that wishes
25 to receive a grant, or enter into a contract or cooperative

1 agreement, under this section shall submit an application
2 to the Secretary at such time, in such manner, and con-
3 taining such information as the Secretary may require.

4 **“SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION**
5 **PROJECTS, DISSEMINATION OF INFORMA-**
6 **TION, AND IMPLEMENTATION OF SCIENTIF-**
7 **ICALLY BASED RESEARCH.**

8 “(a) IN GENERAL.—The Secretary shall make com-
9 petitive grants to, or enter into contracts or cooperative
10 agreements with, eligible entities to provide technical as-
11 sistance, support model demonstration projects, dissemi-
12 nate useful information, and implement activities that are
13 supported by scientifically based research.

14 “(b) REQUIRED ACTIVITIES.—Funds received under
15 this section shall be used to support activities to improve
16 services provided under this Act, including the practices
17 of professionals and others involved in providing such serv-
18 ices to children with disabilities, that promote academic
19 achievement and improve results for children with disabil-
20 ities through—

21 “(1) implementing effective strategies for ad-
22 dressing inappropriate behavior of students with dis-
23 abilities in schools, including strategies to prevent
24 children with emotional and behavioral problems
25 from developing emotional disturbances that require

1 the provision of special education and related serv-
2 ices;

3 “(2) improving the alignment, compatibility,
4 and development of valid and reliable assessment
5 methods, including alternative assessment methods
6 and evaluation methods, for assessing adequate year-
7 ly progress, as described under section
8 1111(b)(2)(B) of the Elementary and Secondary
9 Education Act of 1965; and

10 “(3) providing training for both regular edu-
11 cation teachers and special education teachers to ad-
12 dress the needs of students with different learning
13 styles.

14 “(c) AUTHORIZED ACTIVITIES.—Activities that may
15 be carried out under this section include activities to im-
16 prove services provided under this Act, including the prac-
17 tices of professionals and others involved in providing such
18 services to children with disabilities, that promote aca-
19 demic achievement and improve results for children with
20 disabilities through—

21 “(1) identifying innovative, effective, and effi-
22 cient curricula designs, instructional approaches,
23 and strategies, and identifying positive academic and
24 social learning opportunities, that—

1 “(A) provide effective transitions between
2 educational settings or from school to post
3 school settings; and

4 “(B) improve educational and transitional
5 results at all levels of the educational system in
6 which the activities are carried out and, in par-
7 ticular, that improve the progress of children
8 with disabilities, as measured by assessments
9 within the general education curriculum in-
10 volved;

11 “(2) applying and testing research findings in
12 typical service settings to determine the usefulness,
13 effectiveness, and general applicability of such re-
14 search findings in such areas as improving instruc-
15 tional methods, curricula, and tools, such as text-
16 books and media;

17 “(3) demonstrating and applying scientifically-
18 based findings to facilitate systemic changes, related
19 to the provision of services to children with disabil-
20 ities, in policy, procedure, practice, and the training
21 and use of personnel;

22 “(4) supporting and promoting the coordination
23 of early intervention and educational services for
24 children with disabilities with services provided by
25 health, rehabilitation, and social service agencies;

1 “(5) promoting improved alignment and com-
2 patibility of general and special education reforms
3 concerned with curricular and instructional reform,
4 and evaluation of such reforms;

5 “(6) enabling professionals, parents of children
6 with disabilities, and other persons to learn about,
7 and implement, the findings of scientifically-based
8 research, and successful practices developed in model
9 demonstration projects, relating to the provision of
10 services to children with disabilities;

11 “(7) conducting outreach, and disseminating in-
12 formation, relating to successful approaches to over-
13 coming systemic barriers to the effective and effi-
14 cient delivery of early intervention, educational, and
15 transitional services to personnel who provide serv-
16 ices to children with disabilities;

17 “(8) assisting States and local educational
18 agencies with the process of planning systemic
19 changes that will promote improved early interven-
20 tion, educational, and transitional results for chil-
21 dren with disabilities;

22 “(9) promoting change through a multistate or
23 regional framework that benefits States, local edu-
24 cational agencies, and other participants in partner-

1 ships that are in the process of achieving systemic-
2 change outcomes; or

3 “(10) focusing on the needs and issues that are
4 specific to a population of children with disabilities,
5 such as the provision of single-State and multi-State
6 technical assistance and in-service training—

7 “(A) to schools and agencies serving deaf-
8 blind children and their families;

9 “(B) to programs and agencies serving
10 other groups of children with low-incidence dis-
11 abilities and their families;

12 “(C) addressing the postsecondary edu-
13 cation needs of individuals who are deaf or
14 hard-of-hearing; and

15 “(D) to schools and personnel providing
16 special education and related services for chil-
17 dren with autism spectrum disorders.

18 “(d) BALANCE AMONG ACTIVITIES AND AGE
19 RANGES.—In carrying out this section, the Secretary shall
20 ensure that there is an appropriate balance across all age
21 ranges of children with disabilities.

22 “(e) LINKING STATES TO INFORMATION SOURCES.—
23 In carrying out this section, the Secretary may support
24 projects that link States to technical assistance resources,
25 including special education and general education re-

1 sources, and may make research and related products
2 available through libraries, electronic networks, parent
3 training projects, and other information sources.

4 “(f) APPLICATIONS.—

5 “(1) IN GENERAL.—An eligible entity that
6 wishes to receive a grant, or enter into a contract or
7 cooperative agreement, under this section shall sub-
8 mit an application to the Secretary at such time, in
9 such manner, and containing such information as
10 the Secretary may require.

11 “(2) STANDARDS.—To the maximum extent
12 feasible, applicants must demonstrate that they will
13 support projects based on scientifically based re-
14 search that has been carried out in accordance with
15 the standards for the conduct and evaluation of all
16 research and development established by the Na-
17 tional Center for Education Research.

18 “(3) PRIORITY.—The Secretary shall give pri-
19 ority to applications that propose to serve teachers
20 and school personnel directly in the school environ-
21 ment.

1 **“SEC. 665. PERSONNEL DEVELOPMENT TO IMPROVE SERV-**
2 **ICES AND RESULTS FOR CHILDREN WITH DIS-**
3 **ABILITIES.**

4 “(a) IN GENERAL.—The Secretary shall, on a com-
5 petitive basis, make grants to, or enter into contracts or
6 cooperative agreements with, eligible entities—

7 “(1) to help address State-identified needs for
8 highly qualified personnel in special education, re-
9 lated services, early intervention, and regular edu-
10 cation, to work with children with disabilities;

11 “(2) to ensure that those personnel have the
12 necessary skills and knowledge, derived from prac-
13 tices that have been determined, through scientif-
14 ically-based research, to be successful in serving
15 those children;

16 “(3) to encourage increased focus on academics
17 and core content areas in special education per-
18 sonnel preparation programs;

19 “(4) to ensure that regular education teachers
20 have the necessary skills and knowledge to provide
21 instruction to students with disabilities in the reg-
22 ular education classroom; and

23 “(5) to ensure that all special education teach-
24 ers teaching in core academic subjects are highly
25 qualified.

1 “(b) PERSONNEL DEVELOPMENT; AUTHORIZED AC-
2 TIVITIES.—

3 “(1) IN GENERAL.—In carrying out this sec-
4 tion, the Secretary shall support activities, consistent
5 with the objectives described in subsection (a).

6 “(2) AUTHORIZED ACTIVITIES.—Activities that
7 may be carried out under this subsection include the
8 following:

9 “(A) Promoting activities undertaken by
10 institutions of higher education, local edu-
11 cational agencies, and other local entities—

12 “(i) to improve and reform their exist-
13 ing programs, and to support effective ex-
14 isting programs, to prepare teachers and
15 related services personnel—

16 “(I) to meet the diverse needs of
17 children with disabilities for early
18 intervention, educational, and transi-
19 tional services; and

20 “(II) to work collaboratively in
21 regular classroom settings; and

22 “(ii) to incorporate best practices and
23 scientifically based research about pre-
24 paring personnel—

1 “(I) so they will have the knowl-
2 edge and skills to improve educational
3 results for children with disabilities;
4 and

5 “(II) to implement effective
6 teaching strategies and interventions
7 to prevent the mis-identification or
8 over-identification of children as hav-
9 ing a disability, especially minority
10 and limited English proficient chil-
11 dren.

12 “(B) Developing, evaluating, and dissemi-
13 nating innovative models for the recruitment,
14 induction, retention, and assessment of highly
15 qualified teachers to reduce shortages in per-
16 sonnel.

17 “(C) Developing and improving programs
18 for paraprofessionals to receive training as spe-
19 cial education teachers, related services per-
20 sonnel, and early intervention personnel, includ-
21 ing interdisciplinary training to enable them to
22 improve early intervention, educational, and
23 transitional results for children with disabilities.

24 “(D) Demonstrating models for the prepa-
25 ration of, and interdisciplinary training of, early

1 intervention, special education, and general edu-
2 cation personnel, to enable the personnel to ac-
3 quire the collaboration skills necessary to work
4 within teams to improve results for children
5 with disabilities, particularly within the general
6 education curriculum.

7 “(E) Promoting the transferability, across
8 State and local jurisdictions, of licensure and
9 certification of teachers and administrators
10 working with such children.

11 “(F) Developing and disseminating models
12 that prepare teachers with strategies, including
13 behavioral interventions, for addressing the con-
14 duct of children with disabilities that impedes
15 their learning and that of others in the class-
16 room.

17 “(G) Developing and improving programs
18 to enhance the ability of general education
19 teachers, principals, school administrators, and
20 school board members to improve results for
21 children with disabilities;

22 “(H) Supporting institutions of higher
23 education with minority enrollments of at least
24 25 percent for the purpose of preparing per-
25 sonnel to work with children with disabilities.

1 “(I) Developing and improving programs
2 to train special education teachers with an ex-
3 pertise in autism spectrum disorders.

4 “(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED
5 ACTIVITIES.—

6 “(1) IN GENERAL.—In carrying out this sec-
7 tion, the Secretary shall support activities, consistent
8 with the objectives described in subsection (a), that
9 benefit children with low-incidence disabilities.

10 “(2) AUTHORIZED ACTIVITIES.—Activities that
11 may be carried out under this subsection include ac-
12 tivities such as the following:

13 “(A) Preparing persons who—

14 “(i) have prior training in educational
15 and other related service fields; and

16 “(ii) are studying to obtain degrees,
17 certificates, or licensure that will enable
18 them to assist children with low-incidence
19 disabilities to achieve the objectives set out
20 in their individualized education programs
21 described in section 614(d), or to assist in-
22 fants and toddlers with low incidence dis-
23 abilities to achieve the outcomes described
24 in their individualized family service plans
25 described in section 636.

1 “(B) Providing personnel from various dis-
2 ciplines with interdisciplinary training that will
3 contribute to improvement in early intervention,
4 educational, and transitional results for children
5 with low-incidence disabilities.

6 “(C) Preparing personnel in the innovative
7 uses and application of technology to enhance
8 learning by children with low-incidence disabil-
9 ities through early intervention, educational,
10 and transitional services.

11 “(D) Preparing personnel who provide
12 services to visually impaired or blind children to
13 teach and use Braille in the provision of serv-
14 ices to such children.

15 “(E) Preparing personnel to be qualified
16 educational interpreters, to assist children with
17 low-incidence disabilities, particularly deaf and
18 hard-of-hearing children in school and school-
19 related activities and deaf and hard-of-hearing
20 infants and toddlers and preschool children in
21 early intervention and preschool programs.

22 “(3) DEFINITION.—As used in this section, the
23 term ‘low-incidence disability’ means—

24 “(A) a visual or hearing impairment, or si-
25 multaneous visual and hearing impairments;

1 “(B) a significant cognitive impairment; or

2 “(C) any impairment for which a small
3 number of personnel with highly specialized
4 skills and knowledge are needed in order for
5 children with that impairment to receive early
6 intervention services or a free appropriate pub-
7 lic education.

8 “(4) SELECTION OF RECIPIENTS.—In selecting
9 recipients under this subsection, the Secretary may
10 give preference to applications that propose to pre-
11 pare personnel in more than one low-incidence dis-
12 ability, such as deafness and blindness.

13 “(5) PREPARATION IN USE OF BRAILLE.—The
14 Secretary shall ensure that all recipients of assist-
15 ance under this subsection who will use that assist-
16 ance to prepare personnel to provide services to vis-
17 ually impaired or blind children that can appro-
18 priately be provided in Braille will prepare those in-
19 dividuals to provide those services in Braille.

20 “(d) LEADERSHIP PREPARATION; AUTHORIZED AC-
21 TIVITIES.—

22 “(1) IN GENERAL.—In carrying out this sec-
23 tion, the Secretary shall support leadership prepara-
24 tion activities that are consistent with the objectives
25 described in subsection (a).

1 “(2) AUTHORIZED ACTIVITIES.—Activities that
2 may be carried out under this subsection include ac-
3 tivities such as the following:

4 “(A) Preparing personnel at the graduate,
5 doctoral, and postdoctoral levels of training to
6 administer, enhance, or provide services to im-
7 prove results for children with disabilities.

8 “(B) Providing interdisciplinary training
9 for various types of leadership personnel, in-
10 cluding teacher preparation faculty, administra-
11 tors, researchers, supervisors, principals, and
12 other persons whose work affects early interven-
13 tion, educational, and transitional services for
14 children with disabilities.

15 “(e) APPLICATIONS.—

16 “(1) IN GENERAL.—Any eligible entity that
17 wishes to receive a grant, or enter into a contract or
18 cooperative agreement, under this section shall sub-
19 mit an application to the Secretary at such time, in
20 such manner, and containing such information as
21 the Secretary may require.

22 “(2) IDENTIFIED STATE NEEDS.—

23 “(A) REQUIREMENT TO ADDRESS IDENTI-
24 FIED NEEDS.—Any application under sub-
25 section (b), (c), or (d) shall include information

1 demonstrating to the satisfaction of the Sec-
2 retary that the activities described in the appli-
3 cation will address needs identified by the State
4 or States the applicant proposes to serve.

5 “(B) COOPERATION WITH STATE EDU-
6 CATIONAL AGENCIES.—Any applicant that is
7 not a local educational agency or a State edu-
8 cational agency shall include information dem-
9 onstrating to the satisfaction of the Secretary
10 that the applicant and one or more State edu-
11 cational agencies or local educational agencies
12 will cooperate in carrying out and monitoring
13 the project.

14 “(3) ACCEPTANCE BY STATES OF PERSONNEL
15 PREPARATION REQUIREMENTS.—The Secretary may
16 require applicants to provide assurances from one or
17 more States that such States—

18 “(A) intend to accept successful completion
19 of the proposed personnel preparation program
20 as meeting State personnel standards for serv-
21 ing children with disabilities or serving infants
22 and toddlers with disabilities; and

23 “(B) need personnel in the area or areas
24 in which the applicant proposes to provide prep-
25 aration, as identified in the States’ comprehen-

1 sive systems of personnel development under
2 parts B and C.

3 “(f) SELECTION OF RECIPIENTS.—

4 “(1) Impact of project.—In selecting recipients
5 under this section, the Secretary shall consider the
6 impact of the project proposed in the application in
7 meeting the need for personnel identified by the
8 States.

9 “(2) REQUIREMENT ON APPLICANTS TO MEET
10 STATE AND PROFESSIONAL STANDARDS.—The Sec-
11 retary shall make grants under this section only to
12 eligible applicants that meet State and profes-
13 sionally-recognized standards for the preparation of
14 special education and related services personnel, if
15 the purpose of the project is to assist personnel in
16 obtaining degrees.

17 “(3) PREFERENCES.—In selecting recipients
18 under this section, the Secretary may—

19 “(A) give preference to institutions of
20 higher education that are educating regular
21 education personnel to meet the needs of chil-
22 dren with disabilities in integrated settings and
23 educating special education personnel to work
24 in collaboration with regular educators in inte-
25 grated settings; and

1 “(B) give preference to institutions of
2 higher education that are successfully recruiting
3 and preparing individuals with disabilities and
4 individuals from groups that are underrep-
5 resented in the profession for which they are
6 preparing individuals.

7 “(g) SERVICE OBLIGATION.—

8 “(1) IN GENERAL.—Each application for funds
9 under subsections (b) and (c) shall include an assur-
10 ance that the applicant will ensure that individuals
11 who receive a scholarship under the proposed project
12 will subsequently provide special education and re-
13 lated services to children with disabilities for a pe-
14 riod of 2 years for every year for which assistance
15 was received or repay all or part of the cost of that
16 assistance, in accordance with regulations issued by
17 the Secretary.

18 “(2) LEADERSHIP PREPARATION.—Each appli-
19 cation for funds under subsection (d) shall include
20 an assurance that the applicant will ensure that in-
21 dividuals who receive a scholarship under the pro-
22 posed project will subsequently perform work related
23 to their preparation for a period of 2 years for every
24 year for which assistance was received or repay all

1 or part of such costs, in accordance with regulations
2 issued by the Secretary.

3 “(h) SCHOLARSHIPS.—The Secretary may include
4 funds for scholarships, with necessary stipends and allow-
5 ances, in awards under subsections (b), (c), and (d).

6 **“SEC. 666. STUDIES AND EVALUATIONS.**

7 “(a) IN GENERAL.—

8 “(1) PROGRESS ASSESSMENT.—The Secretary
9 shall, in accordance with the priorities determined
10 under this section and in section 663, directly or
11 through competitive grants, contracts, or cooperative
12 agreements, assess the progress in the implementa-
13 tion of this Act, including the effectiveness of State
14 and local efforts to provide—

15 “(A) a free appropriate public education to chil-
16 dren with disabilities; and

17 “(B) early intervention services to infants and
18 toddlers with disabilities and infants and toddlers
19 who would be at risk of having substantial develop-
20 mental delays if early intervention services were not
21 provided to them.

22 “(2) DELEGATION.—The Secretary shall des-
23 ignate the Director of the Institute for Education
24 Sciences to carry out this section.

1 “(3) AUTHORIZED ACTIVITIES.—In carrying
2 out this subsection, the Secretary may support ob-
3 jective studies, evaluations, and assessments, includ-
4 ing studies that—

5 “(A) analyze issues identified in the re-
6 search agenda in section 663(d);

7 “(B) meets the standards in section
8 663(c); and

9 “(C) undertake one or more of the fol-
10 lowing:

11 “(i) An analysis of the measurable im-
12 pact, outcomes, and results achieved by
13 State educational agencies and local edu-
14 cational agencies through their activities to
15 reform policies, procedures, and practices
16 designed to improve educational and tran-
17 sitional services and results for children
18 with disabilities.

19 “(ii) An analysis of State and local
20 needs for professional development, parent
21 training, and other appropriate activities
22 that can reduce the need for disciplinary
23 actions involving children with disabilities.

24 “(iii) An assessment of educational
25 and transitional services and results for

1 children with disabilities from minority
2 backgrounds, including—

3 “(I) data on—

4 “(aa) the number of minor-
5 ity children who are referred for
6 special education evaluation;

7 “(bb) the number of minor-
8 ity children who are receiving
9 special education and related
10 services and their educational or
11 other service placement;

12 “(cc) the number of minor-
13 ity children who graduated from
14 secondary programs with a reg-
15 ular diploma in the standard
16 number of years; and

17 “(dd) the number of minor-
18 ity children who drop out of the
19 educational system without a reg-
20 ular diploma; and

21 “(II) the performance of children
22 with disabilities from minority back-
23 grounds on State assessments and
24 other performance indicators estab-
25 lished for all students.

1 “(iv) A measurement of educational
2 and transitional services and results of
3 children with disabilities served under this
4 Act, including longitudinal studies that—

5 “(I) examine educational and
6 transitional services and results for
7 children with disabilities who are 3
8 through 17 years of age and are re-
9 ceiving special education and related
10 services under this Act, using a na-
11 tional, representative sample of dis-
12 tinct age cohorts and disability cat-
13 egories; and

14 “(II) examine educational results,
15 transition services, postsecondary
16 placement, and employment status of
17 individuals with disabilities, 18
18 through 21 years of age, who are re-
19 ceiving or have received special edu-
20 cation and related services under this
21 Act; and

22 “(v) An identification and report on
23 the placement of children with disabilities
24 by disability category.

25 “(b) NATIONAL ASSESSMENT.—

1 “(1) IN GENERAL.—The Secretary shall carry
2 out a national assessment of activities carried out
3 with Federal funds under this Act in order—

4 “(A) to determine the effectiveness of this
5 Act in achieving its purposes;

6 “(B) to provide timely information to the
7 President, the Congress, the States, local edu-
8 cational agencies, and the public on how to im-
9 plement the Act more effectively; and

10 “(C) to provide the President and the Con-
11 gress with information that will be useful in de-
12 veloping legislation to achieve the purposes of
13 this Act more effectively.

14 “(2) PUBLIC COMMENT.—

15 “(A) PLAN.—Not later than 12 months
16 after the date of enactment of the Improving
17 Education Results for Children With Disabil-
18 ities Act of 2003, the Secretary shall publish in
19 the Federal Register for public comment a com-
20 prehensive plan for developing and conducting
21 the national assessment.

22 “(B) COMMENT PERIOD.—The Secretary
23 shall provide a public comment period of at
24 least 30 days on such plan.

1 “(3) SCOPE OF ASSESSMENT.—The national as-
2 sessment shall assess the—

3 “(A) implementation of programs assisted
4 under this Act and the impact of such pro-
5 grams on addressing the developmental needs
6 of, and improving the academic achievement of,
7 children with disabilities to enable them to
8 reach challenging developmental goals and chal-
9 lenging State academic content standards based
10 on State academic assessments;

11 “(B) types of programs and services that
12 have demonstrated the greatest likelihood of
13 helping students reach the challenging State
14 academic content standards and developmental
15 goals;

16 “(C) implementation of the professional
17 development activities assisted under this Act
18 and the impact on instruction, student aca-
19 demic achievement, and teacher qualifications
20 to enhance the ability of special education
21 teachers and regular education teachers to im-
22 prove results for children with disabilities;

23 “(D) effectiveness of schools, local edu-
24 cational agencies, States, other recipients of as-

1 sistance under this Act, and the Secretary in
2 achieving the purposes of this Act by—

3 “(i) improving the academic achieve-
4 ment of children with disabilities and their
5 performance on regular State-wide assess-
6 ments as compared to nondisabled chil-
7 dren, and the performance of children with
8 disabilities on alternate assessments;

9 “(ii) improving the participation of
10 children with disabilities in the general
11 education curriculum;

12 “(iii) improving the transitions of chil-
13 dren with disabilities at natural transition
14 points—

15 “(iv) placing and serving children with
16 disabilities, including minority children, in
17 the least restrictive environment appro-
18 priate;

19 “(v) preventing children with disabil-
20 ities, especially children with emotional dis-
21 turbances and specific learning disabilities,
22 from dropping out of school;

23 “(vi) addressing the reading and lit-
24 eracy needs of children with disabilities;

1 “(vii) reducing the over-identification
2 of children, especially minority and limited
3 English proficient children, as having a
4 disability;

5 “(viii) improving the participation of
6 parents of children with disabilities in the
7 education of their children; and

8 “(ix) resolving disagreements between
9 education personnel and parents through
10 alternate dispute resolution activities in-
11 cluding mediation and voluntary binding
12 arbitration.

13 “(4) INTERIM AND FINAL REPORTS.—The Sec-
14 retary shall submit to the President and the Con-
15 gress—

16 “(A) an interim report that summarizes
17 the preliminary findings of the assessment not
18 later than 30 months after the date of the en-
19 actment of the Improving Education Results for
20 Children With Disabilities Act of 2003; and

21 “(B) a final report of the findings of the
22 assessment not later than 5 years after the date
23 of the enactment of such Act.

24 “(c) ANNUAL REPORT.—The Secretary shall provide
25 an annual report to the Congress that—

1 “(1) summarizes the research conducted under
2 section 663;

3 “(2) analyzes and summarizes the data re-
4 ported by the States and the Secretary of the Inte-
5 rior under section 618;

6 “(3) summarizes the studies and evaluations
7 conducted under this section and the timeline for
8 their completion;

9 “(4) describes the extent and progress of the
10 national assessment; and

11 “(5) the findings and determinations resulting
12 from reviews of State implementation of this Act.

13 **“SEC. 667. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to carry out
15 this subpart such sums as may be necessary for each of
16 the fiscal years 2003 through 2009.

17 **“Subpart 3—Supports to Improve Results for**
18 **Children With Disabilities**

19 **“SEC. 671. PURPOSES.**

20 “The purposes of this subpart are to ensure that—

21 “(1) children with disabilities and their parents
22 receive training and information on their rights, re-
23 sponsibilities, and protections under this Act, in
24 order to develop the skills necessary to cooperatively
25 and effectively participate in planning and decision

1 making relating to early intervention, educational,
2 and transitional services;

3 “(2) parents, teachers, administrators, early
4 intervention personnel, related services personnel,
5 and transition personnel receive coordinated and ac-
6 cessible technical assistance and information to as-
7 sist them in improving early intervention, edu-
8 cational, and transitional services and results for
9 children with disabilities and their families; and

10 “(3) appropriate technology and media are re-
11 searched, developed, and demonstrated, to improve
12 and implement early intervention, educational, and
13 transitional services and results for children with
14 disabilities and their families.

15 **“SEC. 672. PARENT AND COMMUNITY TRAINING AND INFOR-**
16 **MATION CENTERS.**

17 “(a) PROGRAM AUTHORIZED.—The Secretary may
18 make grants to, and enter into contracts and cooperative
19 agreements with, parent and community organizations to
20 support parent and community training and information
21 centers to carry out activities under this section.

22 “(b) REQUIRED ACTIVITIES.—Each parent and com-
23 munity training and information center that receives as-
24 sistance under this section shall—

1 “(1) provide training and information that
2 meets the needs of parents of children with disabil-
3 ities living in the area served by the center, includ-
4 ing underserved parents and parents of children who
5 may be inappropriately identified, to enable children
6 with disabilities—

7 “(A) to meet developmental and chal-
8 lenging academic achievement goals that have
9 been established for all children; and

10 “(B) to be prepared to lead productive
11 independent adult lives to the maximum extent
12 possible.

13 “(2) ensure that the training and information
14 provided meets the needs of low-income parents and
15 parents of children with limited English proficiency;

16 “(3) serve the parents of infants, toddlers, and
17 children with the full range of disabilities;

18 “(4) assist parents—

19 “(A) to better understand the nature of
20 their children’s disabilities and their edu-
21 cational, developmental, and transitional needs;

22 “(B) to communicate effectively and work
23 collaboratively with personnel responsible for
24 providing special education, early intervention,
25 transition services, and related services;

1 “(C) to participate in decisionmaking proc-
2 esses and the development of individualized
3 education programs under part B and individ-
4 ualized family service plans under part C;

5 “(D) to obtain appropriate information
6 about the range, type and quality of options,
7 programs, services, and resources available to
8 assist children with disabilities and their fami-
9 lies in school and at home;

10 “(E) to understand the provisions of this
11 Act for the education of, and the provision of
12 early intervention services to, children with dis-
13 abilities; and

14 “(F) to participate in activities at the
15 school level which benefit their children;

16 “(5) assist parents in resolving disputes in the
17 most expeditious way possible, including encouraging
18 the use, and explaining the benefits, of alternative
19 methods of dispute resolution, such as the use of in-
20 dividualized education program facilitators and me-
21 diation and voluntary binding arbitration processes
22 described in section 615(e);

23 “(6) assist parents to understand the avail-
24 ability of, and how to effectively use, procedural
25 safeguards under this Act;

1 “(7) network with appropriate clearinghouses,
2 including organizations conducting national dissemi-
3 nation activities under subpart 2, and with other na-
4 tional, State, and local organizations and agencies,
5 such as protection and advocacy agencies, that serve
6 parents and families of children with the full range
7 of disabilities; and

8 “(8) annually report to the Secretary on—

9 “(A) the number and demographics of par-
10 ents to whom it provided information and train-
11 ing in the most recently concluded fiscal year;

12 “(B) the effectiveness of strategies used to
13 reach and serve parents, including underserved
14 parents of children with disabilities; and

15 “(C) the number of parents served who
16 have resolved disputes through alternative
17 methods of dispute resolution.

18 “(c) OPTIONAL ACTIVITIES.—A parent training and
19 community and information center that receives assistance
20 under this section may—

21 “(1) provide information to teachers and other
22 professionals to assist them in improving results for
23 children with disabilities; and

1 “(2) assist students with disabilities to under-
2 stand their rights and responsibilities under section
3 615(l) on reaching the age of majority.

4 “(d) APPLICATION REQUIREMENTS.—Each applica-
5 tion for assistance under this section shall identify with
6 specificity the special efforts that the applicant will under-
7 take—

8 “(1) to ensure that the needs for training and
9 information of underserved parents of children with
10 disabilities in the area to be served are effectively
11 met; and

12 “(2) to work with community-based organiza-
13 tions, including those that work with low-income
14 parents and parents of children with limited English
15 proficiency.

16 “(e) DISTRIBUTION OF FUNDS.—

17 “(1) IN GENERAL.—The Secretary shall make
18 at least 1 award to a parent organization in each
19 State, unless the Secretary does not receive an appli-
20 cation from such an organization in each State of
21 sufficient quality to warrant approval.

22 “(2) SELECTION REQUIREMENT.—The Sec-
23 retary shall select among applications submitted by
24 parent organizations in a State in a manner that en-
25 sures the most effective assistance to parents, in-

1 including parents in urban and rural areas, in the
2 State.

3 “(f) QUARTERLY REVIEW.—

4 “(1) REQUIREMENTS.—

5 “(A) MEETINGS.—The board of directors
6 or special governing committee of each organi-
7 zation that receives an award under this section
8 shall meet at least once in each calendar quar-
9 ter to review the activities for which the award
10 was made.

11 “(B) ADVISING BOARD.—Each special gov-
12 erning committee shall directly advise the orga-
13 nization’s governing board of its views and rec-
14 ommendations.

15 “(2) CONTINUATION AWARD.—When an organi-
16 zation requests a continuation award under this sec-
17 tion, the board of directors or special governing com-
18 mittee shall submit to the Secretary a written review
19 of the parent training and information program con-
20 ducted by the organization during the preceding fis-
21 cal year.

22 “(g) DEFINITION OF PARENT ORGANIZATION.—As
23 used in this section, the term ‘parent organization’ means
24 a private nonprofit organization (other than an institution
25 of higher education) that—

1 “(1) has a board of directors—

2 “(A) the majority of whom are parents of
3 children with disabilities ages birth through 21;

4 “(B) that includes—

5 “(i) individuals working in the fields
6 of special education, related services, and
7 early intervention; and

8 “(ii) individuals with disabilities; and

9 “(C) the parent and professional members
10 of which are broadly representative of the popu-
11 lation to be served, including low-income and
12 limited English proficient parents of children
13 with disabilities; or;

14 “(2) has—

15 “(A) a membership that represents the in-
16 terests of individuals with disabilities and has
17 established a special governing committee that
18 meets the requirements of paragraph (1); and

19 “(B) a memorandum of understanding be-
20 tween the special governing committee and the
21 board of directors of the organization that
22 clearly outlines the relationship between the
23 board and the committee and the decision-
24 making responsibilities and authority of each.

25 “(h) EXCEPTIONS.—

1 “(1) FEDERAL RELATIONS.—Any organization
2 or affiliated entity that conducts, in whole or in
3 part, Federal relations, is ineligible to serve as a
4 parent and community training and information cen-
5 ter and ineligible to be considered a parent organiza-
6 tion under subsection (g).

7 “(2) PROHIBITION ON CENTER BOARD MEM-
8 BERS AND STAFF.—No member of the board of di-
9 rectors, or paid staff, of a parent and community
10 training and information center may serve on the
11 board of directors, or as paid staff, of any organiza-
12 tion (whether profit or non-profit) that conducts
13 Federal relations in whole or in part.

14 “(i) LOBBYING ORGANIZATIONS INELIGIBLE.—

15 “(1) IN GENERAL.—No organization is eligible
16 for an award under this section if it, or an affiliated
17 organization, engages in lobbying with the Federal
18 Government with respect to this Act.

19 “(2) PROHIBITION ON CERTAIN BOARD MEM-
20 BERS AND STAFF.—An organization that receives a
21 grant under this section may not have, on its board
22 of directors or in any paid position on its staff, an
23 individual who serves on the board of directors as a
24 paid staff member of any organization that engages

1 in lobbying activities with the Federal Government
2 with respect to this Act.

3 “(3) DEFINITIONS.—As used in this sub-
4 section—

5 “(A) the term ‘lobbying activities’ has the
6 meaning given such term in section 2(7) of the
7 Lobbying Disclosure Act of 1995 (2 U.S.C.
8 1602(7)); and

9 “(B) the term ‘affiliated organization’ has
10 the meaning given such term in section
11 4911(f)(2) of the Internal Revenue Code of
12 1986 (26 U.S.C. 4911(f)(2)).

13 **“SEC. 673. TECHNICAL ASSISTANCE FOR PARENT AND COM-**
14 **MUNITY TRAINING AND INFORMATION CEN-**
15 **TERS.**

16 “(a) IN GENERAL.—The Secretary may, directly or
17 through awards to eligible entities (as defined in section
18 662(b)), provide technical assistance for developing, as-
19 sisting, and coordinating parent and community training
20 and information programs carried out by parent and com-
21 munity training and information centers receiving assist-
22 ance under sections 672.

23 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
24 provide technical assistance to a parent and community

1 training and information center under this section in areas
2 such as—

3 “(1) effective coordination of parent training ef-
4 forts;

5 “(2) dissemination of scientifically based re-
6 search and information;

7 “(3) promotion of the use of technology, includ-
8 ing assistive technology devices and assistive tech-
9 nology services;

10 “(4) reaching underserved populations, includ-
11 ing parents of low income and limited English pro-
12 ficient children with disabilities;

13 “(5) including children with disabilities in gen-
14 eral education programs;

15 “(6) facilitation of transitions from—

16 “(A) early intervention services to pre-
17 school;

18 “(B) preschool to elementary school;

19 “(C) elementary school to secondary
20 school; and

21 “(D) secondary school to postsecondary en-
22 vironments; and

23 “(7) promotion of alternative methods of dis-
24 pute resolution, including mediation and voluntary
25 binding arbitration.

1 **“SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**
2 **AND UTILIZATION; AND MEDIA SERVICES.**

3 “(a) IN GENERAL.—The Secretary shall competi-
4 tively make grants to, and enter into contracts and cooper-
5 ative agreements with, eligible entities (as defined in sec-
6 tion 662(b)) to support activities described in subsections
7 (b) and (c).

8 “(b) TECHNOLOGY DEVELOPMENT, DEMONSTRA-
9 TION, AND UTILIZATION.—

10 “(1) IN GENERAL.—In carrying out this sec-
11 tion, the Secretary shall support activities to pro-
12 mote the development, demonstration, and utiliza-
13 tion of technology.

14 “(2) AUTHORIZED ACTIVITIES.—The following
15 activities may be carried out under this subsection:

16 “(A) Conducting research on, and pro-
17 moting the demonstration and use of—

18 “(i) innovative and emerging tech-
19 nologies for children with disabilities; and

20 “(ii) improved transfer of technology
21 from research and development to practice.

22 “(B) Supporting research, development,
23 and dissemination of technology with universal-
24 design features, so that the technology is acces-
25 sible to individuals with disabilities without fur-
26 ther modification or adaptation.

1 “(C) Demonstrating the use of systems to
2 provide parents and teachers with information
3 and training concerning early diagnosis of,
4 intervention for, and effective teaching strate-
5 gies for, young children with reading disabil-
6 ities.

7 “(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL AC-
8 TIVITIES.—In carrying out this section, the Secretary may
9 support—

10 “(1) educational media activities that are de-
11 signed to be of educational value in the classroom
12 setting to children with disabilities;

13 “(2) providing video description, open cap-
14 tioning, or closed captioning of television programs,
15 videos, or other materials with an education-based
16 content for use in the classroom setting when such
17 services are not provided by the producer or dis-
18 tributor of such information;

19 “(3) distributing materials described in para-
20 graphs (1) and (2) through such mechanisms as a
21 loan service; and

22 “(4) providing free educational materials, in-
23 cluding textbooks, in accessible media for visually
24 impaired and print-disabled students in elementary
25 and secondary schools.

1 “(b) APPLICATIONS.—Any eligible entity (as defined
2 in section 662(b)) that wishes to receive a grant, or enter
3 into a contract or cooperative agreement, under this sec-
4 tion shall submit an application to the Secretary at such
5 time, in such manner, and containing such information as
6 the Secretary may require.

7 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to carry out this section
9 such sums as may be necessary for each of the fiscal years
10 2003 through 2009.”.

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