

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1350
OFFERED BY MR. CASTLE**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 TITLE I—GENERAL PROVISIONS

**5 SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS
6 WITH DISABILITIES EDUCATION ACT.**

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

10 “PART A—GENERAL PROVISIONS

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

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

15 “(b) TABLE OF CONTENTS.—The table of contents
16 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.

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

- “Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
- “Sec. 612. State eligibility.
- “Sec. 613. Local educational agency eligibility.
- “Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
- “Sec. 615. Procedural safeguards.
- “Sec. 616. Monitoring, enforcement, withholding, and judicial review.
- “Sec. 617. Administration.
- “Sec. 618. Program information.
- “Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

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

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

- “Sec. 651. Findings.

“SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

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

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

- “Sec. 661. Purpose.
- “Sec. 662. Administrative provisions.
- “Sec. 663. Research to improve results for children with disabilities.



“Sec. 664. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.

“Sec. 665. Personnel preparation programs to improve services and results for children with disabilities.

“Sec. 666. Studies and evaluations.

“Sec. 667. Authorization of appropriations.

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

“Sec. 671. Purposes.

“Sec. 672. Parent 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:

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

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



1 “(3) Since the enactment and implementation
2 of the Education for All Handicapped Children Act
3 of 1975, this Act has been successful in ensuring
4 children with disabilities and the families of such
5 children access to a free appropriate public edu-
6 cation and in improving educational results for chil-
7 dren with disabilities.

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

11 “(A) having high expectations for such
12 children and ensuring their access to the gen-
13 eral education curriculum in the regular class-
14 room to the maximum extent possible in
15 order—

16 “(i) to meet developmental goals and,
17 to the maximum extent possible, the chal-
18 lenging expectations that have been estab-
19 lished for all children; and

20 “(ii) to be prepared to lead productive
21 and independent adult lives, to the max-
22 imum extent possible;

23 “(B) strengthening the role and responsi-
24 bility of parents and ensuring that families of
25 such children have meaningful opportunities to



1 participate in the education of their children at
2 school and at home;

3 “(C) coordinating this Act with other local,
4 State, and Federal school improvement efforts,
5 including efforts under the Elementary and
6 Secondary Education Act of 1965, in order to
7 ensure that children with disabilities benefit
8 from such efforts and that special education
9 can become a service for such children rather
10 than a place where they are sent;

11 “(D) supporting high-quality, intensive
12 professional development for personnel who
13 work with children with disabilities;

14 “(E) providing incentives for scientifically
15 based reading programs and pre-referral inter-
16 vention services to reduce the need to label chil-
17 dren as disabled in order to address their learn-
18 ing needs;

19 “(F) focusing resources on teaching and
20 learning while reducing paperwork and require-
21 ments that do not assist in improving edu-
22 cational results; and

23 “(G) supporting the development and use
24 of technology, including assistive technology de-



1 vices and services, to maximize accessibility for
2 children with disabilities.

3 “(5) While States, local educational agencies,
4 and educational service agencies are primarily re-
5 sponsible for providing an education for all children
6 with disabilities, it is in the national interest that
7 the Federal Government have a supporting role in
8 assisting State and local efforts to educate children
9 with disabilities in order to improve results for such
10 children and to ensure equal protection of the law.

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

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

19 “(C) Minority children comprise an increasing
20 percentage of public school students.

21 “(D) With such changing demographics, re-
22 cruitment efforts for special education personnel
23 should focus on increasing the participation of mi-
24 norities in the teaching profession.



1 “(7)(A) Greater efforts are needed to prevent
2 the intensification of problems connected with
3 mislabeling and high dropout rates among minority
4 children with disabilities.

5 “(B) More minority children continue to be
6 served in special education than would be expected
7 from the percentage of minority students in the gen-
8 eral school population.

9 “(C) African-American children are overidenti-
10 fied as having mental retardation and emotional dis-
11 turbance at rates greater than their white counter-
12 parts.

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

14 “(1)(A) to ensure that all children with disabili-
15 ties have available to them a free appropriate public
16 education that emphasizes special education and re-
17 lated services designed to meet their unique needs
18 and prepare them for further education, employ-
19 ment, and independent living;

20 “(B) to ensure that the rights of children with
21 disabilities and parents of such children are pro-
22 tected; and

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



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

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

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

15 **“SEC. 602. DEFINITIONS.**

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

17 “(1) ASSISTIVE TECHNOLOGY DEVICE.—The
18 term ‘assistive technology device’ means any item,
19 piece of equipment, or product system, whether ac-
20 quired commercially off the shelf, modified, or cus-
21 tomized, that is used to increase, maintain, or im-
22 prove functional capabilities of a child with a dis-
23 ability.

24 “(2) ASSISTIVE TECHNOLOGY SERVICE.—The
25 term ‘assistive technology service’ means any service



1 that directly assists a child with a disability in the
2 selection, acquisition, or use of an assistive tech-
3 nology device. Such term includes—

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

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

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

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

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

21 “(F) training or technical assistance for
22 professionals (including individuals providing
23 education and rehabilitation services), employ-
24 ers, or other individuals who provide services to,



1 employ, or are otherwise substantially involved
2 in the major life functions of such child.

3 “(3) CHILD WITH A DISABILITY.—

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

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

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

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

23 “(i) experiencing developmental
24 delays, as defined by the State and as
25 measured by appropriate diagnostic instru-



1 ments and procedures, in one or more of
 2 the following areas: physical development,
 3 cognitive development, communication de-
 4 velopment, social or emotional develop-
 5 ment, or adaptive development; and

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

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

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

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

15 “(ii) recognized as an administrative
 16 agency for purposes of the provision of
 17 special education and related services pro-
 18 vided within public elementary and sec-
 19 ondary schools of the State; and

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

24 “(5) ELEMENTARY SCHOOL.—The term ‘ele-
 25 mentary school’ means a nonprofit institutional day



1 or residential school that provides elementary edu-
2 cation, as determined under State law.

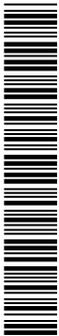
3 “(6) EQUIPMENT.—The term ‘equipment’
4 includes—

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

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

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

25 “(A) amounts received—



1 “(i) under part B of this title;

2 “(ii) under part A of title I of the El-
3 elementary and Secondary Education Act of
4 1965; and

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

6 “(B) any State or local funds expended for
7 programs that would qualify for assistance
8 under any of the provisions of law described in
9 subparagraph (A).

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

14 “(A) have been provided at public expense,
15 under public supervision and direction, and
16 without charge;

17 “(B) meet the standards of the State edu-
18 cational agency;

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

22 “(D) are provided in conformity with the
23 individualized education program required
24 under section 614(d).



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

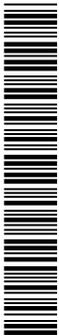
5 “(10) INDIAN.—The term ‘Indian’ means an in-
6 dividual who is a member of an Indian tribe.

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

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

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

21 “(14) INFANT OR TODDLER WITH A DIS-
22 ABILITY.—The term ‘infant or toddler with a dis-
23 ability’ has the meaning given such term in section
24 632.



1 “(15) INSTITUTION OF HIGHER EDUCATION.—

2 The term ‘institution of higher education’—

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

6 “(B) also includes any community college
7 receiving funding from the Secretary of the In-
8 terior under the Tribally Controlled Community
9 College Assistance Act of 1978.

10 “(16) LOCAL EDUCATIONAL AGENCY.—

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

22 “(B) The term includes—

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



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

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

18 “(17) NATIVE LANGUAGE.—The term ‘native
19 language’, when used with reference to an individual
20 of limited English proficiency, means the language
21 normally used by the individual, or in the case of a
22 child, the language normally used by the parents of
23 the child.

24 “(18) NONPROFIT.—The term ‘nonprofit’, as
25 applied to a school, agency, organization, or institu-



1 tion, means a school, agency, organization, or insti-
2 tution owned and operated by one or more nonprofit
3 corporations or associations no part of the net earn-
4 ings of which inures, or may lawfully inure, to the
5 benefit of any private shareholder or individual.

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

10 “(20) PARENT.—The term ‘parent’—

11 “(A) includes a legal guardian; and

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

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

19 “(22) PARENT AND COMMUNITY TRAINING AND
20 INFORMATION CENTER.—The term ‘parent and com-
21 munity training and information center’ means a
22 center assisted under section 672.

23 “(23) RELATED SERVICES.—The term ‘related
24 services’ means transportation, and such develop-
25 mental, corrective, and other supportive services (in-



1 cluding speech-language pathology and audiology
2 services, psychological services, physical and occupa-
3 tional therapy, recreation, including therapeutic
4 recreation, social work services, counseling services,
5 including rehabilitation counseling, orientation and
6 mobility services, and medical services, except that
7 such medical services shall be for diagnostic and
8 evaluation purposes only) as may be required to as-
9 sist a child with a disability to benefit from special
10 education, and includes the early identification and
11 assessment of disabling conditions in children.

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

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

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

23 “(A) instruction conducted in the class-
24 room, in the home, in hospitals and institutions,
25 and in other settings; and



1 “(B) instruction in physical education.

2 “(27) SPECIFIC LEARNING DISABILITY.—

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

11 “(B) DISORDERS INCLUDED.—Such term
12 includes such conditions as perceptual disabil-
13 ities, brain injury, minimal brain dysfunction,
14 dyslexia, and developmental aphasia.

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

21 “(28) STATE.—The term ‘State’ means each of
22 the 50 States, the District of Columbia, the Com-
23 monwealth of Puerto Rico, and each of the outlying
24 areas.



1 “(29) STATE EDUCATIONAL AGENCY.—The
2 term ‘State educational agency’ means the State
3 board of education or other agency or officer pri-
4 marily responsible for the State supervision of public
5 elementary and secondary schools, or, if there is no
6 such officer or agency, an officer or agency des-
7 ignated by the Governor or by State law.

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

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

19 “(A) is designed within a results-oriented
20 process, that is focused on improving the aca-
21 demic and developmental achievement of the
22 child with a disability to facilitate the child’s
23 move from school to post-school activities, in-
24 cluding post-secondary education, vocational
25 training, integrated employment (including sup-



1 ported employment), continuing and adult edu-
2 cation, adult services, independent living, or
3 community participation;

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

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

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

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

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



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

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

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

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

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

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

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



1 ‘Americans with Disabilities Accessibility Guidelines
2 for Buildings and Facilities’); or

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

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

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

12 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**
13 **TIONS.**

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

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

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

24 “(2) procedurally or substantively lessen the
25 protections provided to children with disabilities



1 under this Act, as embodied in regulations in effect
2 on July 20, 1983 (particularly as such protections
3 relate to parental consent to initial evaluation or ini-
4 tial placement in special education, least restrictive
5 environment, related services, timelines, attendance
6 of evaluation personnel at individualized education
7 program meetings, or qualifications of personnel),
8 except to the extent that such regulation reflects the
9 clear and unequivocal intent of the Congress in legis-
10 lation.

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

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

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

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



1 “(e) CORRESPONDENCE FROM DEPARTMENT OF
2 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
3 PART.—

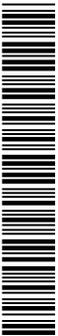
4 “(1) IN GENERAL.—The Secretary shall, on a
5 quarterly basis, publish in the Federal Register, and
6 widely disseminate to interested entities through var-
7 ious additional forms of communication, a list of
8 correspondence from the Department of Education
9 received by individuals during the previous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

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

16 “(A) identify the topic addressed by the
17 correspondence and shall include such other
18 summary information as the Secretary deter-
19 mines to be appropriate; and

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

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



1 include an explanation in the written response that the
2 response—

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

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

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

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

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

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

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

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



1 “(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. 104. GAO REVIEW; REPORT.**

8 (a) REVIEW.—The Comptroller General shall conduct
9 a review of all Federal requirements under the Individuals
10 with Disabilities Education Act, and the requirements of
11 a reasonable sample of State and local educational agen-
12 cies relating to such Act, to determine which requirements
13 result in excessive paperwork completion burdens for
14 teachers, related services providers, and school administra-
15 tors.

16 (b) REPORT.—Not later than 2 years after the date
17 of the enactment of this Act, the Comptroller General shall
18 prepare and submit to Congress a report that contains the
19 results of the review under subsection (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 disabili-
 21 ties 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.

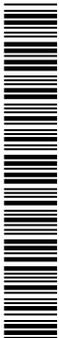
4 “(3) LIMITATION.—Notwithstanding subpara-
5 graphs (A) and (B) of paragraph (2), the maximum
6 amount of the grant a State may receive under this
7 section for a fiscal year may not be based on the
8 number of children ages 3 through 17, inclusive, in
9 excess of 12 percent of the number of all children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

19 “(A) Each State may retain not more than
20 the amount described in subparagraph (B) for
21 administration and other State-level activities in
22 accordance with paragraphs (2) and (3).

23 “(B) For each fiscal year, the Secretary
24 shall determine and report to the State edu-
25 cational agency an amount that is 25 percent of



1 the amount the State received under this sec-
2 tion for fiscal year 1997, cumulatively adjusted
3 by the Secretary for each succeeding fiscal year
4 by the lesser of—

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

8 “(ii) the rate of inflation, as measured
9 by the percentage increase, if any, from
10 the preceding fiscal year in the Consumer
11 Price Index For All Urban Consumers,
12 published by the Bureau of Labor Statis-
13 tics of the Department of Labor.

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

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

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

20 “(2) STATE ADMINISTRATION.—

21 “(A) For the purpose of administering this
22 part, including section 619 (including the co-
23 ordination of activities under this part with,
24 and providing technical assistance to, other pro-



1 grams that provide services to children with dis-
2 abilities)—

3 “(i) each State may use not more
4 than twenty percent of the maximum
5 amount it may retain under paragraph
6 (1)(A) for any fiscal year or \$500,000 (ad-
7 justed by the cumulative rate of inflation
8 since fiscal year 1998, as measured by the
9 percentage increase, if any, in the Con-
10 sumer Price Index For All Urban Con-
11 sumers, published by the Bureau of Labor
12 Statistics of the Department of Labor),
13 whichever is greater; and

14 “(ii) each outlying area may use up to
15 five percent of the amount it receives
16 under this section for any fiscal year or
17 \$35,000 (adjusted by the cumulative rate
18 of inflation since fiscal year 1998, as meas-
19 ured by the percentage increase, if any, in
20 the Consumer Price Index For All Urban
21 Consumers, published by the Bureau of
22 Labor Statistics of the Department of
23 Labor), whichever is greater.

24 “(B) Funds described in subparagraph (A)
25 may also be used for the administration of part



1 C of this Act, if the State educational agency
2 is the lead agency for the State under that
3 part.

4 “(3) OTHER STATE-LEVEL ACTIVITIES.—Each
5 State shall use any funds it retains under paragraph
6 (1) and does not use for administration under para-
7 graph (2) for any of the following:

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

11 “(B) Administrative costs of monitoring
12 and complaint investigation.

13 “(C) To establish and implement the medi-
14 ation and voluntary binding arbitration proc-
15 esses required by section 612(a)(17) and
16 615(e), including providing for the costs of me-
17 diators, arbitrators, and support personnel.

18 “(D) To assist local educational agencies
19 in meeting personnel shortages.

20 “(E) Activities at the State and local levels
21 to meet the performance goals established by
22 the State under section 612(a)(15) and to sup-
23 port implementation of the State plan under
24 subpart 1 of part D if the State receives funds
25 under that subpart.



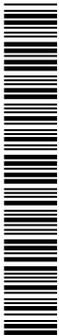
1 “(F) To support paperwork reduction ac-
2 tivities, including expanding the appropriate use
3 of technology in the IEP process under this
4 part.

5 “(G) To develop and maintain a com-
6 prehensive, coordinated, prereferral educational
7 support system for students in kindergarten
8 through grade 12 (with a particular emphasis
9 on students in kindergarten through grade 3)
10 who are not enrolled in special education but
11 who need additional academic and behavioral
12 support to succeed in a general education envi-
13 ronment.

14 “(H) To support capacity building activi-
15 ties and improve the delivery of services by local
16 educational agencies to improve results for chil-
17 dren with disabilities.

18 “(I) To establish and implement cost or
19 risk sharing funds, consortiums, or cooperatives
20 to assist local educational agencies in providing
21 high cost special education and related services.

22 “(J) For subgrants to local educational
23 agencies for the purposes described in para-
24 graph (4)(A).



1 “(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL
2 AGENCIES FOR ACCOUNTABILITY.—In any fiscal year
3 in which the percentage increase in the State’s allo-
4 cation under this section exceeds the rate of inflation
5 (as measured by the percentage increase, if any,
6 from the preceding fiscal year in the Consumer Price
7 Index For All Urban Consumers, published by the
8 Bureau of Labor Statistics of the Department of
9 Labor), each State shall reserve, from its allocation
10 under this section, the amount described in subpara-
11 graph (B) to make subgrants to local educational
12 agencies, unless that amount is less than \$100,000,
13 to provide technical assistance and direct services to
14 local educational agencies identified as being in need
15 of improvement under section 1116 of the Elemen-
16 tary and Secondary Education Act of 1965 on the
17 basis, in whole or in part, of the assessment results
18 of the disaggregated subgroup of students with dis-
19 abilities.

20 “(B) MAXIMUM SUBGRANT.—For each fiscal
21 year, the amount referred to in subparagraph (A)
22 is—

23 “(i) the maximum amount the State was
24 allowed to retain under paragraph (1)(A) for
25 the prior fiscal year, or for fiscal year 1998, 25



1 percent of the State's allocation for fiscal year
2 1997 under this section; multiplied by

3 “(ii) the difference between the percentage
4 increase in the State's allocation under this sec-
5 tion and the rate of inflation, as measured by
6 the percentage increase, if any, from the pre-
7 ceding fiscal year in the Consumer Price Index
8 For All Urban Consumers, published by the
9 Bureau of Labor Statistics of the Department
10 of Labor.

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

15 “(A) how amounts retained under para-
16 graph (1) will be used to meet the requirements
17 of this part;

18 “(B) how those amounts will be allocated
19 among the activities described in this subsection
20 to meet State priorities based on input from
21 local educational agencies; and

22 “(C) the percentage of those amounts, if
23 any, that will be distributed to local educational
24 agencies by formula.



1 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
2 CIES.—

3 “(1) SUBGRANTS REQUIRED.—Each State that
4 receives a grant under this section for any fiscal
5 year shall distribute any funds it does not retain
6 under subsection (f) (at least 88 percent of the
7 grant funds) to local educational agencies, including
8 public charter schools that operate as local edu-
9 cational agencies, in the State that have established
10 their eligibility under section 613, for use in accord-
11 ance with this part.

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

17 “(A) BASE PAYMENTS.—The State shall
18 first award each agency described in paragraph
19 (1) the amount that agency would have received
20 under this section for fiscal year 1999, if the
21 State had distributed 75 percent of its grant for
22 that year under section 611(d), as then in ef-
23 fect.



1 “(B) ALLOCATION OF REMAINING
2 FUNDS.—After making allocations under sub-
3 paragraph (A), the State shall—

4 “(i) allocate 85 percent of any re-
5 maining funds to those agencies on the
6 basis of the relative numbers of children
7 enrolled in public and private elementary
8 and secondary schools within the agency’s
9 jurisdiction; and

10 “(ii) allocate 15 percent of those re-
11 maining funds to those agencies in accord-
12 ance with their relative numbers of chil-
13 dren living in poverty, as determined by
14 the State educational agency.

15 “(3) REALLOCATION OF FUNDS.—If a State
16 educational agency determines that a local edu-
17 cational agency is adequately providing a free appro-
18 priate public education to all children with disabil-
19 ities residing in the area served by that agency with
20 State and local funds, the State educational agency
21 may reallocate any portion of the funds under this
22 part that are not needed by that local agency to pro-
23 vide a free appropriate public education to other
24 local educational agencies in the State that are not
25 adequately providing special education and related



1 services to all children with disabilities residing in
2 the areas they serve.

3 “(h) DEFINITIONS.—For the purpose of this
4 section—

5 “(1) the term ‘average per-pupil expenditure in
6 public elementary and secondary schools in the
7 United States’ means—

8 “(A) without regard to the source of
9 funds—

10 “(i) the aggregate current expendi-
11 tures, during the second fiscal year pre-
12 ceding the fiscal year for which the deter-
13 mination is made (or, if satisfactory data
14 for that year are not available, during the
15 most recent preceding fiscal year for which
16 satisfactory data are available) of all local
17 educational agencies in the 50 States and
18 the District of Columbia); plus

19 “(ii) any direct expenditures by the
20 State for the operation of those agencies;
21 divided by

22 “(B) the aggregate number of children in
23 average daily attendance to whom those agen-
24 cies provided free public education during that
25 preceding year; and



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

4 “(i) USE OF AMOUNTS BY SECRETARY OF THE INTE-
5 RIOR.—

6 “(1) PROVISION OF AMOUNTS FOR ASSIST-
7 ANCE.—

8 “(A) IN GENERAL.—The Secretary of Edu-
9 cation shall provide amounts to the Secretary of
10 the Interior to meet the need for assistance for
11 the education of children with disabilities on
12 reservations aged 5 to 21, inclusive, enrolled in
13 elementary and secondary schools for Indian
14 children operated or funded by the Secretary of
15 the Interior. The amount of such payment for
16 any fiscal year shall be equal to 80 percent of
17 the amount allotted under subsection (c) for
18 that fiscal year.

19 “(B) CALCULATION OF NUMBER OF CHIL-
20 DREN.—In the case of Indian students aged 3
21 to 5, inclusive, who are enrolled in programs af-
22 filiated with the Bureau of Indian Affairs (here-
23 after in this subsection referred to as ‘BIA’)
24 schools and that are required by the States in
25 which such schools are located to attain or



1 maintain State accreditation, and which schools
2 have such accreditation prior to the date of en-
3 actment of the Individuals with Disabilities
4 Education Act Amendments of 1991, the school
5 shall be allowed to count those children for the
6 purpose of distribution of the funds provided
7 under this paragraph to the Secretary of the
8 Interior. The Secretary of the Interior shall be
9 responsible for meeting all of the requirements
10 of this part for these children, in accordance
11 with paragraph (2).

12 “(C) ADDITIONAL REQUIREMENT.—With
13 respect to all other children aged 3 to 21, inclu-
14 sive, on reservations, the State educational
15 agency shall be responsible for ensuring that all
16 of the requirements of this part are imple-
17 mented.

18 “(2) SUBMISSION OF INFORMATION.—The Sec-
19 retary of Education may provide the Secretary of
20 the Interior amounts under paragraph (1) for a fis-
21 cal year only if the Secretary of the Interior submits
22 to the Secretary of Education information that—

23 “(A) demonstrates that the Department of
24 the Interior meets the appropriate require-
25 ments, as determined by the Secretary of Edu-



1 cation, of sections 612 (including monitoring
2 and evaluation activities) and 613;

3 “(B) includes a description of how the Sec-
4 retary of the Interior will coordinate the provi-
5 sion of services under this part with local edu-
6 cational agencies, tribes and tribal organiza-
7 tions, and other private and Federal service
8 providers;

9 “(C) includes an assurance that there are
10 public hearings, adequate notice of such hear-
11 ings, and an opportunity for comment afforded
12 to members of tribes, tribal governing bodies,
13 and affected local school boards before the
14 adoption of the policies, programs, and proce-
15 dures described in subparagraph (A);

16 “(D) includes an assurance that the Sec-
17 retary of the Interior will provide such informa-
18 tion as the Secretary of Education may require
19 to comply with section 618;

20 “(E) includes an assurance that the Sec-
21 retary of the Interior and the Secretary of
22 Health and Human Services have entered into
23 a memorandum of agreement, to be provided to
24 the Secretary of Education, for the coordination
25 of services, resources, and personnel between



1 their respective Federal, State, and local offices
2 and with State and local educational agencies
3 and other entities to facilitate the provision of
4 services to Indian children with disabilities re-
5 siding on or near reservations (such agreement
6 shall provide for the apportionment of respon-
7 sibilities and costs including, but not limited to,
8 child find, evaluation, diagnosis, remediation or
9 therapeutic measures, and (where appropriate)
10 equipment and medical or personal supplies as
11 needed for a child to remain in school or a pro-
12 gram); and

13 “(F) includes an assurance that the De-
14 partment of the Interior will cooperate with the
15 Department of Education in its exercise of
16 monitoring, enforcement, and oversight of this
17 application, and any agreements entered into
18 between the Secretary of the Interior and other
19 entities under this part, and will fulfill its du-
20 ties under this part.

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

23 “(3) PAYMENTS FOR EDUCATION AND SERVICES
24 FOR INDIAN CHILDREN WITH DISABILITIES AGED 3
25 THROUGH 5.—



1 “(A) IN GENERAL.—With funds appro-
2 priated under subsection (j), the Secretary of
3 Education shall make payments to the Sec-
4 retary of the Interior to be distributed to tribes
5 or tribal organizations (as defined under section
6 4 of the Indian Self-Determination and Edu-
7 cation Assistance Act) or consortia of the above
8 to provide for the coordination of assistance for
9 special education and related services for chil-
10 dren with disabilities aged 3 through 5 on res-
11 ervations served by elementary and secondary
12 schools for Indian children operated or funded
13 by the Department of the Interior. The amount
14 of such payments under subparagraph (B) for
15 any fiscal year shall be equal to 20 percent of
16 the amount allotted under subsection (c).

17 “(B) DISTRIBUTION OF FUNDS.—The Sec-
18 retary of the Interior shall distribute the total
19 amount of the payment under subparagraph
20 (A) by allocating to each tribe or tribal organi-
21 zation an amount based on the number of chil-
22 dren with disabilities ages 3 through 5 residing
23 on reservations as reported annually, divided by
24 the total of those children served by all tribes
25 or tribal organizations.



1 “(C) SUBMISSION OF INFORMATION.—To
2 receive a payment under this paragraph, the
3 tribe or tribal organization shall submit such
4 figures to the Secretary of the Interior as re-
5 quired to determine the amounts to be allocated
6 under subparagraph (B). This information shall
7 be compiled and submitted to the Secretary of
8 Education.

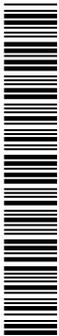
9 “(D) USE OF FUNDS.—The funds received
10 by a tribe or tribal organization shall be used
11 to assist in child find, screening, and other pro-
12 cedures for the early identification of children
13 aged 3 through 5, parent training, and the pro-
14 vision of direct services. These activities may be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



1 “(E) ANNUAL REPORT.—To be eligible to
2 receive a grant pursuant to subparagraph (A),
3 the tribe or tribal organization shall provide to
4 the Secretary of the Interior an annual report
5 of activities undertaken under this paragraph,
6 including the number of contracts and coopera-
7 tive agreements entered into, the number of
8 children contacted and receiving services for
9 each year, and the estimated number of chil-
10 dren needing services during the year following
11 the one in which the report is made. The Sec-
12 retary of the Interior shall include a summary
13 of this information on an annual basis in the
14 report to the Secretary of Education required
15 under this subsection. The Secretary of Edu-
16 cation may require any additional information
17 from the Secretary of the Interior.

18 “(F) PROHIBITIONS.—None of the funds
19 allocated under this paragraph may be used by
20 the Secretary of the Interior for administrative
21 purposes, including child count and the provi-
22 sion of technical assistance.

23 “(4) PLAN FOR COORDINATION OF SERVICES.—
24 The Secretary of the Interior shall develop and im-
25 plement a plan for the coordination of services for



1 all Indian children with disabilities residing on res-
2 ervations covered under this Act. Such plan shall
3 provide for the coordination of services benefiting
4 these children from whatever source, including
5 tribes, the Indian Health Service, other BIA divi-
6 sions, and other Federal agencies. In developing the
7 plan, the Secretary of the Interior shall consult with
8 all interested and involved parties. It shall be based
9 on the needs of the children and the system best
10 suited for meeting those needs, and may involve the
11 establishment of cooperative agreements between the
12 BIA, other Federal agencies, and other entities. The
13 plan shall also be distributed upon request to States,
14 State and local educational agencies, and other
15 agencies providing services to infants, toddlers, and
16 children with disabilities, to tribes, and to other in-
17 terested parties.

18 “(5) ESTABLISHMENT OF ADVISORY BOARD.—
19 To meet the requirements of section 612(a)(22), the
20 Secretary of the Interior shall establish, under the
21 BIA, an advisory board composed of individuals in-
22 volved in or concerned with the education and provi-
23 sion of services to Indian infants, toddlers, children,
24 and youth with disabilities, including Indians with
25 disabilities, Indian parents or guardians of such chil-



1 dren, teachers, service providers, State and local
2 educational officials, representatives of tribes or trib-
3 al organizations, representatives from State Inter-
4 agency Coordinating Councils under section 641 in
5 States having reservations, and other members rep-
6 resenting the various divisions and entities of the
7 BIA. The chairperson shall be selected by the Sec-
8 retary of the Interior. The advisory board shall—

9 “(A) assist in the coordination of services
10 within the BIA and with other local, State, and
11 Federal agencies in the provision of education
12 for infants, toddlers, and children with disabil-
13 ities;

14 “(B) advise and assist the Secretary of the
15 Interior in the performance of the Secretary’s
16 responsibilities described in this subsection;

17 “(C) develop and recommend policies con-
18 cerning effective inter- and intra-agency collabo-
19 ration, including modifications to regulations,
20 and the elimination of barriers to inter- and
21 intra-agency programs and activities;

22 “(D) provide assistance and disseminate
23 information on best practices, effective program
24 coordination strategies, and recommendations
25 for improved educational programming for In-



1 dian infants, toddlers, and children with disabil-
2 ities; and

3 “(E) provide assistance in the preparation
4 of information required under paragraph
5 (2)(D).

6 “(6) ANNUAL REPORTS.—

7 “(A) IN GENERAL.—The advisory board
8 established under paragraph (5) shall prepare
9 and submit to the Secretary of the Interior and
10 to the Congress an annual report containing a
11 description of the activities of the advisory
12 board for the preceding year.

13 “(B) AVAILABILITY.—The Secretary of the
14 Interior shall make available to the Secretary of
15 Education the report described in subparagraph
16 (A).

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

20 “(1) \$10,301,184,000 for fiscal year 2004;

21 “(2) \$11,957,361,000 for fiscal year 2005;

22 “(3) \$13,879,812,000 for fiscal year 2006;

23 “(4) \$16,111,345,000 for fiscal year 2007;

24 “(5) \$18,701,654,000 for fiscal year 2008;

25 “(6) \$21,708,421,000 for fiscal year 2009;



1 “(7) \$25,198,603,000 for fiscal year 2010; and
2 “(8) such sums as may be necessary for fiscal
3 year 2011 and each subsequent fiscal year.”.

4 **SEC. 202. STATE ELIGIBILITY.**

5 (a) IN GENERAL.—(1) Section 612(a) of the Individ-
6 uals with Disabilities Education Act (20 U.S.C. 1412(a))
7 is amended in the matter preceding paragraph (1) by
8 striking “demonstrates to the satisfaction of” and insert-
9 ing “provides assurances to”.

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

13 “(1) FREE APPROPRIATE PUBLIC EDU-
14 CATION.—

15 “(A) IN GENERAL.—A free appropriate
16 public education is available to all children with
17 disabilities residing in the State between the
18 ages of 3 and 21, inclusive, including children
19 with disabilities who have been suspended or ex-
20 pelled from school.

21 “(B) LIMITATION.—The obligation to
22 make a free appropriate public education avail-
23 able to all children with disabilities does not
24 apply with respect to children—



1 “(i) aged 3 through 5 and 18 through
 2 21 in a State to the extent that its applica-
 3 tion to those children would be inconsistent
 4 with State law or practice, or the order of
 5 any court, respecting the provision of pub-
 6 lic education to children in those age
 7 ranges; and

8 “(ii) aged 18 through 21 to the extent
 9 that State law does not require that special
 10 education and related services under this
 11 part be provided to children with disabil-
 12 ities who, in the educational placement
 13 prior to their incarceration in an adult cor-
 14 rectional facility—

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

18 “(II) did not have an individual-
 19 ized education program under this
 20 part.

21 “(2) FULL EDUCATIONAL OPPORTUNITY
 22 GOAL.—The State has established a goal of pro-
 23 viding full educational opportunity to all children
 24 with disabilities and a detailed timetable for accom-
 25 plishing that goal.



1 “(3) CHILD FIND.—

2 “(A) IN GENERAL.—All children with dis-
3 abilities residing in the State, including children
4 with disabilities attending private schools, re-
5 gardless of the severity of their disabilities, and
6 who are in need of special education and related
7 services, are identified, located, and evaluated
8 and a practical method is developed and imple-
9 mented to determine which children with dis-
10 abilities are currently receiving needed special
11 education and related services.

12 “(B) CONSTRUCTION.—Nothing in this
13 Act requires that children be classified by their
14 disability so long as each child who has a dis-
15 ability listed in section 602 and who, by reason
16 of that disability, needs special education and
17 related services is regarded as a child with a
18 disability under this part.

19 “(4) INDIVIDUALIZED EDUCATION PROGRAM.—
20 An individualized education program, or an individ-
21 ualized family service plan that meets the require-
22 ments of section 636(d), is developed, reviewed, and
23 revised for each child with a disability in accordance
24 with section 614(d).

25 “(5) LEAST RESTRICTIVE ENVIRONMENT.—



1 “(A) IN GENERAL.—To the maximum ex-
2 tent appropriate, children with disabilities, in-
3 cluding children in public or private institutions
4 or other care facilities, are educated with chil-
5 dren who are not disabled, and special classes,
6 separate schooling, or other removal of children
7 with disabilities from the regular educational
8 environment occurs only when the nature or se-
9 verity of the disability of a child is such that
10 education in regular classes with the use of sup-
11 plementary aids and services cannot be achieved
12 satisfactorily.

13 “(B) ADDITIONAL REQUIREMENT.—

14 “(i) IN GENERAL.—If the State uses a
15 funding mechanism by which the State dis-
16 tributes State funds on the basis of the
17 type of setting in which a child is served,
18 the funding mechanism does not result in
19 placements that violate the requirements of
20 subparagraph (A).

21 “(ii) ASSURANCE.—If the State does
22 not have policies and procedures to ensure
23 compliance with clause (i), the State shall
24 provide the Secretary an assurance that it
25 will revise the funding mechanism as soon



1 as feasible to ensure that such mechanism
2 does not result in such placements.

3 “(6) PROCEDURAL SAFEGUARDS.—

4 “(A) IN GENERAL.—Children with disabili-
5 ties and their parents are afforded the proce-
6 dural safeguards required by section 615.

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

21 “(7) EVALUATION.—Children with disabilities
22 are evaluated in accordance with subsections (a)
23 through (c) of section 614.



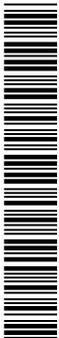
1 “(8) CONFIDENTIALITY.—Agencies in the State
2 comply with section 617(c) (relating to the confiden-
3 tiality of records and information).

4 “(9) TRANSITION FROM PART C TO PRESCHOOL
5 PROGRAMS.—Children participating in early-inter-
6 vention programs assisted under part C, and who
7 will participate in preschool programs assisted under
8 this part, experience a smooth and effective transi-
9 tion to those preschool programs in a manner con-
10 sistent with section 637(a)(8). By the third birthday
11 of such a child, an individualized education program
12 or, if consistent with section 636(d), an individual-
13 ized family service plan, has been developed and is
14 being implemented for the child. The local edu-
15 cational agency will participate in transition plan-
16 ning conferences arranged by the designated lead
17 agency under section 637(a)(8).

18 “(10) CHILDREN IN PRIVATE SCHOOLS.—

19 “(A) CHILDREN ENROLLED IN PRIVATE
20 SCHOOLS BY THEIR PARENTS.—

21 “(i) IN GENERAL.—To the extent con-
22 sistent with the number and location of
23 children with disabilities in the State who
24 are enrolled by their parents in private ele-
25 mentary and secondary schools, provision



1 is made for the participation of those chil-
2 dren in the program assisted or carried out
3 under this part by providing for such chil-
4 dren special education and related services
5 in accordance with the following require-
6 ments, unless the Secretary has arranged
7 for services to those children under sub-
8 section (f):

9 “(I) Amounts expended for the
10 provision of those services by a local
11 educational agency shall be equal to a
12 proportionate amount of Federal
13 funds made available under this part.

14 “(II) In calculating the propor-
15 tionate share of Federal funds, the
16 local educational agency, after timely
17 and meaningful consultation with rep-
18 resentatives of children enrolled in
19 private schools, conducts the child
20 find process to determine the number
21 of children with disabilities attending
22 private schools located in the district.

23 “(III) Such services may be pro-
24 vided to children with disabilities on
25 the premises of private, including pa-



1 rochial, schools, to the extent con-
2 sistent with law.

3 “(IV) Each local educational
4 agency maintains in its records and
5 provides to the State educational
6 agency the number of children evalu-
7 ated under this paragraph and the
8 number of children determined to be
9 children with disabilities.

10 “(ii) CHILD-FIND REQUIREMENT.—
11 The requirements of paragraph (3) of this
12 subsection (relating to child find) shall
13 apply with respect to children with disabil-
14 ities in the State who are enrolled in pri-
15 vate, including parochial, elementary and
16 secondary schools. Such child find process
17 shall be completed in a time period com-
18 parable to that for other students attend-
19 ing public schools in the local educational
20 agency.

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

23 “(i) IN GENERAL.—Children with dis-
24 abilities in private schools and facilities are
25 provided special education and related

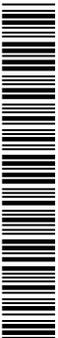


1 services, in accordance with an individual-
2 ized education program, at no cost to their
3 parents, if such children are placed in, or
4 referred to, such schools or facilities by the
5 State or appropriate local educational
6 agency as the means of carrying out the
7 requirements of this part or any other ap-
8 plicable law requiring the provision of spe-
9 cial education and related services to all
10 children with disabilities within such State.

11 “(ii) STANDARDS.—In all cases de-
12 scribed in clause (i), the State educational
13 agency shall determine whether such
14 schools and facilities meet standards that
15 apply to State and local educational agen-
16 cies and that children so served have all
17 the rights they would have if served by
18 such agencies.

19 “(C) PAYMENT FOR EDUCATION OF CHIL-
20 DREN ENROLLED IN PRIVATE SCHOOLS WITH-
21 OUT CONSENT OF OR REFERRAL BY THE PUB-
22 LIC AGENCY.—

23 “(i) IN GENERAL.—Subject to sub-
24 paragraph (A), this part does not require
25 a local educational agency to pay for the



1 cost of education, including special edu-
2 cation and related services, of a child with
3 a disability at a private school or facility if
4 that agency made a free appropriate public
5 education available to the child and the
6 parents elected to place the child in such
7 private school or facility.

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

23 “(iii) LIMITATION ON REIMBURSE-
24 MENT.—The cost of reimbursement de-



1 scribed in clause (ii) may be reduced or
2 denied—

3 “(I) if—

4 “(aa) at the most recent
5 IEP meeting that the parents at-
6 tended prior to removal of the
7 child from the public school, the
8 parents did not inform the IEP
9 Team that they were rejecting
10 the placement proposed by the
11 public agency to provide a free
12 appropriate public education to
13 their child, including stating their
14 concerns and their intent to en-
15 roll their child in a private school
16 at public expense; or

17 “(bb) 10 business days (in-
18 cluding any holidays that occur
19 on a business day) prior to the
20 removal of the child from the
21 public school, the parents did not
22 give written notice to the public
23 agency of the information de-
24 scribed in division (aa);



1 “(II) if, prior to the parents’ re-
2 moval of the child from the public
3 school, the public agency informed the
4 parents, through the notice require-
5 ments described in section 615(b)(7),
6 of its intent to evaluate the child (in-
7 cluding a statement of the purpose of
8 the evaluation that was appropriate
9 and reasonable), but the parents did
10 not make the child available for such
11 evaluation; or

12 “(III) upon a judicial finding of
13 unreasonableness with respect to ac-
14 tions taken by the parents.

15 “(iv) EXCEPTION.—Notwithstanding
16 the notice requirement in clause (iii)(I),
17 the cost of reimbursement—

18 “(I) shall not be reduced or de-
19 nied for failure to provide such notice
20 if—

21 “(aa) the school prevented
22 the parent from providing such
23 notice;

24 “(bb) the parents had not
25 received notice, pursuant to sec-



1 tion 615, of the notice require-
2 ment in clause (iii)(I); or

3 “(cc) compliance with clause
4 (iii)(I) would likely result in
5 physical harm to the child; and

6 “(II) may, in the discretion of a
7 court or a hearing officer, not be re-
8 duced or denied for failure to provide
9 such notice if—

10 “(aa) the parent is illiterate
11 or cannot write in English; or

12 “(bb) compliance with clause
13 (iii)(I) would likely result in seri-
14 ous emotional harm to the child.

15 “(11) STATE EDUCATIONAL AGENCY RESPON-
16 SIBLE FOR GENERAL SUPERVISION.—

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

19 “(i) the requirements of this part are
20 met; and

21 “(ii) all educational programs for chil-
22 dren with disabilities in the State, includ-
23 ing all such programs administered by any
24 other State or local agency—



1 “(I) are under the general super-
2 vision of individuals in the State who
3 are responsible for educational pro-
4 grams for children with disabilities;
5 and

6 “(II) meet the educational stand-
7 ards of the State educational agency.

8 “(B) LIMITATION.—Subparagraph (A)
9 shall not limit the responsibility of agencies in
10 the State other than the State educational
11 agency to provide, or pay for some or all of the
12 costs of, a free appropriate public education for
13 any child with a disability in the State.

14 “(C) EXCEPTION.—Notwithstanding sub-
15 paragraphs (A) and (B), the Governor (or an-
16 other individual pursuant to State law), con-
17 sistent with State law, may assign to any public
18 agency in the State the responsibility of ensur-
19 ing that the requirements of this part are met
20 with respect to children with disabilities who
21 are convicted as adults under State law and in-
22 carcerated in adult prisons.”.

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



1 “(13) PROCEDURAL REQUIREMENTS RELATING
2 TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—
3 The State educational agency will not make a final
4 determination that a local educational agency is not
5 eligible for assistance under this part without first
6 affording that agency reasonable notice and an op-
7 portunity for a hearing.

8 “(14) PERSONNEL STANDARDS.—

9 “(A) IN GENERAL.—The State educational
10 agency has established and maintains standards
11 to ensure that personnel necessary to carry out
12 this part are appropriately and adequately pre-
13 pared and trained.

14 “(B) STANDARDS DESCRIBED.—Such
15 standards shall—

16 “(i) ensure that special education
17 teachers who teach in core academic sub-
18 jects are highly qualified in those subjects;

19 “(ii) be consistent with any State-ap-
20 proved or State-recognized certification, li-
21 censing, registration, or other comparable
22 requirements that apply to the professional
23 discipline in which those personnel are pro-
24 viding special education or related services;
25 and



1 “(iii) allow paraprofessionals and as-
2 sistants who are appropriately trained and
3 supervised, in accordance with State law,
4 regulations, or written policy, in meeting
5 the requirements of this part to be used to
6 assist in the provision of special education
7 and related services to children with dis-
8 abilities under this part.

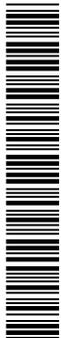
9 “(15) PERFORMANCE GOALS AND INDICA-
10 TORS.—The State—

11 “(A) has established goals for the perform-
12 ance of children with disabilities in the State
13 that—

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

16 “(ii) are the same as the State’s defi-
17 nition of adequate yearly progress, includ-
18 ing the State’s objectives for progress by
19 children with disabilities, under section
20 1111(b)(2)(C) of the Elementary and Sec-
21 ondary Education Act of 1965;

22 “(iii) address dropout rates, as well as
23 such other factors as the State may deter-
24 mine; and



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

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

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

19 “(16) PARTICIPATION IN ASSESSMENTS.—

20 “(A) IN GENERAL.—(i) All children with
21 disabilities are included in all general State and
22 district-wide assessment programs, including
23 assessments described under title I of the Ele-
24 mentary and Secondary Education Act of 1965,
25 with appropriate accommodations, where nec-



1 essary and as indicated in their respective indi-
2 vidualized education programs.

3 “(ii) The State (or, in the case of a dis-
4 trict-wide assessment, the local educational
5 agency) has developed and implemented guide-
6 lines for the provision of accommodations de-
7 scribed in clause (i).

8 “(iii) The State (or, in the case of a dis-
9 trict-wide assessment the local educational
10 agency)—

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

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

19 “(B) REPORTS.—The State educational
20 agency (or, in the case of a district-wide assess-
21 ment, the local educational agency) makes
22 available to the public, and reports to the public
23 with the same frequency and in the same detail
24 as it reports on the assessment of nondisabled
25 children, the following:



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

6 “(ii) The number of children with dis-
7 abilities participating in alternate assess-
8 ments.

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

21 “(17) DISPUTE RESOLUTION.—The State has
22 in effect systems of mediation and voluntary binding
23 arbitration pursuant to section 615(e).

24 “(18) SUPPLEMENTATION OF STATE, LOCAL,
25 AND OTHER FEDERAL FUNDS.—



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

4 “(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part
5 will not be commingled with State funds.
6

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



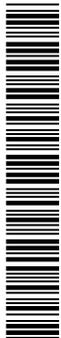
1 “(19) MAINTENANCE OF STATE FINANCIAL
2 SUPPORT.—

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

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

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

23 “(i) granting a waiver would be equi-
24 table due to exceptional or uncontrollable
25 circumstances such as a natural disaster or



1 a precipitous and unforeseen decline in the
2 financial resources of the State; or

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

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

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

25 “(21) STATE ADVISORY PANEL.—



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

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

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

16 “(ii) individuals with disabilities;

17 “(iii) teachers;

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

21 “(v) State and local education offi-
22 cials;

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



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

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

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

12 “(x) representatives from the State
13 juvenile and adult corrections agencies.

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

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

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

22 “(ii) comment publicly on any rules or
23 regulations proposed by the State regard-
24 ing the education of children with disabil-
25 ities;



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

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

10 “(v) advise the State educational
11 agency in developing and implementing
12 policies relating to the coordination of serv-
13 ices for children with disabilities.

14 “(22) SUSPENSION AND EXPULSION RATES.—

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

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

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



1 “(B) REVIEW AND REVISION OF POLI-
2 CIES.—If such discrepancies are occurring, the
3 State educational agency reviews and, if appro-
4 priate, revises (or requires the affected State or
5 local educational agency to revise) its policies,
6 procedures, and practices relating to the devel-
7 opment and implementation of IEPs, the use of
8 positive behavioral interventions and supports,
9 and procedural safeguards, to ensure that such
10 policies, procedures, and practices comply with
11 this Act.”.

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

15 “(23) INSTRUCTIONAL MATERIALS.—The State
16 adopts the national instructional materials accessi-
17 bility standard for the purposes of providing instruc-
18 tional materials to individuals with disabilities in a
19 timely manner after the publication of the standard
20 by the Secretary in the Federal Register.”.

21 (b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
22 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
23 SERVICES.—Section 612(b) of the Individuals with Dis-
24 abilities Education Act (20 U.S.C. 1412(b)) is amended
25 to read as follows:



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

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

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

13 (c) EXCEPTION FOR PRIOR STATE PLANS.—Section
14 612(c) of the Individuals with Disabilities Education Act
15 (20 U.S.C. 1412(c)) is amended to read as follows:

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

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



1 ment for purposes of receiving a grant under this
2 part.

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

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

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



1 “(d) APPROVAL BY THE SECRETARY.—

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

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

10 “(A) with reasonable notice; and

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

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

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

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

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



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

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

6 “(1) CONSISTENCY WITH STATE POLICIES.—
7 The local educational agency, in providing for the
8 education of children with disabilities within its ju-
9 risdiction, has in effect policies, procedures, and pro-
10 grams that are consistent with the State policies and
11 procedures established under section 612.

12 “(2) USE OF AMOUNTS.—

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

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

21 “(ii) shall be used to supplement
22 State, local, and other Federal funds and
23 not to supplant such funds; and

24 “(iii) shall not be used, except as pro-
25 vided in subparagraphs (B) and (C), to re-
26 duce the level of expenditures for the edu-



1 cation of children with disabilities made by
2 the local educational agency from local
3 funds below the level of those expenditures
4 for the preceding fiscal year.

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

9 “(i) the voluntary departure, by re-
10 tirement or otherwise, or departure for just
11 cause, of special education personnel;

12 “(ii) a decrease in the enrollment of
13 children with disabilities;

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

21 “(I) has left the jurisdiction of
22 the agency;

23 “(II) has reached the age at
24 which the obligation of the agency to



1 provide a free appropriate public edu-
2 cation to the child has terminated; or

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

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

9 “(C) TREATMENT OF FEDERAL FUNDS IN
10 CERTAIN FISCAL YEARS.—

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

21 “(ii) If a local educational agency
22 chooses to use the authority under clause
23 (i), then the agency shall use those local
24 funds to provide additional funding for
25 programs under the Elementary and Sec-



1 ondary Education Act of 1965, including,
 2 but not limited to, programs that address
 3 student achievement, comprehensive school
 4 reform, literacy, teacher quality and pro-
 5 fessional development, school safety,
 6 before- and after- school learning opportu-
 7 nities.

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

20 “(D) SCHOOLWIDE PROGRAMS UNDER
 21 TITLE I OF THE ESEA.—Notwithstanding sub-
 22 paragraph (A) or any other provision of this
 23 part, a local educational agency may use funds
 24 received under this part for any fiscal year to
 25 carry out a schoolwide program under section



1 1114 of the Elementary and Secondary Edu-
2 cation Act of 1965, except that the amount so
3 used in any such program shall not exceed—

4 “(i) the number of children with dis-
5 abilities participating in the schoolwide
6 program; multiplied by

7 “(ii)(I) the amount received by the
8 local educational agency under this part
9 for that fiscal year; divided by

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

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

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

24 “(A) SERVICES AND AIDS THAT ALSO BEN-
25 EFIT NONDISABLED CHILDREN.—For the costs



1 of special education and related services and
2 supplementary aids and services provided in a
3 regular class or other education-related setting
4 to a child with a disability in accordance with
5 the individualized education program of the
6 child, even if one or more nondisabled children
7 benefit from such services.

8 “(B) PREREFERRAL SERVICES.—To de-
9 velop and implement a system of comprehensive
10 coordinated prereferral education support serv-
11 ices in accordance with subsection (f).

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

20 “(D) CASE MANAGEMENT AND ADMINIS-
21 TRATION.—To purchase appropriate technology
22 for record keeping, data collection, and related
23 case management activities of teachers and re-
24 lated services personnel who are providing serv-
25 ices described in the individualized education

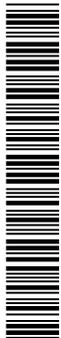


1 program of children with disabilities necessary
2 to the implementation of those case manage-
3 ment activities.

4 “(E) SUPPLEMENTAL EDUCATIONAL SERV-
5 ICES FOR CHILDREN WITH DISABILITIES IN
6 SCHOOLS DESIGNATED FOR IMPROVEMENT.—
7 For the reasonable additional expenses (as de-
8 termined by the local education agency) of any
9 necessary accommodations to allow children
10 with disabilities who are being educated in a
11 school identified for school improvement under
12 section 1116(b) of the Elementary and Sec-
13 ondary Education Act of 1965 (20 U.S.C.
14 6316(b)) to be provided supplemental edu-
15 cational services under section 1116(e) of such
16 Act on an equitable basis.

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

22 “(A) serves children with disabilities at-
23 tending those schools in the same manner as it
24 serves children with disabilities in its other
25 schools, including providing supplemental and

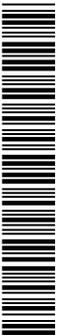


1 related services on site at the charter school
2 when the local educational agency has a policy
3 or practice of providing those services on site to
4 its other schools; and

5 “(B) provides funds under this part to
6 those schools on the same basis, including pro-
7 portional distribution based on relative enroll-
8 ment of children with disabilities, and at the
9 same time as the local educational agency dis-
10 tributes State funds, local funds, or a combina-
11 tion of State and local funds, to those schools
12 under the State charter law.

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.

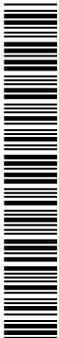
7 “(4) REQUIREMENTS FOR EDUCATIONAL SERV-
8 ICE AGENCIES.—

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).

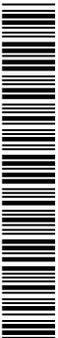


1 “(f) PREREFERRAL SERVICES.—

2 “(1) IN GENERAL.—A local educational agency
3 may use not 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 evaluations,
2 services, and supports, including scientifically
3 based literacy instruction.

4 “(C) Providing behavioral evaluations and
5 services and supports, including positive behav-
6 ioral interventions and supports.

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

11 “(4) REPORTING.—Each local educational
12 agency that develops and maintains comprehensive
13 coordinated prereferral educational support services
14 under this subsection shall annually report to the
15 State educational agency on—

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

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

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

24 “(A) IN GENERAL.—Comprehensive coordi-
25 nated prereferral educational support services



1 provided under this subsection may be aligned
2 with activities funded by, and carried out
3 under, the Elementary and Secondary Edu-
4 cation Act of 1965, such as the Reading First
5 program under subpart 1 of part B of title I of
6 such Act, the Early Reading First program
7 under subpart 2 of part B of title I of such Act,
8 reading and math supports under part A of
9 title I of such Act, and behavior intervention
10 supports, that improve results for children with
11 disabilities.

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

17 “(g) DIRECT SERVICES BY THE STATE EDU-
18 CATIONAL AGENCY.—

19 “(1) IN GENERAL.—A State educational agency
20 shall use the payments that would otherwise have
21 been available to a local educational agency or to a
22 State agency to provide special education and re-
23 lated services directly to children with disabilities re-
24 siding in the area served by that local agency, or for
25 whom that State agency is responsible, if the State



1 educational agency determines that the local edu-
2 cation agency or State agency, as the case may be—

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

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

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

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

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



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

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

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

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



1 State adopts such a policy, and the child transfers from
 2 one school to another, the transmission of any of the
 3 child’s records must include both the child’s current indi-
 4 vidualized education program and any such statement of
 5 current or previous disciplinary action that has been taken
 6 against the child.”.

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

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

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

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

17 “(1) **INITIAL EVALUATIONS.—**

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



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

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

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

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

15 “(D) PARENTAL CONSENT.—

16 “(i) IN GENERAL.—

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



1 tion shall not be construed as consent
2 for placement for receipt of special
3 education and related services.

4 “(II) CONSENT FOR SERVICES.—

5 An agency that is responsible for
6 making a free appropriate public edu-
7 cation available to a child with a dis-
8 ability under this part shall seek to
9 obtain informed consent from the par-
10 ent of such child before providing spe-
11 cial education and related services to
12 the child.

13 “(ii) ABSENCE OF CONSENT.—

14 “(I) FOR INITIAL EVALUATION.—

15 If the parent of such child does not
16 provide consent for an initial evalua-
17 tion under clause (i)(I), or the parent
18 fails to respond to a request to pro-
19 vide the consent, the local educational
20 agency may pursue the initial evalua-
21 tion of the child through the proce-
22 dures described in section 615, except
23 to the extent inconsistent with State
24 law relating to such parental consent.



1 “(II) FOR SERVICES.—If the par-
2 ent of such child does not provide con-
3 sent for services under clause (i)(II),
4 or the parent fails to respond to a re-
5 quest to provide the consent, the local
6 educational agency shall not provide
7 special education and related services
8 to the child through the procedures
9 described in section 615.

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

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

22 “(bb) the local educational
23 agency shall not be considered to
24 be in violation of any require-
25 ment under this part (including



1 the requirement to make avail-
 2 able a free appropriate public
 3 education to the child) with re-
 4 spect to the lack of an initial
 5 evaluation of the child, an IEP
 6 meeting with respect to the child,
 7 or the development of an IEP
 8 under this section for the child.

9 “(2) REEVALUATIONS.—

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

14 “(i) if the local educational agency de-
 15 termines that the educational needs, in-
 16 cluding improved academic achievement, of
 17 the child warrant a reevaluation; or

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

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

22 “(i) no more than once a year, unless
 23 the parent and the local educational agen-
 24 cy agree otherwise; and



1 “(ii) at least once every three years,
2 unless the parent and the local educational
3 agency agree that a reevaluation is unnec-
4 essary.

5 “(b) EVALUATION PROCEDURES.—

6 “(1) NOTICE.—The local educational agency
7 shall provide notice to the parent of a child with a
8 disability, in accordance with subsections (b)(3),
9 (b)(4), and (c) of section 615, that describes any
10 evaluation procedures such agency proposes to con-
11 duct.

12 “(2) CONDUCT OF EVALUATION.—In con-
13 ducting the evaluation, the local educational agency
14 shall—

15 “(A) use multiple up-to-date measures and
16 assessments to gather relevant functional, de-
17 velopmental, and academic information, includ-
18 ing information provided by the parent, to as-
19 sist in determining—

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

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



1 education curriculum or, for preschool chil-
2 dren, to participate in appropriate activi-
3 ties; and

4 “(B) not use any single measure or assess-
5 ment as the sole criterion for determining
6 whether a child is a child with a disability or
7 determining an appropriate educational pro-
8 gram for the child; and

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

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

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

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

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



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

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

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

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

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

15 “(4) DETERMINATION OF ELIGIBILITY AND
16 EDUCATIONAL NEED.—Upon completion of the ad-
17 ministration of assessments and other evaluation
18 measures—

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



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

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

9 “(A) lack of scientifically-based instruction
10 practices and programs that contain the essen-
11 tial components of reading instruction (as that
12 term is defined in section 1208(3) of the Ele-
13 mentary and Secondary Education Act of
14 1965);

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

16 “(C) limited English proficiency.

17 “(6) SPECIFIC LEARNING DISABILITIES.—

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



1 ten expression, basic reading skill, reading com-
2 prehension, mathematical calculation, or mathe-
3 matical reasoning.

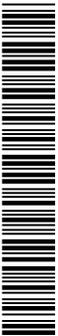
4 “(B) ADDITIONAL AUTHORITY.—In deter-
5 mining whether a child has a specific learning
6 disability, a local educational agency may use a
7 process which determines if a child responds to
8 scientific, research-based intervention.

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

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

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

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



1 “(i) whether the child is a child with
2 a disability as defined in section 602(3),
3 and the educational needs of the child, or,
4 in case of a reevaluation of a child, wheth-
5 er the child continues to have such a dis-
6 ability and such educational needs;

7 “(ii) the present levels of academic
8 achievement and related developmental
9 needs of the child;

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

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

23 “(2) SOURCE OF DATA.—The local educational
24 agency shall administer such assessments and other
25 evaluation measures as may be needed to produce



1 the data identified by the IEP Team under para-
2 graph (1)(B).

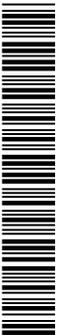
3 “(3) PARENTAL CONSENT.—Each local edu-
4 cational agency shall obtain informed parental con-
5 sent, in accordance with subsection (a)(1)(D), prior
6 to conducting any reevaluation of a child with a dis-
7 ability, except that such informed parental consent
8 need not be obtained if the local educational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

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

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

20 “(i) that determination and the rea-
21 sons for it; and

22 “(ii) the right of such parents to re-
23 quest an assessment to determine whether
24 the child continues to be a child with a dis-



1 ability and to determine the child’s edu-
2 cational needs; and

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

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

11 “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

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

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

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

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

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



1 ment and progress in the general
2 education curriculum;

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

7 “(cc) until the beginning of
8 the 2005–2006 school year, a de-
9 scription of benchmarks and
10 short-term objectives or, in the
11 case of children with disabilities
12 who take alternate assessments,
13 a description of benchmarks and
14 short-term objectives without
15 school-year limitation;

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

18 “(aa) enable the child to be
19 involved in and make progress in
20 the general education curriculum;
21 and

22 “(bb) meet the child’s other
23 educational needs that result
24 from the child’s disability;



1 “(III) a statement of the special
2 education and related services and
3 supplementary aids and services,
4 based on peer-reviewed research, to be
5 provided to the child, or on behalf of
6 the child, and a statement of the pro-
7 gram modifications or supports for
8 school personnel that will be provided
9 for the child—

10 “(aa) to advance appro-
11 priately toward attaining the an-
12 nual goals;

13 “(bb) to be involved in and
14 make progress in the general
15 education curriculum in accord-
16 ance with subclause (I) and to
17 participate in extracurricular and
18 other nonacademic activities; and

19 “(cc) to be educated and
20 participate with other children
21 with disabilities and nondisabled
22 children in the activities de-
23 scribed in this paragraph;

24 “(IV) an explanation of the ex-
25 tent, if any, to which the child will not



1 participate with nondisabled children
2 in the regular class and in the activi-
3 ties described in subclause (III)(cc);

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

12 “(bb) if the IEP Team deter-
13 mines that the child will not partici-
14 pate in a particular State or district-
15 wide assessment of student achieve-
16 ment (or part of such an assessment),
17 a statement of—

18 “(AA) why that assessment
19 is not appropriate for the child;
20 and

21 “(BB) how the child will be
22 assessed consistent with
23 612(a)(16)(A);

24 “(VI) the projected date for the
25 beginning of the services and modi-



1 fications described in subclause (III),
2 and the anticipated frequency, loca-
3 tion, and duration of those services
4 and modifications;

5 “(VII)(aa) beginning at age 14,
6 and updated annually, a statement of
7 the transition service needs of the
8 child under the applicable components
9 of the child’s IEP that focuses on the
10 child’s courses of study (such as par-
11 ticipation in advanced-placement
12 courses or a vocational education pro-
13 gram);

14 “(bb) beginning at age 16 (or
15 younger, if determined appropriate by
16 the IEP Team), a statement of need-
17 ed transition services for the child, in-
18 cluding, when appropriate, a state-
19 ment of the interagency responsibil-
20 ities or any needed linkages; and

21 “(cc) beginning at least one year
22 before the child reaches the age of
23 majority under State law, a statement
24 that the child has been informed of
25 his or her rights under this title, if



1 any, that will transfer to the child on
2 reaching the age of majority under
3 section 615(m); and

4 “(VIII) a statement of—

5 “(aa) how the child’s
6 progress toward the annual goals
7 described in subclause (II) will be
8 measured; and

9 “(bb) how the child’s par-
10 ents will be regularly informed
11 (by such means as periodic report
12 cards), at least as often as par-
13 ents are informed of their non-
14 disabled children’s progress, of
15 the sufficiency of their child’s
16 progress toward the annual goals
17 described in subclause (II).

18 “(ii) RULE OF CONSTRUCTION.—
19 Nothing in this subparagraph shall be con-
20 strued to require—

21 “(I) that additional information
22 be included in a child’s IEP beyond
23 what is required in this subsection;
24 and



1 “(II) the IEP Team to include
2 information under one component of a
3 child’s IEP that is already contained
4 under another component of such
5 IEP.

6 “(B) INDIVIDUALIZED EDUCATION PRO-
7 GRAM TEAM.—The term ‘individualized edu-
8 cation program team’ or ‘IEP Team’ means a
9 group of individuals composed of—

10 “(i) the parents of a child with a dis-
11 ability;

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

23 “(iii) at least one special education
24 teacher, or where appropriate, at least one
25 special education provider of such child;



1 “(iv) a representative of the local edu-
2 cational agency who—

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

7 “(II) is knowledgeable about the
8 general education curriculum; and

9 “(III) is knowledgeable about the
10 availability of resources of the local
11 educational agency;

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

16 “(vi) at the discretion of the parent or
17 the agency, other individuals who have
18 knowledge or special expertise regarding
19 the child, including related services per-
20 sonnel as appropriate; and

21 “(vii) whenever appropriate, the child
22 with a disability.

23 “(2) REQUIREMENT THAT PROGRAM BE IN EF-
24 fect.—



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

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

20 “(i) consistent with State policy; and

21 “(ii) agreed to by the agency and the
22 child’s parents.

23 “(3) DEVELOPMENT OF IEP.—



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

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

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

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

9 “(iv) the concerns of the parents for
10 enhancing the education of their child.

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

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

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

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



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

8 “(iv) consider the communication
9 needs of the child, and in the case of a
10 child who is deaf or hard of hearing, con-
11 sider the child's language and communica-
12 tion needs, opportunities for direct commu-
13 nications with peers and professional per-
14 sonnel in the child's language and commu-
15 nication mode, academic level, and full
16 range of needs, including opportunities for
17 direct instruction in the child's language
18 and communication mode; and

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

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



1 ticipate in the development of the IEP of the
2 child, including the determination of appro-
3 priate positive behavioral interventions and sup-
4 ports, and other strategies and the determina-
5 tion of supplementary aids and services, pro-
6 gram modifications, and support for school per-
7 sonnel consistent with paragraph (1)(A)(i)(III).

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

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

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



1 educational agency shall encourage the consolida-
2 tion of IEP Team meetings for a child.

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

8 “(4) REVIEW AND REVISION OF IEP.—

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

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

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

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

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



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

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

6 “(V) other matters.

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

13 “(5) MULTI-YEAR IEP.—

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



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

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

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

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

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

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



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

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

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

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

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



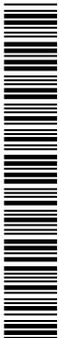
1 preschool to elementary grades, from elemen-
2 tary grades to middle or junior high school
3 grades, from middle or junior high school
4 grades to high school grades, and from high
5 school grades to post-secondary activities, but
6 in no case longer than three years.

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

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

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

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



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

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

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

23 “(f) ALTERNATIVE MEANS OF MEETING PARTICIPA-
24 TION.—When conducting IEP team meetings and place-
25 ment meetings pursuant to this section and 615, the par-



1 ent of a child with a disability and a local educational
2 agency may agree to use alternative means of meeting par-
3 ticipation, such as video conferences and conference
4 calls.”.

5 **SEC. 205. PROCEDURAL SAFEGUARDS.**

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

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

17 (b) TYPES OF PROCEDURES.—Section 615(b) of the
18 Individuals with Disabilities Education Act (20 U.S.C.
19 1415(b)) is amended to read as follows:

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

22 “(1) an opportunity for the parents of a child
23 with a disability to examine all records relating to
24 such child and to participate in meetings with re-
25 spect to the identification, evaluation, and edu-



1 cational placement of the child, and the provision of
2 a free appropriate public education to such child,
3 and to obtain an independent educational evaluation
4 of the child;

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

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

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

18 “(B) refuses to initiate or change;

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

23 “(4) procedures designed to ensure that the no-
24 tice required by paragraph (3) is in the native lan-



1 guage of the parents, unless it clearly is not feasible
2 to do so;

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

6 “(6) an opportunity to present complaints—

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

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

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

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

23 “(ii) that shall include—



1 “(I) the name of the child, the ad-
2 dress of the residence of the child, and the
3 name of the school the child is attending;

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

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

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

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

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

24 “(c) CONTENT OF PRIOR WRITTEN NOTICE.—The
25 notice required by subsection (b)(3) shall include—



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

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

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

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

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

20 “(d) PROCEDURAL SAFEGUARDS NOTICE.—

21 “(1) IN GENERAL.—A copy of the procedural
22 safeguards available to the parents of a child with
23 a disability shall be given to the parents, at a
24 minimum—



1 “(A) upon initial referral or parental re-
2 quest for evaluation;

3 “(B) annually, at the beginning of the
4 school year; and

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

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

13 “(A) independent educational evaluation;

14 “(B) prior written notice;

15 “(C) parental consent;

16 “(D) access to educational records;

17 “(E) opportunity to present complaints;

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

20 “(G) procedures for students who are sub-
21 ject to placement in an interim alternative edu-
22 cational setting;

23 “(H) requirements for unilateral placement
24 by parents of children in private schools at pub-
25 lic expense;



1 “(I) mediation, early dispute resolution,
2 and voluntary binding arbitration;

3 “(J) due process hearings, including re-
4 quirements for disclosure of evaluation results
5 and recommendations;

6 “(K) civil actions; and

7 “(L) attorneys’ fees.”.

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

12 “(e) MEDIATION AND VOLUNTARY BINDING ARBI-
13 TRATION.—

14 “(1) MEDIATION.—

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

24 “(B) REQUIREMENTS.—Such procedures
25 shall meet the following requirements:



1 “(i) The procedures shall ensure that
2 the mediation process—

3 “(I) is voluntary on the part of
4 the parties;

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

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

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

20 “(I) a parent and community
21 training and information center in the
22 State established under section 672;
23 or

24 “(II) an appropriate alternative
25 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 there is no such applicable State
14 law, in a manner consistent with the Re-
15 vised Uniform Arbitration 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 (j) of this section, the parents or the
4 local educational agency involved in such com-
5 plaint shall have an opportunity for an impar-
6 tial due process hearing, which shall be con-
7 ducted by the State educational agency.

8 “(B) RESOLUTION SESSION.—

9 “(i) IN GENERAL.—Prior to the 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 or the local educational agency involved
14 in the education or care of the 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 nated) to read as follows:

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

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—

16 (1) by redesignating subsection (i) as subsection
17 (h); and

18 (2) in subsection (h) (as redesignated)—

19 (A) in paragraph (1)—

20 (i) by striking “IN GENERAL.—” and
21 all that follows through “A decision made
22 in a hearing” and inserting “IN GEN-
23 ERAL.—A decision made in a hearing”;

24 (ii) by striking “(k)” and inserting
25 “(j)”;



1 (iii) by striking “subsection (g) and”;

2 and

3 (iv) by striking subparagraph (B);

4 and

5 (B) in paragraph (2)(A), by striking “sub-

6 section (f) or (k) who does not have the right

7 to an appeal under subsection (g)” and insert-

8 ing “subsection (f) or (j)”.

9 (j) MAINTENANCE OF CURRENT EDUCATIONAL
10 PLACEMENT.—Section 615 of the Individuals with Dis-

11 abilities Education Act (20 U.S.C. 1415) is amended—
12 (1) by redesignating subsection (j) as sub-

13 section (i); and
14 (2) by amending subsection (i) (as redesign-

15 nated) to read as follows:
16 “(i) MAINTENANCE OF CURRENT EDUCATIONAL

17 PLACEMENT.—Except as provided in subsection (j)(4),

18 during the pendency of any proceedings conducted pursu-

19 ant to this section, unless the State or local educational

20 agency and the parents otherwise agree, the child shall

21 remain in the then-current educational placement of such

22 child, or, if applying for initial admission to a public

23 school, shall, with the consent of the parents, be placed

24 in the public school program until all such proceedings
25 have been completed.”.



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

4 (1) by redesignating subsection (k) as sub-
5 section (j); and

6 (2) by amending subsection (j) (as redesign-
7 nated) to read as follows:

8 “(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL
9 SETTING.—

10 “(1) AUTHORITY OF SCHOOL PERSONNEL.—

11 “(A) IN GENERAL.—School personnel
12 under this section may order a change in the
13 placement of a child with a disability who vio-
14 lates a code of student conduct policy to an ap-
15 propriate interim alternative educational set-
16 ting, another setting, or suspension, for not
17 more than 10 school days (to the extent such
18 alternatives would be applied to children with-
19 out disabilities).

20 “(B) ADDITIONAL AUTHORITY.—Subject
21 to subparagraph (C), and notwithstanding any
22 other provision of this Act, school personnel
23 under this section may order a change in the
24 placement of a child with a disability who vio-
25 lates a code of student conduct policy to an ap-



1 appropriate interim alternative educational setting
2 selected so as to enable the child to continue to
3 participate in the general education curriculum,
4 although in another setting, and to progress to-
5 ward meeting the goals set out in the child's
6 IEP, for not more than 45 school days (to the
7 extent such alternative and such duration would
8 be applied to children without disabilities, and
9 which may include consideration of unique cir-
10 cumstances on a case-by-case basis), except that
11 the change in placement may last beyond 45
12 school days if required by State law or regula-
13 tion for the violation in question, to ensure the
14 safety and appropriate educational atmosphere
15 in the schools under the jurisdiction of the local
16 educational agency.

17 “(C) SERVICES.—A child with a disability
18 who is removed from the child's current place-
19 ment under subparagraph (B) shall—

20 “(i) continue to receive educational
21 services selected so as to enable the child
22 to continue to participate in the general
23 education curriculum, although in another
24 setting, and to progress toward meeting
25 the goals set out in the child's IEP; and



1 “(ii) continue to receive behavioral
2 intervention services designed to address
3 the behavior violation so that it does not
4 recur.

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

8 “(3) PARENT APPEAL.—

9 “(A) IN GENERAL.—If the parent of a
10 child with a disability disagrees with any deci-
11 sion regarding placement or punishment under
12 this section, the parent may request a hearing.

13 “(B) AUTHORITY OF HEARING OFFICER.—
14 If a parent of a child with a disability disagrees
15 with a decision regarding placement of the child
16 or punishment of the child under this section,
17 including duration of the punishment, the hear-
18 ing officer may determine whether the decision
19 regarding such action was appropriate.

20 “(4) PLACEMENT DURING APPEALS.—When a
21 parent requests a hearing regarding a disciplinary
22 action described in paragraph (1)(B) to challenge
23 the interim alternative educational setting or the vio-
24 lation of the code of student conduct policy, the child
25 shall remain in the interim alternative educational



1 setting pending the decision of the hearing officer or
2 until the expiration of the time period provided for
3 in paragraph (1)(B), whichever occurs first, unless
4 the parent and the State or local educational agency
5 agree otherwise.

6 “(5) PROTECTIONS FOR CHILDREN NOT YET
7 ELIGIBLE FOR SPECIAL EDUCATION AND RELATED
8 SERVICES.—

9 “(A) IN GENERAL.—A child who has not
10 been determined to be eligible for special edu-
11 cation and related services under this part and
12 who has engaged in behavior that violates a
13 code of student conduct policy, may assert any
14 of the protections provided for in this part if
15 the local educational agency had knowledge (as
16 determined in accordance with this paragraph)
17 that the child was a child with a disability be-
18 fore the behavior that precipitated the discipli-
19 nary action occurred.

20 “(B) BASIS OF KNOWLEDGE.—A local edu-
21 cational agency shall be deemed to have knowl-
22 edge that a child is a child with a disability if,
23 before the behavior that precipitated the dis-
24 ciplinary action occurred—



1 “(i) the parent of the child has ex-
2 pressed concern in writing (unless the par-
3 ent is illiterate or has a disability that pre-
4 vents compliance with the requirements
5 contained in this clause) to personnel of
6 the appropriate educational agency that
7 the child is in need of special education
8 and related services;

9 “(ii) the parent of the child has re-
10 quested an evaluation of the child pursuant
11 to section 614; or

12 “(iii) the teacher of the child, or other
13 personnel of the local educational agency,
14 has expressed concern in writing about the
15 behavior or performance of the child to the
16 director of special education of such agen-
17 cy or to other personnel of the agency.

18 “(C) CONDITIONS THAT APPLY IF NO
19 BASIS OF KNOWLEDGE.—

20 “(i) IN GENERAL.—If a local edu-
21 cational agency does not have knowledge
22 that a child is a child with a disability (in
23 accordance with subparagraph (B)) prior
24 to taking disciplinary measures against the
25 child, the child may be subjected to dis-



1 disciplinary measures applied to children
 2 without disabilities who engaged in com-
 3 parable behaviors consistent with clause
 4 (ii).

5 “(ii) LIMITATIONS.—If a request is
 6 made for an evaluation of a child during
 7 the time period in which the child is sub-
 8 jected to disciplinary measures under para-
 9 graph (1) or (2), the evaluation shall be
 10 conducted in an expedited manner. If the
 11 child is determined to be a child with a dis-
 12 ability, taking into consideration informa-
 13 tion from the evaluation conducted by the
 14 agency and information provided by the
 15 parents, the agency shall provide special
 16 education and related services in accord-
 17 ance with this part, except that, pending
 18 the results of the evaluation, the child shall
 19 remain in the educational placement deter-
 20 mined by school authorities.

21 “(6) REFERRAL TO AND ACTION BY LAW EN-
 22 FORCEMENT AND JUDICIAL AUTHORITIES.—

23 “(A) IN GENERAL.—Nothing in this part
 24 shall be construed to prohibit an agency from
 25 reporting a crime committed by a child with a



1 disability to appropriate authorities or to pre-
2 vent State law enforcement and judicial au-
3 thorities from exercising their responsibilities
4 with regard to the application of Federal and
5 State law to crimes committed by a child with
6 a disability.

7 “(B) TRANSMISSION OF RECORDS.—An
8 agency reporting a crime committed by a child
9 with a disability shall ensure that copies of the
10 special education and disciplinary records of the
11 child are transmitted for consideration by the
12 appropriate authorities to whom it reports the
13 crime.”.

14 (l) RULE OF CONSTRUCTION.—Section 615 of the In-
15 dividuals with Disabilities Education Act (20 U.S.C.
16 1415) is amended by redesignating subsection (l) as sub-
17 section (k).

18 (m) RULE OF CONSTRUCTION.—Section 615 of the
19 Individuals with Disabilities Education Act (20 U.S.C.
20 1415) is amended—

21 (1) by redesignating subsection (m) as sub-
22 section (l); and

23 (2) by amending subsection (l) (as redesign-
24 nated) to read as follows:



1 “(1) TRANSFER OF PARENTAL RIGHTS AT AGE OF
2 MAJORITY.—

3 “(1) IN GENERAL.—A State that receives
4 amounts from a grant under this part may provide
5 that, when a child with a disability reaches the age
6 of majority under State law (except for a child with
7 a disability who has been determined to be incom-
8 petent under State law)—

9 “(A) the public agency shall provide any
10 notice required by this section to both the indi-
11 vidual and the parents;

12 “(B) all other rights accorded to parents
13 under this part transfer to the child;

14 “(C) the agency shall notify the individual
15 and the parents of the transfer of rights; and

16 “(D) all rights accorded to parents under
17 this part transfer to children who are incarcer-
18 ated in an adult or juvenile Federal, State, or
19 local correctional institution.

20 “(2) SPECIAL RULE.—If, under State law, a
21 child with a disability who has reached the age of
22 majority under State law, who has not been deter-
23 mined to be incompetent, but who is determined not
24 to have the ability to provide informed consent with
25 respect to the educational program of the child, the



1 State shall establish procedures for appointing the
2 parent of the child, or if the parent is not available,
3 another appropriate individual, to represent the edu-
4 cational interests of the child throughout the period
5 of eligibility of the child under this part.”.

6 **SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING,**
7 **AND JUDICIAL REVIEW.**

8 Section 616 of the Individuals with Disabilities Edu-
9 cation Act (20 U.S.C. 1416) is amended—

10 (1) in the heading to read as follows:

11 **“SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING,**
12 **AND JUDICIAL REVIEW.”;**

13 (2) by redesignating subsections (a) through (c)
14 as subsections (e) through (g), respectively; and

15 (3) by inserting before subsection (e) (as red-
16 igned) the following:

17 **“(a) FEDERAL AND STATE MONITORING.—**

18 **“(1) IN GENERAL.—**The Secretary shall mon-
19 itor implementation of this Act.

20 **“(2) FOCUSED MONITORING.—**The primary
21 focus of Federal monitoring activities shall be to im-
22 prove educational results for all children with dis-
23 abilities, while ensuring compliance with program re-
24 quirements, with a particular emphasis on those re-



1 requirements that are most closely related to improv-
2 ing educational results for children with disabilities.

3 “(b) INDICATORS.—

4 “(1) REQUIRED INDICATORS.—The Secretary
5 shall examine relevant information and data related
6 to States’ progress on improving educational results
7 for children with disabilities by reviewing—

8 “(A) achievement results of children with
9 disabilities on State or district assessments, in-
10 cluding children with disabilities taking State or
11 district assessments with appropriate accom-
12 modations;

13 “(B) achievement results of children with
14 disabilities on State or district alternate assess-
15 ments;

16 “(C) graduation rates of children with dis-
17 abilities and graduation rates of children with
18 disabilities as compared to graduation rates of
19 nondisabled children; and

20 “(D) dropout rates for children with dis-
21 abilities and dropout rates of children with dis-
22 abilities as compared to dropout rates of non-
23 disabled children.

24 “(2) PERMISSIVE INDICATORS.—The Secretary
25 also may establish other priorities for review of rel-



1 evant information and data, including data provided
2 by States under section 618, and also including the
3 following:

4 “(A) PRIORITIES FOR THIS PART.—The
5 Secretary may give priority to monitoring on
6 the following areas under this part:

7 “(i) Provision of educational services
8 in the least restrictive environment,
9 including—

10 “(I) education of children with
11 disabilities with non-disabled peers to
12 the maximum extent appropriate;

13 “(II) provision of appropriate
14 special education and related services;

15 “(III) access to the general cur-
16 riculum with appropriate accommoda-
17 tions;

18 “(IV) provision of appropriate
19 services to students whose behavior
20 impedes learning; and

21 “(V) participation and perform-
22 ance of children with disabilities on
23 State and local assessments, including
24 alternate assessments.



1 “(ii) Secondary transition, including
2 the extent to which youth exiting special
3 education are prepared for post-secondary
4 education, employment, and adult life, and
5 are participants in appropriate transition
6 planning while in school.

7 “(iii) State exercise of general super-
8 visory authority, including effective moni-
9 toring and use of complaint resolution, me-
10 diation, and voluntary binding arbitration.

11 “(B) PRIORITIES FOR PART C.—The Sec-
12 retary may give priority to monitoring on the
13 following areas under part C:

14 “(i) Child find and public awareness
15 to support the identification, evaluation
16 and assessment of all eligible infants and
17 toddlers, including the provision of cul-
18 turally relevant materials to inform and
19 promote referral.

20 “(ii) Provision of early intervention
21 services in natural environments, evalua-
22 tion and assessment to identify child needs
23 and family needs related to enhancing the
24 development of the child, and provision of
25 appropriate early intervention services in



1 natural environments to meet the needs of
2 individual children.

3 “(iii) Effective early childhood transi-
4 tion to services under this part.

5 “(iv) State exercise of general super-
6 visory authority, including—

7 “(I) effective monitoring and use
8 of other mechanisms such as com-
9 plaint resolution;

10 “(II) implementation of medi-
11 ation and voluntary binding arbitra-
12 tion; and

13 “(III) coordination of parent and
14 child protections.

15 “(3) DATA COLLECTION AND ANALYSIS.—The
16 Secretary shall review the data collection and anal-
17 ysis capacity of States to ensure that data and infor-
18 mation is collected, analyzed, and accurately re-
19 ported to the Secretary. The Secretary may provide
20 technical assistance to improve the capacity of
21 States to meet data requirements.

22 “(c) ADDITIONAL PRIORITIES.—

23 “(1) IN GENERAL.—The Secretary may develop
24 additional priorities for monitoring the effective im-
25 plementation of this Act.



1 “(2) PUBLIC COMMENT.—The Secretary shall
2 provide a public comment period of at least 30 days
3 on any additional priority proposed under this part
4 or part C.

5 “(3) DATE OF ENFORCEMENT.—The Secretary
6 may not begin to enforce a new priority until one
7 year from the date of publication of the priority in
8 the Federal Register as a final rule.

9 “(d) COMPLIANCE.—

10 “(1) IN GENERAL.—The Secretary shall review
11 State data to determine whether the State is in com-
12 pliance with the provisions of this Act.

13 “(2) LACK OF PROGRESS.—If after examining
14 data, as provided in section (b) or (c), the Secretary
15 determines that a State is not making satisfactory
16 progress in improving educational results for chil-
17 dren with disabilities, the Secretary shall take one or
18 more of the following actions:

19 “(A) Advise the State of available sources
20 of technical assistance that may help the State
21 address the lack of progress, which may include
22 assistance from the Office of Special Education
23 Programs, other offices of the Department of
24 Education, other Federal agencies, technical as-
25 sistance providers approved by the Secretary,



1 and other federally-funded non-profit agencies.

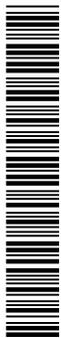
2 Such technical assistance may include—

3 “(i) the provision of advice by experts
4 to address the areas of non-compliance, in-
5 cluding explicit plans for ensuring compli-
6 ance within a specified period of time;

7 “(ii) assistance in identifying and im-
8 plementing professional development, in-
9 structional strategies, and methods of in-
10 struction that are based on scientifically
11 based research;

12 “(iii) designating and using distin-
13 guished superintendents, principals, special
14 education administrators, regular edu-
15 cation teachers, and special education
16 teachers to provide advice, technical assist-
17 ance, and support; and

18 “(iv) devising additional approaches to
19 providing technical assistance, such as col-
20 laborating with institutions of higher edu-
21 cation, educational service agencies, na-
22 tional centers of technical assistance sup-
23 ported under part D, and private providers
24 of scientifically based technical assistance.



1 “(B) Direct the use of State level funds for
2 technical assistance on the area or areas of un-
3 satisfactory performance.

4 “(C) Each year withhold 50 percent of the
5 State’s funds under section 611(f), after pro-
6 viding the State the opportunity to show cause
7 why the withholding should not occur, until the
8 Secretary determines that sufficient progress
9 has been made in improving educational results
10 for children with disabilities.

11 “(3) SUBSTANTIAL NON-COMPLIANCE.—

12 “(A) INITIAL DETERMINATION.—When the
13 Secretary determines that a State is not in sub-
14 stantial compliance with any provision of this
15 part, the Secretary shall take one or more of
16 the following actions:

17 “(i) Require the State to prepare a
18 corrective action plan or improvement plan
19 if the Secretary determines that the State
20 should be able to correct the problem with-
21 in one year.

22 “(ii) Identify the State as a high-risk
23 grantee and impose special conditions on
24 the State’s grant.



1 “(iii) Require the State to enter into
2 a compliance agreement under section 457
3 of the General Education Provisions Act, if
4 the Secretary has reason to believe that
5 the State cannot correct the problem with-
6 in one year.

7 “(iv) Recovery of funds under section
8 452 of the General Education Provisions
9 Act.

10 “(v)(I) Withholding of payments
11 under subsection (e).

12 “(II) Pending the outcome of any
13 hearing to withhold payments under sub-
14 section (e), the Secretary may suspend
15 payments to a recipient, suspend the au-
16 thority of the recipient to obligate Federal
17 funds, or both, after such recipient has
18 been given reasonable notice and an oppor-
19 tunity to show cause why future payments
20 or authority to obligate Federal funds
21 should not be suspended.

22 “(B) CONTINUED NON-COMPLIANCE.—

23 “(i) SECRETARIAL ACTION.—If the
24 Secretary has imposed special conditions
25 on a grant under subparagraph (A)(ii) for



1 substantially the same compliance prob-
2 lems for three consecutive years, and at
3 the end of the third year the State has not
4 demonstrated that the violation has been
5 corrected to the satisfaction of the Sec-
6 retary, the Secretary shall take such addi-
7 tional enforcement actions as the Secretary
8 determines to be appropriate from among
9 those actions specified in clauses (iii)
10 through (v) of subparagraph (A).

11 “(ii) REPORT TO CONGRESS.—The
12 Secretary shall report to Congress within
13 30 days of taking enforcement action pur-
14 suant to this paragraph on the specific ac-
15 tion taken and the reasons why enforce-
16 ment action was taken.”

17 **SEC. 207. ADMINISTRATION.**

18 Section 617 of the Individuals with Disabilities Edu-
19 cation Act (20 U.S.C. 1417) is amended to read as follows:

20 **“SEC. 617. ADMINISTRATION.**

21 “(a) RESPONSIBILITIES OF SECRETARY.—In car-
22 rying out this part, the Secretary shall—

23 “(1) cooperate with, and (directly or by grant
24 or contract) furnish technical assistance necessary
25 to, the State in matters relating to—



1 “(A) the education of children with disabil-
2 ities; and

3 “(B) carrying out this part; and

4 “(2) provide short-term training programs and
5 institutes.

6 “(b) CONFIDENTIALITY.—The Secretary shall take
7 appropriate action, in accordance with section 444 of the
8 General Education Provisions Act (20 U.S.C. 1232g), to
9 ensure the protection of the confidentiality of any person-
10 ally identifiable data, information, and records collected
11 or maintained by the Secretary and by State and local
12 educational agencies pursuant to this part.

13 “(c) PERSONNEL.—The Secretary is authorized to
14 hire qualified personnel necessary to carry out the Sec-
15 retary’s duties under subsection (a) and under sections
16 618 and 661 without regard to the provisions of title 5,
17 United States Code, relating to appointments in the com-
18 petitive service and without regard to chapter 51 and sub-
19 chapter III of chapter 53 of such title relating to classi-
20 fication and general schedule pay rates, except that no
21 more than twenty such personnel shall be employed at any
22 time.

23 “(e) PILOT PROGRAM.—The Secretary is authorized
24 to grant waivers of paperwork requirements under this
25 part for a period of time not to exceed 4 years with respect



1 to not more than 10 States based on proposals submitted
2 by States for addressing reduction of paperwork and non-
3 instructional time spent fulfilling statutory and regulatory
4 requirements.

5 “(f) REPORT.—The Secretary shall include in the an-
6 nual report to Congress under section 426 of the Depart-
7 ment of Education Organization Act information related
8 to the effectiveness of waivers granted under subsection
9 (e)—

10 “(1) in reducing the paperwork burden on
11 teachers, administrators, and related services pro-
12 viders and non-instructional time spent by teachers
13 in complying with this part, including any specific
14 recommendations for broader implementation; and

15 “(2) in enhancing longer-term educational plan-
16 ning, improving positive outcomes for children with
17 disabilities, promoting collaboration between IEP
18 Team members, and ensuring satisfaction of family
19 members, including any specific recommendations
20 for broader implementation.

21 “(g) MODEL FORMS.—Not later than the date on
22 which the Secretary publishes final regulations to imple-
23 ment this part (as amended by the Improving Education
24 Results for Children With Disabilities Act of 2003), the
25 Secretary shall publish and disseminate widely to States,



1 local educational agencies, and parent and community
2 training and information centers—

3 “(1) a model individualized education program
4 form;

5 “(2) a model form for the procedural safe-
6 guards notice described in section 615(d); and

7 “(3) a model form for the prior written notice
8 described in section 615(b)(3);

9 that would be consistent with the requirements of this part
10 and be deemed to be sufficient to meet such require-
11 ments.”.

12 **SEC. 208. PROGRAM INFORMATION.**

13 Section 618 of the Individuals with Disabilities Edu-
14 cation Act (20 U.S.C. 1418) is amended to read as follows:

15 **“SEC. 618. PROGRAM INFORMATION.**

16 “(a) IN GENERAL.—Each State that receives assist-
17 ance under this part, and the Secretary of the Interior,
18 shall provide data each year to the Secretary—

19 “(1)(A) on—

20 “(i) the number of children with disabil-
21 ities, by race, ethnicity, and disability category,
22 who are receiving a free appropriate public edu-
23 cation;



1 “(ii) the number of children with disabil-
2 ities, by race and ethnicity, who are receiving
3 early intervention services;

4 “(iii) the number of children with disabil-
5 ities, by race, ethnicity, and disability category,
6 who are participating in regular education;

7 “(iv) the number of children with disabil-
8 ities, by race, ethnicity, and disability category,
9 who are in separate classes, separate schools or
10 facilities, or public or private residential facili-
11 ties;

12 “(v) the number of children with disabil-
13 ities, by race, ethnicity, and disability category,
14 who, for each year of age from age 14 to 21,
15 stopped receiving special education and related
16 services because of program completion or other
17 reasons and the reasons why those children
18 stopped receiving special education and related
19 services;

20 “(vi) the number of children with disabil-
21 ities, by race and ethnicity, who, from birth
22 through age 2, stopped receiving early interven-
23 tion services because of program completion or
24 for other reasons;



1 “(vii)(I) the number of children with dis-
2 abilities, by race, ethnicity, and disability cat-
3 egory, who under subparagraph (A) or (B) of
4 section 615(j)(1), are removed to an interim al-
5 ternative educational setting;

6 “(II) the acts or items precipitating those
7 removals; and

8 “(III) the number of children with disabil-
9 ities who are subject to long-term suspensions
10 or expulsions;

11 “(viii) the number of complaints resolved
12 through voluntary binding arbitration; and

13 “(ix) the number of mediations held and
14 the number of settlement agreements reached
15 through mediation;

16 “(B) on the number of infants and toddlers, by
17 race and ethnicity, who are at risk of having sub-
18 stantial developmental delays (as defined in section
19 632), and who are receiving early intervention serv-
20 ices under part C; and

21 “(C) on the number of children served with
22 funds under section 613(f); and

23 “(2) on any other information that may be re-
24 quired by the Secretary.



1 “(b) SAMPLING.—The Secretary may permit States
2 and the Secretary of the Interior to obtain the data de-
3 scribed in subsection (a) through sampling.

4 “(c) DISPROPORTIONALITY.—

5 “(1) IN GENERAL.—Each State that receives
6 assistance under this part, and the Secretary of the
7 Interior, shall provide for the collection and exam-
8 ination of data to determine if significant
9 disproportionality based on race is occurring in the
10 State with respect to—

11 “(A) the identification of children as chil-
12 dren with disabilities, including the identifica-
13 tion of children as children with disabilities in
14 accordance with a particular impairment de-
15 scribed in section 602(3); and

16 “(B) the placement in particular edu-
17 cational settings of such children.

18 “(2) REVIEW AND REVISION OF POLICIES,
19 PRACTICES, AND PROCEDURES.—In the case of a de-
20 termination of significant disproportionality with re-
21 spect to the identification of children as children
22 with disabilities, or the placement in particular edu-
23 cational settings of such children, in accordance with
24 paragraph (1), the State or the Secretary of the In-
25 terior, as the case may be—



1 “(A) shall provide for the review and, if
2 appropriate, revision of the policies, procedures,
3 and practices used in such identification or
4 placement to ensure that such policies, proce-
5 dures, and practices comply with the require-
6 ments of this Act; and

7 “(B) shall require any local educational
8 agency identified under paragraph (1) to re-
9 serve the maximum amount of funds under sec-
10 tion 613(f) to provide comprehensive coordi-
11 nated pre-referral support services to serve chil-
12 dren in the local educational agency, particu-
13 larly children in those groups that were signifi-
14 cantly overidentified under paragraph (1).”.

15 **SEC. 209. PRESCHOOL GRANTS.**

16 Section 619 of the Individuals with Disabilities Edu-
17 cation Act (20 U.S.C. 1419) is amended to read as follows:

18 **“SEC. 619. PRESCHOOL GRANTS.**

19 “(a) IN GENERAL.—The Secretary shall provide
20 grants under this section to assist States to provide special
21 education and related services, in accordance with this
22 part—

23 (1) to children with disabilities aged 3 through
24 5, inclusive; and



1 “(2) at the State’s discretion, to 2-year-old chil-
2 dren with disabilities who will turn 3 during the
3 school year.

4 “(b) ELIGIBILITY.—A State shall be eligible for a
5 grant under this section if such State—

6 “(1) is eligible under section 612 to receive a
7 grant under this part; and

8 “(2) makes a free appropriate public education
9 available to all children with disabilities, aged 3
10 through 5, residing in the State.

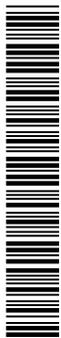
11 “(c) ALLOCATIONS TO STATES.—

12 “(1) IN GENERAL.—The Secretary shall allo-
13 cate funds among the States in accordance with
14 paragraph (2) or (3), as appropriate.

15 “(2) INCREASE IN FUNDS.—If the amount
16 available for allocations to States under paragraph
17 (1) is equal to or greater than the amount allocated
18 to the States under this section for the preceding
19 fiscal year, those allocations shall be calculated as
20 follows:

21 “(A)(i) Except as provided in subpara-
22 graph (B), the Secretary shall—

23 “(I) allocate to each State the amount
24 it received for fiscal year 1997;



1 “(II) allocate 85 percent of any re-
2 maining funds to States on the basis of
3 their relative populations of children aged
4 3 through 5; and

5 “(III) allocate 15 percent of those re-
6 maining funds to States on the basis of
7 their relative populations of all children
8 aged 3 through 5 who are living in poverty.

9 “(ii) For the purpose of making grants
10 under this paragraph, the Secretary shall use
11 the most recent population data, including data
12 on children living in poverty, that are available
13 and satisfactory to the Secretary.

14 “(B) Notwithstanding subparagraph (A),
15 allocations under this paragraph shall be sub-
16 ject to the following:

17 “(i) No State’s allocation shall be less
18 than its allocation for the preceding fiscal
19 year.

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

22 “(I) the sum of—

23 “(aa) the amount it received
24 for fiscal year 1997; and



1 “(bb) one third of one per-
2 cent of the amount by which the
3 amount appropriated under sub-
4 section (j) exceeds the amount
5 appropriated under this section
6 for fiscal year 1997;

7 “(II) the sum of—

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

10 “(bb) that amount multi-
11 plied by the percentage by which
12 the increase in the funds appro-
13 priated from the preceding fiscal
14 year exceeds 1.5 percent; or

15 “(III) the sum of—

16 “(aa) the amount it received
17 for the preceding fiscal year; and

18 “(bb) that amount multi-
19 plied by 90 percent of the per-
20 centage increase in the amount
21 appropriated from the preceding
22 fiscal year.

23 “(iii) Notwithstanding clause (ii), no
24 State’s allocation under this paragraph
25 shall exceed the sum of—



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

3 “(II) that amount multiplied by
4 the sum of 1.5 percent and the per-
5 centage increase in the amount appro-
6 priated.

7 “(C) If the amount available for allocations
8 under this paragraph is insufficient to pay
9 those allocations in full, those allocations shall
10 be ratably reduced, subject to subparagraph
11 (B)(i).

12 “(3) DECREASE IN FUNDS.—If the amount
13 available for allocations to States under paragraph
14 (1) is less than the amount allocated to the States
15 under this section for the preceding fiscal year, those
16 allocations shall be calculated as follows:

17 “(A) If the amount available for allocations
18 is greater than the amount allocated to the
19 States for fiscal year 1997, each State shall be
20 allocated the sum of—

21 “(i) the amount it received for fiscal
22 year 1997; and

23 “(ii) an amount that bears the same
24 relation to any remaining funds as the in-
25 crease the State received for the preceding



1 fiscal year over fiscal year 1997 bears to
2 the total of all such increases for all
3 States.

4 “(B) If the amount available for alloca-
5 tions is equal to or less than the amount allo-
6 cated to the States for fiscal year 1997, each
7 State shall be allocated the amount it received
8 for that year, ratably reduced, if necessary.

9 “(d) RESERVATION FOR STATE ACTIVITIES.—

10 “(1) IN GENERAL.—Each State may retain not
11 more than the amount described in paragraph (2)
12 for administration and other State-level activities in
13 accordance with subsections (e) and (f).

14 “(2) AMOUNT DESCRIBED.—For each fiscal
15 year, the Secretary shall determine and report to the
16 State educational agency an amount that is 25 per-
17 cent of the amount the State received under this sec-
18 tion for fiscal year 1997, cumulatively adjusted by
19 the Secretary for each succeeding fiscal year by the
20 lesser of—

21 “(A) the percentage increase, if any, from
22 the preceding fiscal year in the State’s alloca-
23 tion under this section; or

24 “(B) the percentage increase, if any, from
25 the preceding fiscal year in the Consumer Price



1 Index For All Urban Consumers published by
2 the Bureau of Labor Statistics of the Depart-
3 ment of Labor.

4 “(e) STATE ADMINISTRATION.—

5 “(1) IN GENERAL.—For the purpose of admin-
6 istering this section (including the coordination of
7 activities under this part with, and providing tech-
8 nical assistance to, other programs that provide
9 services to children with disabilities) a State may
10 use not more than 20 percent of the maximum
11 amount it may retain under subsection (d) for any
12 fiscal year.

13 “(2) ADMINISTRATION OF PART C.—Funds de-
14 scribed in paragraph (1) may also be used for the
15 administration of part C of this Act, if the State
16 educational agency is the lead agency for the State
17 under that part.

18 “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State
19 shall use any funds it retains under subsection (d) and
20 does not use for administration under subsection (e)—

21 “(1) for support services (including establishing
22 and implementing the mediation and voluntary bind-
23 ing arbitration process required by section 615(e)),
24 which may benefit children with disabilities younger



1 than 3 or older than 5 as long as those services also
2 benefit children with disabilities aged 3 through 5;

3 “(2) for direct services for children eligible for
4 services under this section;

5 “(3) for activities at the State and local levels
6 to meet the performance goals established by the
7 State under section 612(a)(16) and to support im-
8 plementation of the State plan under subpart 1 of
9 part D if the State receives funds under that sub-
10 part; or

11 “(4) to supplement other funds used to develop
12 and implement a Statewide coordinated services sys-
13 tem designed to improve results for children and
14 families, including children with disabilities and their
15 families, but not to exceed one percent of the
16 amount received by the State under this section for
17 a fiscal year.

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

20 “(1) SUBGRANTS REQUIRED.—Each State that
21 receives a grant under this section for any fiscal
22 year shall distribute all of the grant funds that it
23 does not reserve under subsection (d) to local edu-
24 cational agencies in the State that have established
25 their eligibility under section 613, as follows:



1 “(A) BASE PAYMENTS.—The State shall
2 first award each agency described in paragraph
3 (1) the amount that agency would have received
4 under this section for fiscal year 1997 if the
5 State had distributed 75 percent of its grant for
6 that year under section 619(c)(3), as then in ef-
7 fect.

8 “(B) ALLOCATION OF REMAINING
9 FUNDS.—After making allocations under sub-
10 paragraph (A), the State shall—

11 “(i) allocate 85 percent of any re-
12 maining funds to those agencies on the
13 basis of the relative numbers of children
14 enrolled in public and private elementary
15 and secondary schools within the agency’s
16 jurisdiction; and

17 “(ii) allocate 15 percent of those re-
18 maining funds to those agencies in accord-
19 ance with their relative numbers of chil-
20 dren living in poverty, as determined by
21 the State educational agency.

22 “(2) REALLOCATION OF FUNDS.—If a State
23 educational agency determines that a local edu-
24 cational agency is adequately providing a free appro-
25 priate public education to all children with disabil-

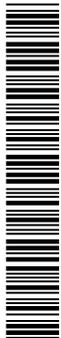


1 ities aged 3 through 5 residing in the area served by
2 that agency with State and local funds, the State
3 educational agency may reallocate any portion of the
4 funds under this section that are not needed by that
5 local agency to provide a free appropriate public
6 education to other local educational agencies in the
7 State that are not adequately providing special edu-
8 cation and related services to all children with dis-
9 abilities aged 3 through 5 residing in the areas they
10 serve.

11 “(h) PART C INAPPLICABLE.—Part C of this Act
12 does not apply to any child with a disability receiving a
13 free appropriate public education, in accordance with this
14 part, with funds received under this section.

15 “(i) DEFINITION.—For the purpose of this section,
16 the term ‘State’ means each of the 50 States, the District
17 of Columbia, and the Commonwealth of Puerto Rico.

18 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
19 purpose of carrying out this section, there are authorized
20 to be appropriated to the Secretary \$500,000,000 for fis-
21 cal year 2004 and such sums as may be necessary for each
22 subsequent fiscal year.”.



1 **TITLE III—INFANTS AND**
2 **TODDLERS WITH DISABILITIES**
3 **SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS**
4 **WITH DISABILITIES EDUCATION ACT.**

5 Sections 631 through 638 of the Individuals with
6 Disabilities Education Act (20 U.S.C. 1431–1438) are
7 amended to read as follows:

8 **“SEC. 631. FINDINGS AND POLICY.**

9 “(a) FINDINGS.—The Congress finds that there is an
10 urgent and substantial need—

11 “(1) to enhance the development of infants and
12 toddlers with disabilities and to minimize their po-
13 tential for developmental delay;

14 “(2) to reduce the educational costs to our soci-
15 ety, including our Nation’s schools, by minimizing
16 the need for special education and related services
17 after infants and toddlers with disabilities reach
18 school age;

19 “(3) to minimize the likelihood of institutional-
20 ization of individuals with disabilities and maximize
21 the potential for their independently living in society;

22 “(4) to enhance the capacity of families to meet
23 the special needs of their infants and toddlers with
24 disabilities; and



1 “(5) to enhance the capacity of State and local
2 agencies and service providers to identify, evaluate,
3 and meet the needs of historically underrepresented
4 populations, particularly minority, low-income, inner-
5 city, and rural populations.

6 “(b) POLICY.—It is the policy of the United States
7 to provide financial assistance to States—

8 “(1) to develop and implement a statewide,
9 comprehensive, coordinated, multidisciplinary, inter-
10 agency system that provides early intervention serv-
11 ices for infants and toddlers with disabilities and
12 their families;

13 “(2) to facilitate the coordination of payment
14 for early intervention services from Federal, State,
15 local, and private sources (including public and pri-
16 vate insurance coverage);

17 “(3) to enhance their capacity to provide qual-
18 ity early intervention services and expand and im-
19 prove existing early intervention services being pro-
20 vided to infants and toddlers with disabilities and
21 their families; and

22 “(4) to encourage States to expand opportuni-
23 ties for children under 3 years of age who would be
24 at risk of having substantial developmental delay if
25 they did not receive early intervention services.



1 **“SEC. 632. DEFINITIONS.**

2 “As used in this part:

3 “(1) AT-RISK INFANT OR TODDLER.—The term
4 ‘at-risk infant or toddler’ means an individual under
5 3 years of age who would be at risk of experiencing
6 a substantial developmental delay if early interven-
7 tion services were not provided to the individual.

8 “(2) COUNCIL.—The term ‘council’ means a
9 State interagency coordinating council established
10 under section 641.

11 “(3) DEVELOPMENTAL DELAY.—The term ‘de-
12 velopmental delay’, when used with respect to an in-
13 dividual residing in a State, has the meaning given
14 such term by the State under section 635(a)(1).

15 “(4) EARLY INTERVENTION SERVICES.—The
16 term ‘early intervention services’ means develop-
17 mental services that—

18 “(A) are provided under public supervision;

19 “(B) are provided at no cost except where
20 Federal or State law provides for a system of
21 payments by families, including a schedule of
22 sliding fees;

23 “(C) are designed to address family-identi-
24 fied priorities and concerns that are determined
25 by individualized family service plan team to re-



1 late to enhancing the child's development in any
2 one or more of the following areas—

3 “(i) physical development;

4 “(ii) cognitive development;

5 “(iii) communication development;

6 “(iv) social or emotional development;

7 or

8 “(v) adaptive development;

9 “(D) meet the standards of the State in
10 which they are provided, including the require-
11 ments of this part;

12 “(E) include—

13 “(i) family training, family therapy,
14 counseling, and home visits;

15 “(ii) special instruction;

16 “(iii) speech-language pathology and
17 audiology services;

18 “(iv) occupational therapy;

19 “(v) physical therapy;

20 “(vi) psychological services;

21 “(vii) service coordination services;

22 “(viii) medical services only for diag-
23 nostic or evaluation purposes;

24 “(ix) early identification, screening,
25 and assessment services;



1 “(x) health services necessary to en-
2 able the infant or toddler to benefit from
3 the other early intervention services;
4 “(xi) social work services;
5 “(xii) vision services;
6 “(xiii) assistive technology devices and
7 assistive technology services; and
8 “(xiv) transportation and related costs
9 that are necessary to enable an infant or
10 toddler and the infant’s or toddler’s family
11 to receive another service described in this
12 paragraph;
13 “(F) are provided by qualified personnel,
14 including—
15 “(i) special educators;
16 “(ii) speech-language pathologists and
17 audiologists;
18 “(iii) occupational therapists;
19 “(iv) physical therapists;
20 “(v) psychologists;
21 “(vi) social workers;
22 “(vii) nurses;
23 “(viii) registered dietitians;
24 “(ix) family therapists;



1 “(x) orientation and mobility special-
2 ists; and

3 “(xi) pediatricians and other physi-
4 cians;

5 “(G) to the maximum extent appropriate,
6 are provided in natural environments, including
7 the home, and community settings in which
8 children without disabilities participate; and

9 “(H) are provided in conformity with an
10 individualized family service plan adopted in ac-
11 cordance with section 636.

12 “(5) INFANT OR TODDLER WITH A DIS-
13 ABILITY.—The term ‘infant or toddler with a dis-
14 ability’—

15 “(A) means an individual under 3 years of
16 age who needs early intervention services be-
17 cause the individual—

18 “(i) is experiencing developmental
19 delays, as measured by appropriate diag-
20 nostic instruments and procedures in one
21 or more of the areas of cognitive develop-
22 ment, physical development, communica-
23 tion development, social or emotional devel-
24 opment, and adaptive development; or



1 “(ii) has a diagnosed physical or men-
2 tal condition which has a high probability
3 of resulting in developmental delay; and

4 “(B) may also include, at a State’s discre-
5 tion, at-risk infants and toddlers.

6 **“SEC. 633. GENERAL AUTHORITY.**

7 “The Secretary shall, in accordance with this part,
8 make grants to States (from their allotments under sec-
9 tion 643) to assist each State to maintain and implement
10 a statewide, comprehensive, coordinated, multidisciplinary,
11 interagency system to provide early intervention services
12 for infants and toddlers with disabilities and their families.

13 **“SEC. 634. ELIGIBILITY.**

14 “In order to be eligible for a grant under section 633,
15 a State shall provide assurances to the Secretary that the
16 State—

17 “(1) has adopted a policy that appropriate early
18 intervention services are available to all infants and
19 toddlers with disabilities in the State and their fami-
20 lies, including Indian infants and toddlers with dis-
21 abilities and their families residing on a reservation
22 geographically located in the State; and

23 “(2) has in effect a statewide system that meets
24 the requirements of section 635.



1 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

2 “(a) IN GENERAL.—A statewide system described in
3 section 633 shall include, at a minimum, the following
4 components:

5 “(1) A definition of the term ‘developmental
6 delay’ that will be used by the State in carrying out
7 programs under this part.

8 “(2) A State policy that is in effect and that
9 ensures that appropriate early intervention services
10 based on scientifically based research are available to
11 all infants and toddlers with disabilities and their
12 families, including Indian infants and toddlers and
13 their families residing on a reservation geographi-
14 cally located in the State.

15 “(3) A timely, comprehensive, multidisciplinary
16 evaluation of the functioning of each infant or tod-
17 dler with a disability in the State, and a family-di-
18 rected identification of the needs of each family of
19 such an infant or toddler, to appropriately assist in
20 the development of the infant or toddler.

21 “(4) For each infant or toddler with a disability
22 in the State, an individualized family service plan in
23 accordance with section 636, including service co-
24 ordination services in accordance with such service
25 plan.



1 “(5) A comprehensive child find system, con-
2 sistent with part B, including a system for making
3 referrals to service providers that includes timelines
4 and provides for participation by primary referral
5 sources.

6 “(6) A public awareness program focusing on
7 early identification of infants and toddlers with dis-
8 abilities, including the preparation and dissemination
9 by the lead agency designated or established under
10 paragraph (10) to all primary referral sources, espe-
11 cially hospitals and physicians, of information for
12 parents on the availability of early intervention serv-
13 ices, and procedures for determining the extent to
14 which such sources disseminate such information to
15 parents of infants and toddlers.

16 “(7) A central directory that includes informa-
17 tion on early intervention services, resources, and ex-
18 perts available in the State and research and dem-
19 onstration projects being conducted in the State.

20 “(8) A comprehensive system of personnel de-
21 velopment, including the training of paraprofes-
22 sionals and the training of primary referral sources
23 respecting the basic components of early intervention
24 services available in the State that—

25 “(A) shall include—



1 “(i) implementing innovative strate-
2 gies and activities for the recruitment and
3 retention of early education service pro-
4 viders;

5 “(ii) promoting the preparation of
6 early intervention providers who are fully
7 and appropriately qualified to provide early
8 intervention services under this part; and

9 “(iii) training personnel to coordinate
10 transition services for infants and toddlers
11 served under this part from a program
12 providing early intervention services under
13 this part and under part B (other than
14 section 619), to a preschool program re-
15 ceiving funds under section 619, or an-
16 other appropriate program; and

17 “(B) may include—

18 “(i) training personnel to work in
19 rural and inner-city areas; and

20 “(ii) training personnel in the emo-
21 tional and social development of young
22 children.

23 “(9) Subject to subsection (b), policies and pro-
24 cedures relating to the establishment and mainte-
25 nance of standards to ensure that personnel nec-



1 essary to carry out this part are appropriately and
2 adequately prepared and trained, including the es-
3 tablishment and maintenance of standards that are
4 consistent with any State-approved or recognized
5 certification, licensing, registration, or other com-
6 parable requirements that apply to the area in which
7 such personnel are providing early intervention serv-
8 ices.

9 “(10) A single line of responsibility in a lead
10 agency designated or established by the Governor for
11 carrying out—

12 “(A) the general administration and super-
13 vision of programs and activities receiving as-
14 sistance under section 633, and the monitoring
15 of programs and activities used by the State to
16 carry out this part, whether or not such pro-
17 grams or activities are receiving assistance
18 made available under section 633, to ensure
19 that the State complies with this part;

20 “(B) the identification and coordination of
21 all available resources within the State from
22 Federal, State, local, and private sources;

23 “(C) the assignment of financial responsi-
24 bility in accordance with section 637(a)(2) to
25 the appropriate agencies;



1 “(D) the development of procedures to en-
2 sure that services are provided to infants and
3 toddlers with disabilities and their families
4 under this part in a timely manner pending the
5 resolution of any disputes among public agen-
6 cies or service providers;

7 “(E) the resolution of intra- and inter-
8 agency disputes; and

9 “(F) the entry into formal interagency
10 agreements that define the financial responsi-
11 bility of each agency for paying for early inter-
12 vention services (consistent with State law) and
13 procedures for resolving disputes and that in-
14 clude all additional components necessary to en-
15 sure meaningful cooperation and coordination.

16 “(11) A policy pertaining to the contracting or
17 making of other arrangements with service providers
18 to provide early intervention services in the State,
19 consistent with the provisions of this part, including
20 the contents of the application used and the condi-
21 tions of the contract or other arrangements.

22 “(12) A procedure for securing timely reim-
23 bursements of funds used under this part in accord-
24 ance with section 640(a).



1 “(13) Procedural safeguards with respect to
2 programs under this part, as required by section
3 639.

4 “(14) A system for compiling data requested by
5 the Secretary under section 618 that relates to this
6 part.

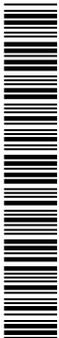
7 “(15) A State interagency coordinating council
8 that meets the requirements of section 641.

9 “(16) Policies and procedures to ensure that,
10 consistent with section 636(d)(5)—

11 “(A) to the maximum extent appropriate,
12 early intervention services are provided in nat-
13 ural environments; and

14 “(B) the provision of early intervention
15 services for any infant or toddler occurs in a
16 setting other than a natural environment only
17 when early intervention cannot be achieved sat-
18 isfactorily for the infant or toddler in a natural
19 environment.

20 “(b) POLICY.—In implementing subsection (a)(9), a
21 State may adopt a policy that includes making ongoing
22 good-faith efforts to recruit and hire appropriately and
23 adequately trained personnel to provide early intervention
24 services to infants and toddlers with disabilities, including,
25 in a geographic area of the State where there is a shortage



1 of such personnel, the most qualified individuals available
2 who are making satisfactory progress toward completing
3 applicable course work necessary to meet the standards
4 described in subsection (a)(9), consistent with State law
5 within 3 years.

6 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

7 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—
8 A statewide system described in section 633 shall provide,
9 at a minimum, for each infant or toddler with a disability,
10 and the infant’s or toddler’s family, to receive—

11 “(1) a multidisciplinary assessment of the
12 unique strengths and needs of the infant or toddler
13 and the identification of services appropriate to meet
14 such needs;

15 “(2) a family-directed assessment of the re-
16 sources, priorities, and concerns of the family and
17 the identification of the supports and services nec-
18 essary to enhance the family’s capacity to meet the
19 developmental needs of the infant or toddler; and

20 “(3) a written individualized family service plan
21 developed by a multidisciplinary team, including the
22 parents, as required by subsection (e), including a
23 description of the appropriate transition services for
24 the child’s entrance in school.



1 “(b) PERIODIC REVIEW.—The individualized family
2 service plan shall be evaluated once a year and the family
3 shall be provided a review of the plan at 6-month intervals
4 (or more often where appropriate based on infant or tod-
5 dler and family needs).

6 “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-
7 vidualized family service plan shall be developed within a
8 reasonable time after the assessment required by sub-
9 section (a)(1) is completed. With the parents’ consent,
10 early intervention services may commence prior to the
11 completion of the assessment.

12 “(d) CONTENT OF PLAN.—The individualized family
13 service plan shall be in writing and contain—

14 “(1) a statement of the infant’s or toddler’s
15 present levels of physical development, cognitive de-
16 velopment, communication development, social or
17 emotional development, and adaptive development,
18 based on objective criteria;

19 “(2) a statement of the family’s resources, pri-
20 orities, and concerns relating to enhancing the devel-
21 opment of the family’s infant or toddler with a dis-
22 ability;

23 “(3) a statement of the measurable outcomes
24 expected to be achieved for the infant or toddler and
25 the family, including pre-literacy and language skills,



1 as developmentally appropriate for the child, and the
2 criteria, procedures, and timelines used to determine
3 the degree to which progress toward achieving the
4 goals is being made and whether modifications or re-
5 visions of the goals or services are necessary;

6 “(4) a statement of specific early intervention
7 services based on peer-reviewed research necessary
8 to meet the unique needs of the infant or toddler
9 and the family, including the frequency, intensity,
10 and method of delivering services;

11 “(5) a statement of the natural environments in
12 which early intervention services will appropriately
13 be provided, including a justification of the extent,
14 if any, to which the services will not be provided in
15 a natural environment;

16 “(6) the projected dates for initiation of serv-
17 ices and the anticipated length, duration, and fre-
18 quency of the services;

19 “(7) the identification of the service coordinator
20 from the profession most immediately relevant to the
21 infant’s or toddler’s or family’s needs (or who is oth-
22 erwise qualified to carry out all applicable respon-
23 sibilities under this part) who will be responsible for
24 the implementation of the plan and coordination



1 with other agencies and persons, including transition
2 services; and

3 “(8) the steps to be taken to support the transi-
4 tion of the toddler with a disability to preschool or
5 other appropriate services.

6 “(e) PARENTAL CONSENT.—The contents of the indi-
7 vidualized family service plan shall be fully explained to
8 the parents and informed written consent from the par-
9 ents shall be obtained prior to the provision of early inter-
10 vention services described in such plan. If the parents do
11 not provide consent with respect to a particular early
12 intervention service, then only the early intervention serv-
13 ices to which consent is obtained shall be provided.

14 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

15 “(a) APPLICATION.—A State desiring to receive a
16 grant under section 633 shall submit an application to the
17 Secretary at such time and in such manner as the Sec-
18 retary may reasonably require. The application shall
19 contain—

20 “(1) a designation of the lead agency in the
21 State that will be responsible for the administration
22 of funds provided under section 633;

23 “(2) a designation of an individual or entity re-
24 sponsible for assigning financial responsibility
25 among appropriate agencies;



1 “(3) information demonstrating eligibility of the
2 State under section 634, including a description of
3 services to be provided to infants and toddlers with
4 disabilities and their families through the system;

5 “(4) if the State provides services to at-risk in-
6 fants and toddlers through the State-wide system, a
7 description of such services;

8 “(5) a description of the State policies and pro-
9 cedures requiring the referral of a child under the
10 age 3 who is involved in a substantiated case of child
11 abuse or neglect for an evaluation consistent with
12 section 635(a)(5).

13 “(6) a description of the uses for which funds
14 will be expended in accordance with this part;

15 “(7) a description of the procedure used to en-
16 sure that resources are made available under this
17 part for all geographic areas within the State;

18 “(8) a description of State policies and proce-
19 dures that ensure that, prior to the adoption by the
20 State of any other policy or procedure necessary to
21 meet the requirements of this part, there are public
22 hearings, adequate notice of the hearings, and an
23 opportunity for comment available to the general
24 public, including individuals with disabilities and
25 parents of infants and toddlers with disabilities;



1 “(9) a description of the policies and procedures
2 to be used—

3 “(A) to ensure a smooth transition for tod-
4 dlers receiving early intervention services under
5 this part to preschool or other appropriate serv-
6 ices, including a description of how—

7 “(i) the families of such toddlers will
8 be included in the transition plans required
9 by subparagraph (C); and

10 “(ii) the lead agency designated or es-
11 tablished under section 635(a)(10) will—

12 “(I) notify the local educational
13 agency for the area in which such a
14 child resides that the child will shortly
15 reach the age of eligibility for pre-
16 school services under part B, as deter-
17 mined in accordance with State law;

18 “(II) in the case of a child who
19 may be eligible for such preschool
20 services, with the approval of the fam-
21 ily of the child, convene a conference
22 among the lead agency, the family,
23 and the local educational agency at
24 least 90 days (and at the discretion of
25 all such parties, up to 6 months) be-



1 fore the child is eligible for the pre-
2 school services, to discuss any such
3 services that the child may receive;
4 and

5 “(III) in the case of a child who
6 may not be eligible for such preschool
7 services, with the approval of the fam-
8 ily, make reasonable efforts to con-
9 vene a conference among the lead
10 agency, the family, and providers of
11 other appropriate services for children
12 who are not eligible for preschool serv-
13 ices under part B, to discuss the ap-
14 propriate services that the child may
15 receive;

16 “(B) to review the child’s program options
17 for the period from the child’s third birthday
18 through the remainder of the school year; and

19 “(C) to establish a transition plan; and

20 “(10) such other information and assurances as
21 the Secretary may reasonably require.

22 “(b) ASSURANCES.—The application described in
23 subsection (a)—

24 “(1) shall provide satisfactory assurance that
25 Federal funds made available under section 643 to



1 the State will be expended in accordance with this
2 part;

3 “(2) shall contain an assurance that the State
4 will comply with the requirements of section 640;

5 “(3) shall provide satisfactory assurance that
6 the control of funds provided under section 643, and
7 title to property derived from those funds, will be in
8 a public agency for the uses and purposes provided
9 in this part and that a public agency will administer
10 such funds and property;

11 “(4) shall provide for—

12 “(A) making such reports in such form
13 and containing such information as the Sec-
14 retary may require to carry out the Secretary’s
15 functions under this part; and

16 “(B) keeping such records and affording
17 such access to them as the Secretary may find
18 necessary to ensure the correctness and ver-
19 ification of those reports and proper disburse-
20 ment of Federal funds under this part;

21 “(5) provide satisfactory assurance that Federal
22 funds made available under section 643 to the
23 State—

24 “(A) will not be commingled with State
25 funds; and



1 “(B) will be used so as to supplement the
2 level of State and local funds expended for in-
3 fants and toddlers with disabilities and their
4 families and in no case to supplant those State
5 and local funds;

6 “(6) shall provide satisfactory assurance that
7 such fiscal control and fund accounting procedures
8 will be adopted as may be necessary to ensure prop-
9 er disbursement of, and accounting for, Federal
10 funds paid under section 643 to the State;

11 “(7) shall provide satisfactory assurance that
12 policies and procedures have been adopted to ensure
13 meaningful involvement of underserved groups, in-
14 cluding minority, low-income, and rural families, in
15 the planning and implementation of all the require-
16 ments of this part; and

17 “(8) shall contain such other information and
18 assurances as the Secretary may reasonably require
19 by regulation.

20 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-
21 TION.—The Secretary may not disapprove such an appli-
22 cation unless the Secretary determines, after notice and
23 opportunity for a hearing, that the application fails to
24 comply with the requirements of this section.



1 “(d) SUBSEQUENT STATE APPLICATION.—If a State
2 has on file with the Secretary a policy, procedure, or as-
3 surance that demonstrates that the State meets a require-
4 ment of this section, including any policy or procedure
5 filed under this part (as in effect before the date of the
6 enactment of the Improving Education Results for Chil-
7 dren With Disabilities Act of 2003), the Secretary shall
8 consider the State to have met the requirement for pur-
9 poses of receiving a grant under this part.

10 “(e) MODIFICATION OF APPLICATION.—An applica-
11 tion submitted by a State in accordance with this section
12 shall remain in effect until the State submits to the Sec-
13 retary such modifications as the State determines nec-
14 essary. This section shall apply to a modification of an
15 application to the same extent and in the same manner
16 as this section applies to the original application.

17 “(f) MODIFICATIONS REQUIRED BY THE SEC-
18 RETARY.—The Secretary may require a State to modify
19 its application under this section, but only to the extent
20 necessary to ensure the State’s compliance with this part,
21 if—

22 “(1) an amendment is made to this Act, or a
23 Federal regulation issued under this Act;

24 “(2) a new interpretation of this Act is made by
25 a Federal court or the State’s highest court; or



1 “(3) an official finding of noncompliance with
2 Federal law or regulations is made with respect to
3 the State.

4 **“SEC. 638. USES OF FUNDS.**

5 “In addition to using funds provided under section
6 633 to maintain and implement the statewide system re-
7 quired by such section, a State may use such funds—

8 “(1) for direct early intervention services for in-
9 fants and toddlers with disabilities, and their fami-
10 lies, under this part that are not otherwise funded
11 through other public or private sources;

12 “(2) to expand and improve on services for in-
13 fants and toddlers and their families under this part
14 that are otherwise available;

15 “(3) to provide a free appropriate public edu-
16 cation, in accordance with part B, to children with
17 disabilities from their third birthday to the begin-
18 ning of the following school year; and

19 “(4) in any State that does not provide services
20 for at-risk infants and toddlers under section
21 637(a)(4), to strengthen the statewide system by ini-
22 tiating, expanding, or improving collaborative efforts
23 related to at-risk infants and toddlers, including es-
24 tablishing linkages with appropriate public or private



1 community-based organizations, services, and per-
2 sonnel for the purposes of—

3 “(A) identifying and evaluating at-risk in-
4 fants and toddlers;

5 “(B) making referrals of the infants and
6 toddlers identified and evaluated under sub-
7 paragraph (A); and

8 “(C) conducting periodic follow-up on each
9 such referral to determine if the status of the
10 infant or toddler involved has changed with re-
11 spect to the eligibility of the infant or toddler
12 for services under this part.”.

13 **SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS**
14 **WITH DISABILITIES EDUCATION ACT.**

15 Sections 641 through 645 of the Individuals with
16 Disabilities Education Act (20 U.S.C. 1441–1445) are
17 amended to read as follows:

18 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

19 “(a) ESTABLISHMENT.—

20 “(1) IN GENERAL.—A State that desires to re-
21 ceive financial assistance under this part shall estab-
22 lish a State interagency coordinating council.

23 “(2) APPOINTMENT.—The council shall be ap-
24 pointed by the Governor. In making appointments to
25 the council, the Governor shall ensure that the mem-



1 bership of the council reasonably represents the pop-
2 ulation of the State.

3 “(3) CHAIRPERSON.—The Governor shall des-
4 ignate a member of the council to serve as the chair-
5 person of the council, or shall require the council to
6 so designate such a member. Any member of the
7 council who is a representative of the lead agency
8 designated under section 635(a)(10) may not serve
9 as the chairperson of the council.

10 “(b) COMPOSITION.—

11 “(1) IN GENERAL.—The council shall be com-
12 posed as follows:

13 “(A) PARENTS.—At least 20 percent of
14 the members shall be parents of infants or tod-
15 dlers with disabilities or children with disabili-
16 ties aged 12 or younger, with knowledge of, or
17 experience with, programs for infants and tod-
18 dlers with disabilities. At least one such mem-
19 ber shall be a parent of an infant or toddler
20 with a disability or a child with a disability
21 aged 6 or younger.

22 “(B) SERVICE PROVIDERS.—At least 20
23 percent of the members shall be public or pri-
24 vate providers of early intervention services.



1 “(C) STATE LEGISLATURE.—At least one
2 member shall be from the State legislature.

3 “(D) PERSONNEL PREPARATION.—At least
4 one member shall be involved in personnel prep-
5 aration.

6 “(E) AGENCY FOR EARLY INTERVENTION
7 SERVICES.—At least one member shall be from
8 each of the State agencies involved in the provi-
9 sion of, or payment for, early intervention serv-
10 ices to infants and toddlers with disabilities and
11 their families and shall have sufficient authority
12 to engage in policy planning and implementa-
13 tion on behalf of such agencies.

14 “(F) AGENCY FOR PRESCHOOL SERV-
15 ICES.—At least one member shall be from the
16 State educational agency responsible for pre-
17 school services to children with disabilities and
18 shall have sufficient authority to engage in pol-
19 icy planning and implementation on behalf of
20 such agency.

21 “(G) AGENCY FOR HEALTH INSURANCE.—
22 At least one member shall be from the agency
23 responsible for the State governance of health
24 insurance.



1 “(H) HEAD START AGENCY.—At least one
2 representative from a Head Start agency or
3 program in the State.

4 “(I) CHILD CARE AGENCY.—At least one
5 representative from a State agency responsible
6 for child care.

7 “(2) OTHER MEMBERS.—The council may in-
8 clude other members selected by the Governor, in-
9 cluding a representative from the Bureau of Indian
10 Affairs, or where there is no BIA-operated or BIA-
11 funded school, from the Indian Health Service or the
12 tribe or tribal council.

13 “(c) MEETINGS.—The council shall meet at least
14 quarterly and in such places as it deems necessary. The
15 meetings shall be publicly announced, and, to the extent
16 appropriate, open and accessible to the general public.

17 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-
18 proval of the Governor, the council may prepare and ap-
19 prove a budget using funds under this part to conduct
20 hearings and forums, to reimburse members of the council
21 for reasonable and necessary expenses for attending coun-
22 cil meetings and performing council duties (including child
23 care for parent representatives), to pay compensation to
24 a member of the council if the member is not employed
25 or must forfeit wages from other employment when per-



1 forming official council business, to hire staff, and to ob-
2 tain the services of such professional, technical, and cler-
3 ical personnel as may be necessary to carry out its func-
4 tions under this part.

5 “(e) FUNCTIONS OF COUNCIL.—

6 “(1) DUTIES.—The council shall—

7 “(A) advise and assist the lead agency des-
8 igned or established under section 635(a)(10)
9 in the performance of the responsibilities set
10 forth in such section, particularly the identifica-
11 tion of the sources of fiscal and other support
12 for services for early intervention programs, as-
13 signment of financial responsibility to the ap-
14 propriate agency, and the promotion of the
15 interagency agreements;

16 “(B) advise and assist the lead agency in
17 the preparation of applications and amend-
18 ments thereto;

19 “(C) advise and assist the State edu-
20 cational agency regarding the transition of tod-
21 dlers with disabilities to preschool and other ap-
22 propriate services; and

23 “(D) prepare and submit an annual report
24 to the Governor and to the Secretary on the
25 status of early intervention programs for in-



1 fants and toddlers with disabilities and their
2 families operated within the State.

3 “(2) AUTHORIZED ACTIVITY.—The council may
4 advise and assist the lead agency and the State edu-
5 cational agency regarding the provision of appro-
6 priate services for children from birth through age
7 5. The council may advise appropriate agencies in
8 the State with respect to the integration of services
9 for infants and toddlers with disabilities and at-risk
10 infants and toddlers and their families, regardless of
11 whether at-risk infants and toddlers are eligible for
12 early intervention services in the State.

13 “(f) CONFLICT OF INTEREST.—No member of the
14 council shall cast a vote on any matter that would provide
15 direct financial benefit to that member or otherwise give
16 the appearance of a conflict of interest under State law.

17 **“SEC. 642. FEDERAL ADMINISTRATION.**

18 “Sections 616, 617, and 618 shall, to the extent not
19 inconsistent with this part, apply to the program author-
20 ized by this part, except that—

21 “(1) any reference in such sections to a State
22 educational agency shall be considered to be a ref-
23 erence to a State’s lead agency established or des-
24 ignated under section 635(a)(10);



1 “(2) any reference in such sections to a local
2 educational agency, educational service agency, or a
3 State agency shall be considered to be a reference to
4 an early intervention service provider under this
5 part; and

6 “(3) any reference to the education of children
7 with disabilities or the education of all children with
8 disabilities shall be considered to be a reference to
9 the provision of appropriate early intervention serv-
10 ices to infants and toddlers with disabilities.

11 **“SEC. 643. ALLOCATION OF FUNDS.**

12 “(a) RESERVATION OF FUNDS FOR OUTLYING
13 AREAS.—

14 “(1) IN GENERAL.—From the sums appro-
15 priated to carry out this part for any fiscal year, the
16 Secretary may reserve up to one percent for pay-
17 ments to Guam, American Samoa, the Virgin Is-
18 lands, and the Commonwealth of the Northern Mar-
19 iana Islands in accordance with their respective
20 needs.

21 “(2) CONSOLIDATION OF FUNDS.—The provi-
22 sions of Public Law 95–134, permitting the consoli-
23 dation of grants to the outlying areas, shall not
24 apply to funds those areas receive under this part.

25 “(b) PAYMENTS TO INDIANS.—



1 “(1) IN GENERAL.—The Secretary shall, sub-
2 ject to this subsection, make payments to the Sec-
3 retary of the Interior to be distributed to tribes,
4 tribal organizations (as defined under section 4 of
5 the Indian Self-Determination and Education Assist-
6 ance Act), or consortia of the above entities for the
7 coordination of assistance in the provision of early
8 intervention services by the States to infants and
9 toddlers with disabilities and their families on res-
10 ervations served by elementary and secondary
11 schools for Indian children operated or funded by
12 the Department of the Interior. The amount of such
13 payment for any fiscal year shall be 1.25 percent of
14 the aggregate of the amount available to all States
15 under this part for such fiscal year.

16 “(2) ALLOCATION.—For each fiscal year, the
17 Secretary of the Interior shall distribute the entire
18 payment received under paragraph (1) by providing
19 to each tribe, tribal organization, or consortium an
20 amount based on the number of infants and toddlers
21 residing on the reservation, as determined annually,
22 divided by the total number of such children served
23 by all tribes, tribal organizations, or consortia.

24 “(3) INFORMATION.—To receive a payment
25 under this subsection, the tribe, tribal organization,



1 or consortium shall submit such information to the
2 Secretary of the Interior as is needed to determine
3 the amounts to be distributed under paragraph (2).

4 “(4) USE OF FUNDS.—The funds received by a
5 tribe, tribal organization, or consortium shall be
6 used to assist States in child find, screening, and
7 other procedures for the early identification of In-
8 dian children under 3 years of age and for parent
9 training. Such funds may also be used to provide
10 early intervention services in accordance with this
11 part. Such activities may be carried out directly or
12 through contracts or cooperative agreements with
13 the BIA, local educational agencies, and other public
14 or private nonprofit organizations. The tribe, tribal
15 organization, or consortium is encouraged to involve
16 Indian parents in the development and implementa-
17 tion of these activities. The above entities shall, as
18 appropriate, make referrals to local, State, or Fed-
19 eral entities for the provision of services or further
20 diagnosis.

21 “(5) REPORTS.—To be eligible to receive a
22 grant under paragraph (2), a tribe, tribal organiza-
23 tion, or consortium shall make an annual report to
24 the Secretary of the Interior of activities undertaken
25 under this subsection, including the number of con-



1 tracts and cooperative agreements entered into, the
2 number of children contacted and receiving services
3 for each year, and the estimated number of children
4 needing services during the year following the year
5 in which the report is made. The Secretary of the
6 Interior shall include a summary of this information
7 on an annual basis to the Secretary of Education
8 along with such other information as required under
9 section 611(i)(3)(E). The Secretary of Education
10 may require any additional information from the
11 Secretary of the Interior.

12 “(6) PROHIBITED USES OF FUNDS.—None of
13 the funds under this subsection may be used by the
14 Secretary of the Interior for administrative pur-
15 poses, including child count, and the provision of
16 technical assistance.

17 “(c) STATE ALLOTMENTS.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graphs (2) and (3) from the funds remaining for
20 each fiscal year after the reservation and payments
21 under subsections (a) and (b), the Secretary shall
22 first allot to each State an amount that bears the
23 same ratio to the amount of such remainder as the
24 number of infants and toddlers in the State bears to
25 the number of infants and toddlers in all States.



1 “(2) MINIMUM ALLOTMENTS.—Except as pro-
2 vided in paragraph (3) no State shall receive an
3 amount under this section for any fiscal year that is
4 less than the greater of—

5 “(A) one-half of one percent of the remain-
6 ing amount described in paragraph (1); or

7 “(B) \$500,000.

8 “(3) RATABLE REDUCTION.—

9 “(A) IN GENERAL.—If the sums made
10 available under this part for any fiscal year are
11 insufficient to pay the full amounts that all
12 States are eligible to receive under this sub-
13 section for such year, the Secretary shall rat-
14 ably reduce the allotments to such States for
15 such year.

16 “(B) ADDITIONAL FUNDS.—If additional
17 funds become available for making payments
18 under this subsection for a fiscal year, allot-
19 ments that were reduced under subparagraph
20 (A) shall be increased on the same basis they
21 were reduced.

22 “(4) DEFINITIONS.—For the purpose of this
23 subsection—

24 “(A) the terms ‘infants’ and ‘toddlers’
25 mean children under 3 years of age; and



1 “(B) the term ‘State’ means each of the 50
2 States, the District of Columbia, and the Com-
3 monwealth of Puerto Rico.

4 “(d) REALLOTMENT OF FUNDS.—If a State elects
5 not to receive its allotment under subsection (c), the Sec-
6 retary shall realLOT, among the remaining States, amounts
7 from such State in accordance with such subsection.

8 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

9 “For the purpose of carrying out this part, there are
10 authorized to be appropriated \$447,000,000 for fiscal year
11 2004 and such sums as may be necessary for each of the
12 fiscal years 2005 through 2009.”

13 **TITLE IV—NATIONAL ACTIVITIES**
14 **TO IMPROVE EDUCATION OF**
15 **CHILDREN WITH DISABIL-**
16 **ITIES**

17 **SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION**
18 **OF CHILDREN WITH DISABILITIES.**

19 Part D of the Individuals with Disabilities Education
20 Act (20 U.S.C. 1451 et seq.) is amended to read as fol-
21 lows:

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

24 **“SEC. 651. FINDINGS.**

25 “The Congress finds the following:



1 “(1) The Federal Government has an ongoing
2 obligation to support activities that contribute to
3 positive results for children with disabilities, ena-
4 bling them to lead productive and independent adult
5 lives.

6 “(2) Systemic change benefiting all students,
7 including children with disabilities, requires the in-
8 volvement of States, local educational agencies, par-
9 ents, individuals with disabilities and their families,
10 teachers and other service providers, and other inter-
11 ested individuals and organizations, to develop and
12 implement comprehensive strategies that improve
13 educational results for children with disabilities.

14 “(3) State educational agencies, in partnership
15 with local educational agencies, parents of children
16 with disabilities, and other individuals and organiza-
17 tions, are in the best position to improve education
18 for children with disabilities and to address their
19 special needs.

20 “(4) An effective educational system serving
21 students with disabilities should—

22 “(A) maintain high academic standards
23 and clear achievement goals for children, con-
24 sistent with the standards and expectations for
25 all students in the educational system, and pro-



1 vide for appropriate and effective strategies and
2 methods to ensure that all children with disabil-
3 ities have the opportunity to achieve those
4 standards and goals;

5 “(B) clearly define, in objective, measur-
6 able terms, the school and post-school results
7 that children with disabilities are expected to
8 achieve; and

9 “(C) promote transition services, as de-
10 scribed in section 602(31), and coordinate State
11 and local education, social, health, mental
12 health, and other services, to address the full
13 range of student needs, particularly the needs
14 of children with disabilities who require signifi-
15 cant levels of support to participate and learn
16 in school and the community.

17 “(5) The availability of an adequate number of
18 qualified personnel is critical in order to serve effec-
19 tively children with disabilities, fill leadership posi-
20 tions in administrative and direct-service capacities,
21 provide teacher training, and conduct high-quality
22 research to improve special education.

23 “(6) High-quality, comprehensive professional
24 development programs are essential to ensure that
25 the persons responsible for the education or transi-



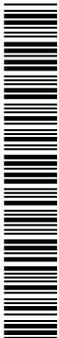
1 tion of children with disabilities possess the skills
2 and knowledge necessary to address the educational
3 and related needs of those children.

4 “(7) Models of professional development should
5 be scientifically based and reflect successful prac-
6 tices, including strategies for recruiting, preparing,
7 and retaining personnel.

8 “(8) Continued support is essential for the de-
9 velopment and maintenance of a coordinated and
10 high-quality program of research to inform success-
11 ful teaching practices and model curricula for edu-
12 cating children with disabilities.

13 “(9) A comprehensive research agenda should
14 be established and pursued to promote the highest
15 quality and rigor in special education research, and
16 to address the full range of issues facing children
17 with disabilities, parents of children with disabilities,
18 school personnel, and others.

19 “(10) Technical assistance, support, and dis-
20 semination activities are necessary to ensure that
21 parts B and C are fully implemented and achieve
22 quality early intervention, educational, and transi-
23 tional results for children with disabilities and their
24 families.

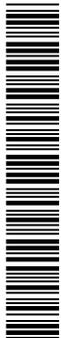


1 “(11) Parents, teachers, administrators, and re-
2 lated services personnel need technical assistance
3 and information in a timely, coordinated, and acces-
4 sible manner in order to improve early intervention,
5 educational, and transitional services and results at
6 the State and local levels for children with disabil-
7 ities and their families.

8 “(12) Parent and community training and in-
9 formation activities assist parents of a child with a
10 disability in dealing with the multiple pressures of
11 parenting such a child and are of particular impor-
12 tance in—

13 “(A) creating and preserving constructive
14 relationships between parents of children with
15 disabilities and schools by facilitating open com-
16 munication between such parents and schools,
17 encouraging dispute resolution at the earliest
18 point in time possible, and discouraging the es-
19 calation of an adversarial process between such
20 parents and schools;

21 “(B) ensuring the involvement of such par-
22 ents in planning and decision-making with re-
23 spect to early intervention, educational, and
24 transitional services;



1 “(C) achieving high-quality early interven-
2 tion, educational, and transitional results for
3 children with disabilities;

4 “(D) providing such parents information
5 on their rights, protections, and responsibilities
6 under this Act to ensure improved early inter-
7 vention, educational, and transitional results for
8 children with disabilities;

9 “(E) assisting such parents in the develop-
10 ment of skills to participate effectively in the
11 education and development of their children and
12 in the transitions described in section 602(31);

13 “(F) supporting the roles of such parents
14 as participants within partnerships seeking to
15 improve early intervention, educational, and
16 transitional services and results for children
17 with disabilities and their families; and

18 “(G) supporting those parents who may
19 have limited access to services and supports due
20 to economic, cultural, or linguistic barriers.

21 “(13) Support is needed to improve techno-
22 logical resources and integrate technology into the
23 lives of children with disabilities, parents of children
24 with disabilities, school personnel, and others



1 through curricula, services, and assistive tech-
2 nologies.

3 **“Subpart 1—State Professional Development Grants**

4 **“SEC. 652. PURPOSE.**

5 “The purpose of this subpart is to assist State edu-
6 cational agencies in reforming and improving their sys-
7 tems for professional development in early intervention,
8 educational, and transition services in order to improve re-
9 sults for children with disabilities.

10 **“SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.**

11 “(a) ELIGIBLE APPLICANTS.—A State educational
12 agency may apply for a grant under this subpart for a
13 period of not less than 1 year and not more than 5 years.

14 “(b) PARTNERS.—

15 “(1) REQUIRED PARTNERS.—In order to be
16 considered for a grant under this subpart, a State
17 educational agency shall enter into a partnership
18 agreement with local educational agencies and other
19 State agencies involved in, or concerned with, the
20 education of children with disabilities.

21 “(2) OPTIONAL PARTNERS.—In addition, a
22 State educational agency may enter into a partner-
23 ship agreement with any of the following:

24 “(A) The Governor.



1 “(B) Parents of children with disabilities
2 ages birth through 21.

3 “(C) Parents of nondisabled children ages
4 birth through 21.

5 “(D) Individuals with disabilities.

6 “(E) Organizations representing individ-
7 uals with disabilities and their parents, such as
8 parent and community training and information
9 centers.

10 “(F) Community-based and other non-
11 profit organizations involved in the education
12 and employment of individuals with disabilities.

13 “(G) The lead State agency for part C.

14 “(H) General and special education teach-
15 ers, and early intervention personnel.

16 “(I) The State advisory panel established
17 under part C.

18 “(J) The State interagency coordinating
19 council established under part C.

20 “(K) Institutions of higher education with-
21 in the State.

22 “(L) Individuals knowledgeable about voca-
23 tional education.

24 “(M) The State agency for higher edu-
25 cation.



1 “(N) The State vocational rehabilitation
2 agency.

3 “(O) Public agencies with jurisdiction in
4 the areas of health, mental health, social serv-
5 ices, and juvenile justice.

6 “(P) Other providers of professional devel-
7 opment that work with students with disabil-
8 ities.

9 “(Q) Other individuals.

10 **“SEC. 654. APPLICATIONS.**

11 “(a) IN GENERAL.—

12 “(1) SUBMISSION.—A State educational agency
13 that desires to receive a grant under this subpart
14 shall submit to the Secretary an application at such
15 time, in such manner, and including such informa-
16 tion as the Secretary may require.

17 “(2) STATE PLAN.—The application shall in-
18 clude a plan that addresses the State and local
19 needs for the professional development of adminis-
20 trators, principals, teachers, and individuals who
21 provide direct supplementary aids and services to
22 children with disabilities, and that—

23 “(A) is integrated, to the maximum extent
24 possible, with State plans under the Elementary
25 and Secondary Education Act of 1965, the Re-



1 habilitation Act of 1973, and the Higher Edu-
2 cation Act of 1965, as appropriate; and

3 “(B) is designed to enable the State to
4 meet the requirements of section 612(a)(15) of
5 this Act.

6 “(b) ELEMENTS OF STATE PLAN.—Each State plan
7 shall—

8 “(1) describe a partnership agreement that—

9 “(A) specifies—

10 “(i) the nature and extent of the part-
11 nership among the State educational agen-
12 cy, local educational agencies, and other
13 State agencies involved in, or concerned
14 with, the education of children with disabil-
15 ities, and the respective roles of each mem-
16 ber of the partnership; and

17 “(ii) how such agencies will work in
18 partnership with other persons and organi-
19 zations involved in, and concerned with,
20 the education of children with disabilities,
21 including the respective roles of each of
22 these persons and organizations; and

23 “(B) is in effect for the period of the
24 grant;



1 “(2) describe how grant funds, including part B
2 funds retained for use at the State level under sec-
3 tions 611(f) and 619(d), and other Federal funds
4 will be used to support activities conducted under
5 this subpart;

6 “(3) describe the strategies the State will use to
7 implement the plan to improve results for children
8 with disabilities, including—

9 “(A) how the State will align its profes-
10 sional development plan with the plans sub-
11 mitted by the State under sections 1111 and
12 2112 of the Elementary and Secondary Edu-
13 cation Act of 1965;

14 “(B) how the State will provide technical
15 assistance to local educational agencies and
16 schools to improve the quality of professional
17 development available to meet the needs of per-
18 sonnel that serve children with disabilities;

19 “(C) how the State will assess, on a reg-
20 ular basis, the extent to which the strategies
21 implemented under this subpart have been ef-
22 fective in meeting the achievement goals and in-
23 dicators in section 612(a)(16);



1 “(4) describe, as appropriate, how the strate-
2 gies described in paragraph (3) will be coordinated
3 with public and private sector resources; and

4 “(5) include an assurance that the State will
5 use funds received under this subpart to carry out
6 each of the activities specified in the plan.

7 “(c) COMPETITIVE AWARDS.—

8 “(1) IN GENERAL.—The Secretary shall make
9 grants under this subpart on a competitive basis.

10 “(2) PRIORITY.—The Secretary may give pri-
11 ority to applications on the basis of need.

12 “(d) PEER REVIEW.—

13 “(1) IN GENERAL.—The Secretary shall evalu-
14 ate applications under this subpart using a panel of
15 experts who are qualified by virtue of their training,
16 expertise, or experience.

17 “(2) COMPOSITION OF PANEL.—A majority of a
18 panel described in paragraph (1) shall be composed
19 of individuals who are not employees of the Federal
20 Government.

21 “(3) PAYMENT OF FEES AND EXPENSES OF
22 CERTAIN MEMBERS.—The Secretary may use avail-
23 able funds appropriated to carry out this subpart to
24 pay the expenses and fees of panel members who are
25 not employees of the Federal Government.



1 “(e) REPORTING PROCEDURES.—Each State edu-
2 cational agency that receives a grant under this subpart
3 shall submit annual performance reports to the Secretary.

4 The reports shall—

5 “(1) describe the progress of the State in imple-
6 menting its plan;

7 “(2) analyze the effectiveness of the State’s ac-
8 tivities under this subpart and of the State’s strate-
9 gies for meeting its goals under section 612(a)(16);
10 and

11 “(3) identify any changes in such strategies
12 needed to improve its performance.

13 **“SEC. 655. USE OF FUNDS.**

14 “(a) IN GENERAL.—

15 “(1) ACTIVITIES.—A State educational agency
16 that receives a grant under this subpart shall use
17 the grant funds, subject to subsection (b), for the
18 following:

19 “(A) PROFESSIONAL DEVELOPMENT.—

20 “(i) Carrying out programs that sup-
21 port the professional development of early
22 intervention personnel, and both special
23 education and regular education teachers
24 of children with disabilities, such as pro-
25 grams that—



1 “(I) provide teacher mentoring,
2 team teaching, reduced class sched-
3 ules, and intensive professional devel-
4 opment; and

5 “(II) use standards or assess-
6 ments for guiding beginning teachers
7 that are consistent with challenging
8 State student academic achievement
9 standards and with the definition of
10 professional development in section
11 9101 of the Elementary and Sec-
12 ondary Education Act of 1965.

13 “(ii) Encouraging and supporting the
14 training of special education and regular
15 education teachers and administrators to
16 effectively integrate technology into cur-
17 ricula and instruction, including training
18 to improve the ability to collect, manage,
19 and analyze data to improve teaching, deci-
20 sionmaking, school improvement efforts,
21 and accountability.

22 “(iii) Providing professional develop-
23 ment activities that improve the knowledge
24 of special education and regular education
25 teachers concerning—



1 “(I) the academic and develop-
2 mental needs of students with disabil-
3 ities; and

4 “(II) effective instructional strat-
5 egies, methods, and skills, use of chal-
6 lenging State academic content stand-
7 ards and student academic achieve-
8 ment standards, and use of State as-
9 sessments, to improve teaching prac-
10 tices and student academic achieve-
11 ment.

12 “(iv) Providing professional develop-
13 ment activities that—

14 “(I) improve the knowledge of
15 special education and regular edu-
16 cation teachers and principals and, in
17 appropriate cases, paraprofessionals,
18 concerning effective instructional
19 practices;

20 “(II) provide training in how to
21 teach and address the needs of stu-
22 dents with different learning styles;

23 “(III) involve collaborative
24 groups of teachers and administra-
25 tors;



1 “(IV) provide training in meth-
2 ods of—

3 “(aa) positive behavior inter-
4 ventions and supports to improve
5 student behavior in the class-
6 room;

7 “(bb) scientifically based
8 reading instruction, including
9 early literacy instruction; and

10 “(cc) early and appropriate
11 interventions to identify and help
12 students with disabilities;

13 “(V) provide training to enable
14 special education and regular edu-
15 cation teachers and principals to in-
16 volve parents in their child’s edu-
17 cation, especially parents of low in-
18 come and limited English proficient
19 children with disabilities; or

20 “(VI) train administrators and
21 other relevant school personnel in con-
22 ducting facilitated individualized edu-
23 cation program meetings.

24 “(v) Developing and implementing ini-
25 tiatives to promote retention of highly



1 qualified special education teachers, includ-
2 ing programs that provide—

3 “(I) teacher mentoring from ex-
4 emplary special education teachers,
5 principals, or superintendents;

6 “(II) induction and support for
7 special education teachers during their
8 first 3 years of employment as teach-
9 ers; or

10 “(III) incentives, including finan-
11 cial incentives, to retain special edu-
12 cation teachers who have a record of
13 success in helping students with dis-
14 abilities improve their academic
15 achievement.

16 “(vi) Carrying out programs and ac-
17 tivities that are designed to improve the
18 quality of the teacher force that serves
19 children with disabilities, such as—

20 “(I) innovative professional devel-
21 opment programs (which may be pro-
22 vided through partnerships including
23 institutions of higher education), in-
24 cluding programs that train teachers
25 and principals to integrate technology



1 into curricula and instruction to im-
2 prove teaching, learning, and tech-
3 nology literacy, are consistent with the
4 requirements of section 9101 of the
5 Elementary and Secondary Education
6 Act of 1965, and are coordinated with
7 activities carried out under this part;
8 and

9 “(II) development and use of
10 proven, cost-effective strategies for the
11 implementation of professional devel-
12 opment activities, such as through the
13 use of technology and distance learn-
14 ing.

15 “(B) STATE ACTIVITIES.—

16 “(i) Reforming special education and
17 regular education teacher certification (in-
18 cluding recertification) or licensing require-
19 ments to ensure that—

20 “(I) special education and reg-
21 ular education teachers have the
22 training and information necessary to
23 address the wide variety of needs of
24 children with disabilities across dis-
25 ability categories;

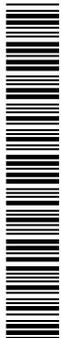


1 “(II) special education and reg-
2 ular education teachers have the nec-
3 essary subject matter knowledge and
4 teaching skills in the academic sub-
5 jects that the teachers teach;

6 “(III) special education and reg-
7 ular education teacher certification
8 (including recertification) or licensing
9 requirements are aligned with chal-
10 lenging State academic content stand-
11 ards; and

12 “(IV) special education and reg-
13 ular education teachers have the sub-
14 ject matter knowledge and teaching
15 skills, including technology literacy,
16 necessary to help students meet chal-
17 lenging State student academic
18 achievement standards.

19 “(ii) Carrying out programs that es-
20 tablish, expand, or improve alternative
21 routes for State certification of special
22 education teachers for individuals who
23 demonstrate the potential to become highly
24 effective special education teachers, such
25 as individuals with a baccalaureate or mas-



1 ter's degree (including mid-career profes-
2 sionals from other occupations), para-
3 professionals, former military personnel,
4 and recent college or university graduates
5 with records of academic distinction.

6 “(iii) Carrying out teacher advance-
7 ment initiatives for special education
8 teachers that promote professional growth
9 and emphasize multiple career paths (such
10 as paths to becoming a career teacher,
11 mentor teacher, or exemplary teacher) and
12 pay differentiation.

13 “(iv) Developing and implementing
14 mechanisms to assist local educational
15 agencies and schools in effectively recruit-
16 ing and retaining highly qualified special
17 education teachers.

18 “(v) Reforming tenure systems, imple-
19 menting teacher testing for subject matter
20 knowledge, and implementing teacher test-
21 ing for State certification or licensing, con-
22 sistent with title II of the Higher Edu-
23 cation Act of 1965.

24 “(vi) Developing and implementing
25 mechanisms to assist schools in effectively

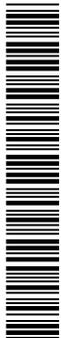


1 recruiting and retaining highly qualified
2 special education teachers.

3 “(vii) Funding projects to promote
4 reciprocity of teacher certification or li-
5 censing between or among States for spe-
6 cial education teachers, except that no reci-
7 procity agreement developed under this
8 clause or developed using funds provided
9 under this subpart may lead to the weak-
10 ening of any State teaching certification or
11 licensing requirement.

12 “(viii) Developing or assisting local
13 educational agencies to serve children with
14 disabilities through the development and
15 use of proven, innovative strategies to de-
16 liver intensive professional development
17 programs that are both cost-effective and
18 easily accessible, such as strategies that in-
19 volve delivery through the use of tech-
20 nology, peer networks, and distance learn-
21 ing.

22 “(ix) Developing, or assisting local
23 educational agencies in developing, merit-
24 based performance systems, and strategies



1 that provide differential and bonus pay for
2 special education teachers.

3 “(x) Supporting activities that ensure
4 that teachers are able to use challenging
5 State academic content standards and stu-
6 dent academic achievement standards, and
7 State assessments, to improve instructional
8 practices and improve the academic
9 achievement of children with disabilities.

10 “(xi) Coordinating with, and expand-
11 ing, centers established under section
12 2113(c)(18) of the Elementary and Sec-
13 ondary Education Act of 1965 to benefit
14 special education teachers.

15 “(2) CONTRACTS AND SUBGRANTS.—Each such
16 State educational agency—

17 “(A) shall, consistent with its partnership
18 agreement under section 654(b)(1), award con-
19 tracts or subgrants to local educational agen-
20 cies, institutions of higher education, and par-
21 ent and community training and information
22 centers, as appropriate, to carry out its State
23 plan under this subpart; and

24 “(B) may award contracts and subgrants
25 to other public and private entities, including



1 the lead agency under part C, to carry out such
2 plan.

3 “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-
4 MENT.—A State educational agency that receives a grant
5 under this subpart shall use—

6 “(1) not less than 90 percent of the funds it re-
7 ceives under the grant for any fiscal year for activi-
8 ties under subsection (a)(1)(A); and

9 “(2) not more than 10 percent of the funds it
10 receives under the grant for any fiscal year for ac-
11 tivities under subsection (a)(1)(B).

12 “(c) GRANTS TO OUTLYING AREAS.—Public Law 95-
13 134, permitting the consolidation of grants to the outlying
14 areas, shall not apply to funds received under this subpart.

15 **“SEC. 656. STATE GRANT AMOUNTS.**

16 “(a) IN GENERAL.—The Secretary shall make a
17 grant to each State educational agency whose application
18 the Secretary has selected for funding under this subpart
19 in an amount for each fiscal year that is—

20 “(1) not less than \$500,000, nor more than
21 \$2,000,000, in the case of the 50 States, the Dis-
22 trict of Columbia, and the Commonwealth of Puerto
23 Rico; and

24 “(2) not less than \$80,000, in the case of an
25 outlying area.



1 “(b) FACTORS.—The Secretary shall set the amount
2 of each grant under subsection (a) after considering—

3 “(1) the amount of funds available for making
4 the grants;

5 “(2) the relative population of the State or out-
6 lying area; and

7 “(3) the types of activities proposed by the
8 State or outlying area, including—

9 “(A) the alignment of proposed activities
10 with paragraphs (14) and (15) of section
11 612(a);

12 “(B) the alignment of proposed activities
13 with the plans submitted under sections 1111
14 and 2112 of the Elementary and Secondary
15 Education Act of 1965; and

16 “(C) the use, as appropriate, of scientif-
17 ically-based research.

18 **“SEC. 657. AUTHORIZATION OF APPROPRIATIONS.**

19 “There are authorized to be appropriated to carry out
20 this subpart \$44,000,000 for fiscal year 2004 and such
21 sums as may be necessary for each of the fiscal years 2005
22 through 2009.



1 **Subpart 2—Scientifically Based Research; Technical**
2 **Assistance; Model Demonstration Projects; Dis-**
3 **semination of Information; and Personnel Prep-**
4 **aration Programs**

5 **“SEC. 661. PURPOSE.**

6 “The purpose of this subpart is to provide Federal
7 funding for scientifically based research, technical assist-
8 ance, model demonstration projects, information dissemi-
9 nation, and personnel preparation programs to improve
10 early intervention, educational, and transitional results for
11 children with disabilities.

12 **“SEC. 662. ADMINISTRATIVE PROVISIONS.**

13 “(a) COMPREHENSIVE PLAN.—

14 “(1) IN GENERAL.—The Secretary shall develop
15 and implement a comprehensive plan for activities
16 carried out under this subpart (other than section
17 663) in order to enhance the provision of edu-
18 cational, related, transitional, and early intervention
19 services to children with disabilities under parts B
20 and C. The plan shall include mechanisms to ad-
21 dress educational, related services, transitional, and
22 early intervention needs identified by State edu-
23 cational agencies in applications submitted under
24 subpart 1.



1 “(2) PUBLIC COMMENT.—The Secretary shall
2 provide a public comment period of at least 30 days
3 on the plan.

4 “(3) DISTRIBUTION OF FUNDS.—In imple-
5 menting the plan, the Secretary shall, to the extent
6 appropriate, ensure that funds are awarded to re-
7 cipients under this subpart to carry out activities
8 that benefit, directly or indirectly, children with dis-
9 abilities of all ages.

10 “(4) REPORTS TO CONGRESS.—The Secretary
11 shall annually report to the Congress on the Sec-
12 retary’s activities under this subsection, including an
13 initial report not later than the date that is 12
14 months after the date of the enactment of Improving
15 Education Results for Children With Disabilities Act
16 of 2003.

17 “(b) ELIGIBLE APPLICANTS.—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subpart, the following entities are eligi-
20 ble to apply for a grant, contract, or cooperative
21 agreement under this subpart:

22 “(A) A State educational agency.

23 “(B) A local educational agency.

24 “(C) A public charter school that is a local
25 educational agency under State law.



1 “(D) An institution of higher education.

2 “(E) Any other public agency.

3 “(F) A private nonprofit organization.

4 “(G) An outlying area.

5 “(H) An Indian tribe or a tribal organiza-
6 tion (as defined under section 4 of the Indian
7 Self-Determination and Education Assistance
8 Act (25 U.S.C. 450b)).

9 “(I) A for-profit organization.

10 “(2) SPECIAL RULE.—The Secretary may limit
11 the entities eligible for an award of a grant, con-
12 tract, or cooperative agreement to one or more cat-
13 egories of eligible entities described in paragraph
14 (1).

15 “(c) SPECIAL POPULATIONS.—

16 “(1) APPLICATION REQUIREMENT.—In making
17 an award of a grant, contract, or cooperative agree-
18 ment under this subpart, the Secretary shall, as ap-
19 propriate, require an applicant to demonstrate how
20 the applicant will address the needs of children with
21 disabilities from minority backgrounds.

22 “(2) REQUIRED OUTREACH AND TECHNICAL AS-
23 SISTANCE.—Notwithstanding any other provision of
24 this Act, the Secretary shall reserve at least one per-
25 cent of the total amount of funds appropriated to



1 carry out this subpart for either or both of the fol-
2 lowing activities:

3 “(A) Providing outreach and technical as-
4 sistance to historically black colleges and uni-
5 versities, and to institutions of higher education
6 with minority enrollments of at least 25 per-
7 cent, to promote the participation of such col-
8 leges, universities, and institutions in activities
9 under this subpart.

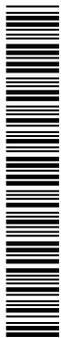
10 “(B) Enabling historically black colleges
11 and universities, and the institutions described
12 in subparagraph (A), to assist other colleges,
13 universities, institutions, and agencies in im-
14 proving educational and transitional results for
15 children with disabilities, if such grant appli-
16 cants meet the criteria established by the Sec-
17 retary under this subpart.

18 “(d) PRIORITIES.—The Secretary, in making an
19 award of a grant, contract, or cooperative agreement
20 under this subpart, may, without regard to the rulemaking
21 procedures under section 553 of title 5, United States
22 Code, limit competitions to, or otherwise give priority to—

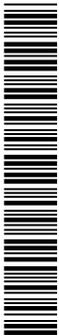
23 “(1) projects that address one or more—

24 “(A) age ranges;

25 “(B) disabilities;



- 1 “(C) school grades;
- 2 “(D) types of educational placements or
- 3 early intervention environments;
- 4 “(E) types of services;
- 5 “(F) content areas, such as reading; or
- 6 “(G) effective strategies for helping chil-
- 7 dren with disabilities learn appropriate behavior
- 8 in the school and other community-based edu-
- 9 cational settings;
- 10 “(2) projects that address the needs of children
- 11 based on the severity or incidence of their disability;
- 12 “(3) projects that address the needs of—
- 13 “(A) low-achieving students;
- 14 “(B) underserved populations;
- 15 “(C) children from low-income families;
- 16 “(D) children with limited English pro-
- 17 ficiency;
- 18 “(E) unserved and underserved areas;
- 19 “(F) rural or urban areas;
- 20 “(G) children whose behavior interferes
- 21 with their learning and socialization;
- 22 “(H) children with intractable reading dif-
- 23 ficulties; and
- 24 “(I) children in public charter schools;



1 “(4) projects to reduce inappropriate identifica-
2 tion of children as children with disabilities, particu-
3 larly among minority children; and

4 “(5) any activity that is expressly authorized in
5 this subpart or subpart 3.

6 “(e) APPLICANT AND RECIPIENT RESPONSIBIL-
7 ITIES.—

8 “(1) DEVELOPMENT AND ASSESSMENT OF
9 PROJECTS.—The Secretary shall require that an ap-
10 plicant for, and a recipient of, a grant, contract, or
11 cooperative agreement for a project under this
12 subpart—

13 “(A) involve individuals with disabilities, or
14 parents of individuals with disabilities ages
15 birth through 21, in planning, implementing,
16 and evaluating the project; and

17 “(B) where appropriate, determine whether
18 the project has any potential for replication and
19 adoption by other entities.

20 “(2) ADDITIONAL RESPONSIBILITIES.—The
21 Secretary may require a recipient of a grant, con-
22 tract, or cooperative agreement for a project under
23 this subpart—

24 “(A) to share in the cost of the project;



1 “(B) to prepare the research and evalua-
2 tion findings and products from the project in
3 formats that are useful for specific audiences,
4 including parents, administrators, teachers,
5 early intervention personnel, related services
6 personnel, and individuals with disabilities;

7 “(C) to disseminate such findings and
8 products; and

9 “(D) to collaborate with other such recipi-
10 ents in carrying out subparagraphs (B) and
11 (C).

12 “(f) APPLICATION MANAGEMENT.—

13 “(1) STANDING PANEL.—

14 “(A) IN GENERAL.—The Secretary shall
15 establish and use a standing panel of experts
16 who are qualified, by virtue of their training,
17 expertise, or experience, to evaluate applications
18 under this subpart (other than section 663)
19 that, individually, request more than \$75,000
20 per year in Federal financial assistance.

21 “(B) MEMBERSHIP.—The standing panel
22 shall include, at a minimum—

23 “(i) individuals who are representa-
24 tives of institutions of higher education



1 that plan, develop, and carry out high
2 quality programs of personnel preparation;

3 “(ii) individuals who design and carry
4 out scientifically-based research targeted to
5 the improvement of special education pro-
6 grams and services;

7 “(iii) individuals who have recognized
8 experience and knowledge necessary to in-
9 tegrate and apply scientifically-based re-
10 search findings to improve educational and
11 transitional results for children with dis-
12 abilities;

13 “(iv) individuals who administer pro-
14 grams at the State or local level in which
15 children with disabilities participate;

16 “(v) individuals who prepare parents
17 of children with disabilities to participate
18 in making decisions about the education of
19 their children;

20 “(vi) individuals who establish policies
21 that affect the delivery of services to chil-
22 dren with disabilities;

23 “(vii) individuals who are parents of
24 children with disabilities ages birth
25 through 21 who are benefiting, or have



1 benefited, from coordinated research, per-
2 sonnel preparation, and technical assist-
3 ance; and

4 “(viii) individuals with disabilities.

5 “(C) TERM.—No individual shall serve on
6 the standing panel for more than 3 consecutive
7 years.

8 “(2) PEER-REVIEW PANELS FOR PARTICULAR
9 COMPETITIONS.—

10 “(A) COMPOSITION.—The Secretary shall
11 ensure that each sub-panel selected from the
12 standing panel that reviews applications under
13 this subpart (other than section 663)
14 includes—

15 “(i) individuals with knowledge and
16 expertise on the issues addressed by the
17 activities authorized by the subpart; and

18 “(ii) to the extent practicable, parents
19 of children with disabilities ages birth
20 through 21, individuals with disabilities,
21 and persons from diverse backgrounds.

22 “(B) FEDERAL EMPLOYMENT LIMITA-
23 TION.—A majority of the individuals on each
24 sub-panel that reviews an application under this
25 subpart (other than section 663) shall be indi-



1 viduals who are not employees of the Federal
2 Government.

3 “(3) USE OF DISCRETIONARY FUNDS FOR AD-
4 MINISTRATIVE PURPOSES.—

5 “(A) EXPENSES AND FEES OF NON-FED-
6 ERAL PANEL MEMBERS.—The Secretary may
7 use funds available under this subpart to pay
8 the expenses and fees of the panel members
9 who are not officers or employees of the Fed-
10 eral Government.

11 “(B) ADMINISTRATIVE SUPPORT.—The
12 Secretary may use not more than 1 percent of
13 the funds appropriated to carry out this sub-
14 part to pay non-Federal entities for administra-
15 tive support related to management of applica-
16 tions submitted under this subpart.

17 “(g) PROGRAM EVALUATION.—The Secretary may
18 use funds appropriated to carry out this subpart to evalu-
19 ate activities carried out under the subpart.

20 “(h) MINIMUM FUNDING REQUIRED.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 the Secretary shall ensure that, for each fiscal year,
23 at least the following amounts are provided under
24 this subpart to address the following needs:



1 “(A) \$12,832,000 to address the edu-
2 cational, related services, transitional, and early
3 intervention needs of children with deaf-blind-
4 ness.

5 “(B) \$4,000,000 to address the postsec-
6 ondary, vocational, technical, continuing, and
7 adult education needs of individuals with deaf-
8 ness.

9 “(C) \$4,000,000 to address the edu-
10 cational, related services, and transitional needs
11 of children with an emotional disturbance and
12 those who are at risk of developing an emo-
13 tional disturbance.

14 “(2) RATABLE REDUCTION.—If the total
15 amount appropriated to carry out this subpart for
16 any fiscal year is less than \$130,000,000, the
17 amounts listed in paragraph (1) shall be ratably re-
18 duced.

19 “(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Ef-
20 fective for fiscal years for which the Secretary may make
21 grants under section 619(b), no State or local educational
22 agency or educational service agency or other public insti-
23 tution or agency may receive a grant under this subpart
24 which relates exclusively to programs, projects, and activi-
25 ties pertaining to children aged 3 through 5, inclusive, un-



1 less the State is eligible to receive a grant under section
2 619(b).

3 **“SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHIL-**
4 **DREN WITH DISABILITIES**

5 “(a) NATIONAL CENTER FOR SPECIAL EDUCATION
6 RESEARCH.—

7 “(1) ESTABLISHMENT.—

8 “(A) IN GENERAL.—There is established,
9 in the Institute of Education Sciences estab-
10 lished under section 111 of the Education
11 Sciences Reform Act of 2002 (Public Law 107–
12 279; 116 Stat. 1944) (hereinafter in this sec-
13 tion referred to as ‘the Institute’), the National
14 Center for Special Education Research.

15 “(B) COMMISSIONER.—The National Cen-
16 ter for Special Education Research shall be
17 headed by a Commissioner for Special Edu-
18 cation Research (hereinafter in this section re-
19 ferred to as ‘the Commissioner’). The Commis-
20 sioner shall be appointed by the Director of the
21 Institute (hereinafter in this section referred to
22 as ‘the Director’) in accordance with section
23 117 of the Education Sciences Reform Act of
24 2002. The Commissioner shall have substantial
25 knowledge of the Center’s activities, including a



1 high level of expertise in the fields of research
2 and research management.

3 “(2) APPLICABILITY OF EDUCATION SCIENCE
4 REFORM ACT OF 2002.—Parts A and E of the Edu-
5 cation Sciences Reform Act of 2002, as well as the
6 standards for peer review of applications and for the
7 conduct and evaluation of research under sections
8 133(a) and 134 of such Act, shall apply to the Sec-
9 retary, the Director, and the Commissioner in car-
10 rying out this section.

11 “(b) COMPETITIVE GRANTS.—The Director shall
12 make competitive grants to, or enter into contracts or co-
13 operative agreements with, eligible entities to expand the
14 fundamental knowledge and understanding of the edu-
15 cation of infants, toddlers, and children with disabilities
16 in order to improve educational results for such individ-
17 uals, in accordance with the priorities determined under
18 this section.

19 “(c) AUTHORIZED ACTIVITIES.—Activities that may
20 be carried out under this section include research
21 activities—

22 “(1) to improve services provided under this
23 Act in order to improve academic achievement for
24 children with disabilities;



1 “(2) to investigate scientifically based edu-
2 cational practices that support learning and improve
3 academic achievement and progress for all students
4 with disabilities;

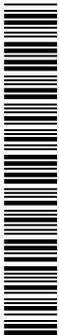
5 “(3) to examine the special needs of preschool-
6 aged children and infants and toddlers with disabil-
7 ities, including factors that may result in develop-
8 mental delays;

9 “(4) to improve the alignment, compatibility,
10 and development of valid and reliable assessment
11 methods for assessing adequate yearly progress, as
12 described under section 1111(b)(2)(B) of the Ele-
13 mentary and Secondary Education Act of 1965 (20
14 U.S.C. 6311(b)(2)(B));

15 “(5) to improve the alignment, compatibility,
16 and development of valid and reliable alternate as-
17 sessment methods for assessing adequate yearly
18 progress, as described under such section
19 1111(b)(2)(B);

20 “(6) to examine the educational and develop-
21 mental needs of children with high-incidence and
22 low-incidence disabilities;

23 “(7) to examine the extent to which over-identi-
24 fication and under-identification of children with dis-
25 abilities occurs, and the causes thereof;



1 “(8) to improve reading and literacy skills for
2 children with disabilities;

3 “(9) to examine and improve secondary and
4 postsecondary education and transitional needs of
5 children with disabilities;

6 “(10) to examine methods of early intervention
7 for children with disabilities who need significant
8 levels of support;

9 “(11) to examine universal design concepts in
10 the development of assessments, curricula, and in-
11 structional methods as a method to improve edu-
12 cational results for children with disabilities;

13 “(12) to improve the professional preparation
14 for personnel who provide educational and related
15 services to children with disabilities, including chil-
16 dren with low-incidence disabilities, to increase aca-
17 demic achievement of children with disabilities; and

18 “(13) to examine the excess costs of educating
19 a child with a disability and expenses associated with
20 high-cost special education and related services.

21 “(d) PRIORITIES.—Following the procedures de-
22 scribed in section 115 of the Education Sciences Reform
23 Act of 2002, the Director, with the advice of the Assistant
24 Secretary for Special Education and Rehabilitative Serv-



1 ices, shall develop priorities for carrying out this section
2 that—

3 “(1) are consistent with the purposes of this
4 Act;

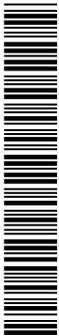
5 “(2) reflect an appropriate balance across all
6 age ranges of children with disabilities;

7 “(3) provide for research that is objective and
8 that uses measurable indicators to assess its
9 progress and results;

10 “(4) include both basic research and applied re-
11 search, which shall include research conducted
12 through field-initiated studies and which may in-
13 clude ongoing research initiatives; and

14 “(5) ensure that the research conducted under
15 this section is relevant to special education practice
16 and policy.

17 “(e) APPLICATIONS.—An eligible entity that wishes
18 to receive a grant, or enter into a contract or cooperative
19 agreement, under this section shall submit an application
20 to the Commissioner at such time, in such manner, and
21 containing such information as the Commissioner may re-
22 quire.



1 **“SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION**
2 **PROJECTS, DISSEMINATION OF INFORMA-**
3 **TION, AND IMPLEMENTATION OF SCIENTIF-**
4 **ICALLY BASED RESEARCH.**

5 “(a) IN GENERAL.—The Secretary shall make com-
6 petitive grants to, or enter into contracts or cooperative
7 agreements with, eligible entities to provide technical as-
8 sistance, support model demonstration projects, dissemi-
9 nate useful information, and implement activities that are
10 supported by scientifically based research.

11 “(b) REQUIRED ACTIVITIES.—Funds received under
12 this section shall be used to support activities to improve
13 services provided under this Act, including the practices
14 of professionals and others involved in providing such serv-
15 ices to children with disabilities, that promote academic
16 achievement and improve results for children with disabil-
17 ities through—

18 “(1) implementing effective strategies for ad-
19 dressing inappropriate behavior of students with dis-
20 abilities in schools, including strategies to prevent
21 children with emotional and behavioral problems
22 from developing emotional disturbances that require
23 the provision of special education and related serv-
24 ices;

25 “(2) improving the alignment, compatibility,
26 and development of valid and reliable assessments



1 and alternate assessments for assessing adequate
2 yearly progress, as described under section
3 1111(b)(2)(B) of the Elementary and Secondary
4 Education Act of 1965; and

5 “(3) providing training for both regular edu-
6 cation teachers and special education teachers to ad-
7 dress the needs of students with different learning
8 styles.

9 “(c) AUTHORIZED ACTIVITIES.—Activities that may
10 be carried out under this section include activities to im-
11 prove services provided under this Act, including the prac-
12 tices of professionals and others involved in providing such
13 services to children with disabilities, that promote aca-
14 demic achievement and improve results for children with
15 disabilities through—

16 “(1) identifying innovative, effective, and effi-
17 cient curricula designs, instructional approaches,
18 and strategies, and identifying positive academic and
19 social learning opportunities, that—

20 “(A) provide effective transitions between
21 educational settings or from school to post
22 school settings; and

23 “(B) improve educational and transitional
24 results at all levels of the educational system in
25 which the activities are carried out and, in par-



1 ticular, that improve the progress of children
2 with disabilities, as measured by assessments
3 within the general education curriculum in-
4 volved;

5 “(2) applying and testing research findings in
6 typical service settings to determine the usefulness,
7 effectiveness, and general applicability of such re-
8 search findings in such areas as improving instruc-
9 tional methods, curricula, and tools, such as text-
10 books and media;

11 “(3) demonstrating and applying scientifically-
12 based findings to facilitate systemic changes, related
13 to the provision of services to children with disabil-
14 ities, in policy, procedure, practice, and the training
15 and use of personnel;

16 “(4) supporting and promoting the coordination
17 of early intervention and educational services for
18 children with disabilities with services provided by
19 health, rehabilitation, and social service agencies;

20 “(5) promoting improved alignment and com-
21 patibility of general and special education reforms
22 concerned with curricular and instructional reform,
23 and evaluation of such reforms;

24 “(6) enabling professionals, parents of children
25 with disabilities, and other persons to learn about,



1 and implement, the findings of scientifically-based
2 research, and successful practices developed in model
3 demonstration projects, relating to the provision of
4 services to children with disabilities;

5 “(7) conducting outreach, and disseminating in-
6 formation, relating to successful approaches to over-
7 coming systemic barriers to the effective and effi-
8 cient delivery of early intervention, educational, and
9 transitional services to personnel who provide serv-
10 ices to children with disabilities;

11 “(8) assisting States and local educational
12 agencies with the process of planning systemic
13 changes that will promote improved early interven-
14 tion, educational, and transitional results for chil-
15 dren with disabilities;

16 “(9) promoting change through a multistate or
17 regional framework that benefits States, local edu-
18 cational agencies, and other participants in partner-
19 ships that are in the process of achieving systemic-
20 change outcomes; or

21 “(10) focusing on the needs and issues that are
22 specific to a population of children with disabilities,
23 such as the provision of single-State and multi-State
24 technical assistance and in-service training—



1 “(A) to schools and agencies serving deaf-
2 blind children and their families;

3 “(B) to programs and agencies serving
4 other groups of children with low-incidence dis-
5 abilities and their families;

6 “(C) addressing the postsecondary edu-
7 cation needs of individuals who are deaf or
8 hard-of-hearing; and

9 “(D) to schools and personnel providing
10 special education and related services for chil-
11 dren with autism spectrum disorders.

12 “(d) BALANCE AMONG ACTIVITIES AND AGE
13 RANGES.—In carrying out this section, the Secretary shall
14 ensure that there is an appropriate balance across all age
15 ranges of children with disabilities.

16 “(e) LINKING STATES TO INFORMATION SOURCES.—
17 In carrying out this section, the Secretary may support
18 projects that link States to technical assistance resources,
19 including special education and general education re-
20 sources, and may make research and related products
21 available through libraries, electronic networks, parent
22 training projects, and other information sources.

23 “(f) APPLICATIONS.—

24 “(1) IN GENERAL.—An eligible entity that
25 wishes to receive a grant, or enter into a contract or



1 cooperative agreement, under this section shall sub-
2 mit an application to the Secretary at such time, in
3 such manner, and containing such information as
4 the Secretary may require.

5 “(2) STANDARDS.—To the maximum extent
6 feasible, each applicant shall demonstrate that the
7 project described in its application is supported by
8 scientifically based research that has been carried
9 out in accordance with the standards for the conduct
10 and evaluation of all relevant research and develop-
11 ment established by the National Center for Edu-
12 cation Research.

13 “(3) PRIORITY.—The Secretary shall give pri-
14 ority to applications that propose to serve teachers
15 and school personnel directly in the school environ-
16 ment.

17 **“SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IM-**
18 **PROVE SERVICES AND RESULTS FOR CHIL-**
19 **DREN WITH DISABILITIES.**

20 “(a) IN GENERAL.—The Secretary shall, on a com-
21 petitive basis, make grants to, or enter into contracts or
22 cooperative agreements with, eligible entities—

23 “(1) to help address State-identified needs for
24 qualified personnel in special education, related serv-



1 ices, early intervention, and regular education, to
2 work with children with disabilities;

3 “(2) to ensure that those personnel have the
4 necessary skills and knowledge, derived from prac-
5 tices that have been determined, through scientif-
6 ically-based research, to be successful in serving
7 those children;

8 “(3) to encourage increased focus on academics
9 and core content areas in special education per-
10 sonnel preparation programs;

11 “(4) to ensure that regular education teachers
12 have the necessary skills and knowledge to provide
13 instruction to students with disabilities in the reg-
14 ular education classroom; and

15 “(5) to ensure that all special education teach-
16 ers teaching in core academic subjects are highly
17 qualified.

18 “(b) PERSONNEL PREPARATION; AUTHORIZED AC-
19 TIVITIES.—

20 “(1) IN GENERAL.—In carrying out this sec-
21 tion, the Secretary shall support activities, consistent
22 with the objectives described in subsection (a).

23 “(2) AUTHORIZED ACTIVITIES.—Activities that
24 may be carried out under this subsection include the
25 following:



1 “(A) Promoting activities undertaken by
2 institutions of higher education, local edu-
3 cational agencies, and other local entities—

4 “(i) to improve and reform their exist-
5 ing programs, and to support effective ex-
6 isting programs, to prepare teachers and
7 related services personnel—

8 “(I) to meet the diverse needs of
9 children with disabilities for early
10 intervention, educational, and transi-
11 tional services; and

12 “(II) to work collaboratively in
13 regular classroom settings; and

14 “(ii) to incorporate best practices and
15 scientifically based research about pre-
16 paring personnel—

17 “(I) so they will have the knowl-
18 edge and skills to improve educational
19 results for children with disabilities;
20 and

21 “(II) so they can implement ef-
22 fective teaching strategies and inter-
23 ventions to ensure appropriate identi-
24 fication, and to prevent the mis-identi-
25 fication or over-identification, of chil-



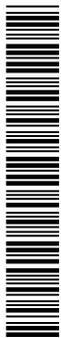
1 dren as having a disability, especially
2 minority and limited English pro-
3 ficient children.

4 “(B) Developing, evaluating, and dissemi-
5 nating innovative models for the recruitment,
6 induction, retention, and assessment of highly
7 qualified teachers to reduce shortages in per-
8 sonnel.

9 “(C) Developing and improving programs
10 for paraprofessionals to receive training as spe-
11 cial education teachers, related services per-
12 sonnel, and early intervention personnel, includ-
13 ing interdisciplinary training to enable them to
14 improve early intervention, educational, and
15 transitional results for children with disabilities.

16 “(D) Demonstrating models for the prepa-
17 ration of, and interdisciplinary training of, early
18 intervention, special education, and general edu-
19 cation personnel, to enable the personnel to ac-
20 quire the collaboration skills necessary to work
21 within teams to improve results for children
22 with disabilities, particularly within the general
23 education curriculum.

24 “(E) Promoting the transferability, across
25 State and local jurisdictions, of licensure and



1 certification of teachers and administrators
2 working with such children.

3 “(F) Developing and disseminating models
4 that prepare teachers with strategies, including
5 behavioral interventions, for addressing the con-
6 duct of children with disabilities that impedes
7 their learning and that of others in the class-
8 room.

9 “(G) Developing and improving programs
10 to enhance the ability of general education
11 teachers, principals, school administrators, and
12 school board members to improve results for
13 children with disabilities;

14 “(H) Supporting institutions of higher
15 education with minority enrollments of at least
16 25 percent for the purpose of preparing per-
17 sonnel to work with children with disabilities.

18 “(I) Developing and improving programs
19 to train special education teachers with an ex-
20 pertise in autism spectrum disorders.

21 “(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED
22 ACTIVITIES.—

23 “(1) IN GENERAL.—In carrying out this sec-
24 tion, the Secretary shall support activities, consistent



1 with the objectives described in subsection (a), that
2 benefit children with low-incidence disabilities.

3 “(2) AUTHORIZED ACTIVITIES.—Activities that
4 may be carried out under this subsection include ac-
5 tivities such as the following:

6 “(A) Preparing persons who—

7 “(i) have prior training in educational
8 and other related service fields; and

9 “(ii) are studying to obtain degrees,
10 certificates, or licensure that will enable
11 them to assist children with low-incidence
12 disabilities to achieve the objectives set out
13 in their individualized education programs
14 described in section 614(d), or to assist in-
15 fants and toddlers with low incidence dis-
16 abilities to achieve the outcomes described
17 in their individualized family service plans
18 described in section 636.

19 “(B) Providing personnel from various dis-
20 ciplines with interdisciplinary training that will
21 contribute to improvement in early intervention,
22 educational, and transitional results for children
23 with low-incidence disabilities.

24 “(C) Preparing personnel in the innovative
25 uses and application of technology to enhance



1 learning by children with low-incidence disabil-
2 ities through early intervention, educational,
3 and transitional services.

4 “(D) Preparing personnel who provide
5 services to visually impaired or blind children to
6 teach and use Braille in the provision of serv-
7 ices to such children.

8 “(E) Preparing personnel who provide
9 services to deaf and hard of hearing children by
10 providing direct language and communication
11 access to the general education curriculum
12 through spoken or signed languages, or other
13 modes of communication.

14 “(F) Preparing personnel to be qualified
15 educational interpreters, to assist children with
16 low-incidence disabilities, particularly deaf and
17 hard-of-hearing children in school and school-
18 related activities and deaf and hard-of-hearing
19 infants and toddlers and preschool children in
20 early intervention and preschool programs.

21 “(3) DEFINITION.—As used in this section, the
22 term ‘low-incidence disability’ means—

23 “(A) a visual or hearing impairment, or si-
24 multaneous visual and hearing impairments;

25 “(B) a significant cognitive impairment; or



1 “(C) any impairment for which a small
2 number of personnel with highly specialized
3 skills and knowledge are needed in order for
4 children with that impairment to receive early
5 intervention services or a free appropriate pub-
6 lic education.

7 “(4) SELECTION OF RECIPIENTS.—In selecting
8 recipients under this subsection, the Secretary may
9 give preference to applications that propose to pre-
10 pare personnel in more than one low-incidence dis-
11 ability, such as deafness and blindness.

12 “(5) PREPARATION IN USE OF BRAILLE.—The
13 Secretary shall ensure that all recipients of assist-
14 ance under this subsection who will use that assist-
15 ance to prepare personnel to provide services to vis-
16 ually impaired or blind children that can appro-
17 priately be provided in Braille will prepare those in-
18 dividuals to provide those services in Braille.

19 “(d) LEADERSHIP PREPARATION; AUTHORIZED AC-
20 TIVITIES.—

21 “(1) IN GENERAL.—In carrying out this sec-
22 tion, the Secretary shall support leadership prepara-
23 tion activities that are consistent with the objectives
24 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.—Notwithstanding any other
23 provision of law, the Secretary shall designate the
24 Director of the Institute for Education Sciences to
25 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;

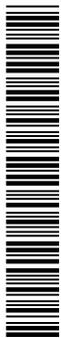
9 “(ii) improving the participation of
10 children with disabilities in the general
11 education curriculum;

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
15 Congress—

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—



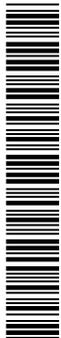
1 order to develop the skills necessary to cooperatively
2 and effectively participate in planning and decision
3 making relating to early intervention, educational,
4 and transitional services;

5 “(2) parents, teachers, administrators, early
6 intervention personnel, related services personnel,
7 and transition personnel receive coordinated and ac-
8 cessible technical assistance and information to as-
9 sist them in improving early intervention, edu-
10 cational, and transitional services and results for
11 children with disabilities and their families; and

12 “(3) appropriate technology and media are re-
13 searched, developed, and demonstrated, to improve
14 and implement early intervention, educational, and
15 transitional services and results for children with
16 disabilities and their families.

17 **“SEC. 672. PARENT AND COMMUNITY TRAINING AND INFOR-**
18 **MATION CENTERS.**

19 “(a) PROGRAM AUTHORIZED.—The Secretary may
20 make grants to, and enter into contracts and cooperative
21 agreements with, parent and community organizations to
22 support parent and community training and information
23 centers to carry out activities under this section.



1 “(b) REQUIRED ACTIVITIES.—Each parent and com-
2 munity training and information center that receives as-
3 sistance under this section shall—

4 “(1) provide training and information that
5 meets the needs of parents of children with disabil-
6 ities living in the area served by the center, includ-
7 ing underserved parents and parents of children who
8 may be inappropriately identified, to enable children
9 with disabilities—

10 “(A) to meet developmental and chal-
11 lenging academic achievement goals that have
12 been established for all children; and

13 “(B) to be prepared to lead productive
14 independent adult lives to the maximum extent
15 possible.

16 “(2) ensure that the training and information
17 provided meets the needs of low-income parents and
18 parents of children with limited English proficiency;

19 “(3) serve the parents of infants, toddlers, and
20 children with the full range of disabilities;

21 “(4) assist parents—

22 “(A) to better understand the nature of
23 their children’s disabilities and their edu-
24 cational, developmental, and transitional needs;



1 “(B) to communicate effectively and work
2 collaboratively with personnel responsible for
3 providing special education, early intervention,
4 transition services, and related services;

5 “(C) to participate in decisionmaking pro-
6 cesses and the development of individualized
7 education programs under part B and individ-
8 ualized family service plans under part C;

9 “(D) to obtain appropriate information
10 about the range, type and quality of options,
11 programs, services, and resources available to
12 assist children with disabilities and their fami-
13 lies in school and at home;

14 “(E) to understand the provisions of this
15 Act for the education of, and the provision of
16 early intervention services to, children with dis-
17 abilities; and

18 “(F) to participate in activities at the
19 school level which benefit their children;

20 “(5) assist parents in resolving disputes in the
21 most expeditious way possible, including encouraging
22 the use, and explaining the benefits, of alternative
23 methods of dispute resolution, such as the use of in-
24 dividualized education program facilitators and me-



1 diation and voluntary binding arbitration processes
2 described in section 615(e);

3 “(6) assist parents to understand the avail-
4 ability of, and how to effectively use, procedural
5 safeguards under this Act;

6 “(7) network with appropriate clearinghouses,
7 including organizations conducting national dissemi-
8 nation activities under subpart 2, and with other na-
9 tional, State, and local organizations and agencies,
10 such as protection and advocacy agencies, that serve
11 parents and families of children with the full range
12 of disabilities; and

13 “(8) annually report to the Secretary on—

14 “(A) the number and demographics of par-
15 ents to whom it provided information and train-
16 ing in the most recently concluded fiscal year;

17 “(B) the effectiveness of strategies used to
18 reach and serve parents, including underserved
19 parents of children with disabilities; and

20 “(C) the number of parents served who
21 have resolved disputes through alternative
22 methods of dispute resolution.

23 “(c) OPTIONAL ACTIVITIES.—A parent training and
24 community and information center that receives assistance
25 under this section may—



1 “(1) provide information to teachers and other
2 professionals to assist them in improving results for
3 children with disabilities; and

4 “(2) assist students with disabilities to under-
5 stand their rights and responsibilities under section
6 615(l) on reaching the age of majority.

7 “(d) APPLICATION REQUIREMENTS.—Each applica-
8 tion for assistance under this section shall identify with
9 specificity the special efforts that the applicant will
10 undertake—

11 “(1) to ensure that the needs for training and
12 information of underserved parents of children with
13 disabilities in the area to be served are effectively
14 met; and

15 “(2) to work with community-based organiza-
16 tions, including those that work with low-income
17 parents and parents of children with limited English
18 proficiency.

19 “(e) DISTRIBUTION OF FUNDS.—

20 “(1) IN GENERAL.—The Secretary shall make
21 at least 1 award to a parent organization in each
22 State, unless the Secretary does not receive an appli-
23 cation from such an organization in each State of
24 sufficient quality to warrant approval.



1 “(2) SELECTION REQUIREMENT.—The Sec-
2 retary shall select among applications submitted by
3 parent organizations in a State in a manner that en-
4 sures the most effective assistance to parents, in-
5 cluding parents in urban and rural areas, in the
6 State.

7 “(f) QUARTERLY REVIEW.—

8 “(1) REQUIREMENTS.—

9 “(A) MEETINGS.—The board of directors
10 or special governing committee of each organi-
11 zation that receives an award under this section
12 shall meet at least once in each calendar quar-
13 ter to review the activities for which the award
14 was made.

15 “(B) ADVISING BOARD.—Each special gov-
16 erning committee shall directly advise the orga-
17 nization’s governing board of its views and rec-
18 ommendations.

19 “(2) CONTINUATION AWARD.—When an organi-
20 zation requests a continuation award under this sec-
21 tion, the board of directors or special governing com-
22 mittee shall submit to the Secretary a written review
23 of the parent training and information program con-
24 ducted by the organization during the preceding fis-
25 cal year.



1 “(g) DEFINITION OF PARENT ORGANIZATION.—As
2 used in this section, the term ‘parent organization’ means
3 a private nonprofit organization (other than an institution
4 of higher education) that—

5 “(1) has a board of directors—

6 “(A) the majority of whom are parents of
7 children with disabilities ages birth through 21;

8 “(B) that includes—

9 “(i) individuals working in the fields
10 of special education, related services, and
11 early intervention; and

12 “(ii) individuals with disabilities; and

13 “(C) the parent and professional members
14 of which are broadly representative of the popu-
15 lation to be served, including low-income and
16 limited English proficient parents of children
17 with disabilities; or;

18 “(2) has—

19 “(A) a membership that represents the in-
20 terests of individuals with disabilities and has
21 established a special governing committee that
22 meets the requirements of paragraph (1); and

23 “(B) a memorandum of understanding be-
24 tween the special governing committee and the
25 board of directors of the organization that



1 clearly outlines the relationship between the
2 board and the committee and the decision-
3 making responsibilities and authority of each.

4 **“SEC. 673. TECHNICAL ASSISTANCE FOR PARENT AND COM-**
5 **MUNITY TRAINING AND INFORMATION CEN-**
6 **TERS.**

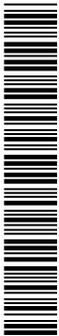
7 “(a) IN GENERAL.—The Secretary may, directly or
8 through awards to eligible entities (as defined in section
9 662(b)), provide technical assistance for developing, as-
10 sisting, and coordinating parent and community training
11 and information programs carried out by parent and com-
12 munity training and information centers receiving assist-
13 ance under sections 672.

14 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
15 provide technical assistance to a parent and community
16 training and information center under this section in areas
17 such as—

18 “(1) effective coordination of parent training ef-
19 forts;

20 “(2) dissemination of scientifically based re-
21 search and information;

22 “(3) promotion of the use of technology, includ-
23 ing assistive technology devices and assistive tech-
24 nology services;



1 “(4) reaching underserved populations, includ-
2 ing parents of low income and limited English pro-
3 ficient children with disabilities;

4 “(5) including children with disabilities in gen-
5 eral education programs;

6 “(6) facilitation of transitions from—

7 “(A) early intervention services to pre-
8 school;

9 “(B) preschool to elementary school;

10 “(C) elementary school to secondary
11 school; and

12 “(D) secondary school to postsecondary en-
13 vironments; and

14 “(7) promotion of alternative methods of dis-
15 pute resolution, including mediation and voluntary
16 binding arbitration.

17 **“SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**
18 **AND UTILIZATION; AND MEDIA SERVICES.**

19 “(a) IN GENERAL.—The Secretary shall competi-
20 tively make grants to, and enter into contracts and cooper-
21 ative agreements with, eligible entities (as defined in sec-
22 tion 662(b)) to support activities described in subsections
23 (b) and (c).

24 “(b) TECHNOLOGY DEVELOPMENT, DEMONSTRA-
25 TION, AND UTILIZATION.—



1 “(1) IN GENERAL.—In carrying out this sec-
2 tion, the Secretary shall support activities to pro-
3 mote the development, demonstration, and utiliza-
4 tion of technology.

5 “(2) AUTHORIZED ACTIVITIES.—The following
6 activities may be carried out under this subsection:

7 “(A) Conducting research on, and pro-
8 moting the demonstration and use of—

9 “(i) innovative and emerging tech-
10 nologies for children with disabilities; and

11 “(ii) improved transfer of technology
12 from research and development to practice.

13 “(B) Supporting research, development,
14 and dissemination of technology with universal-
15 design features, so that the technology is acces-
16 sible to individuals with disabilities without fur-
17 ther modification or adaptation.

18 “(C) Demonstrating the use of systems to
19 provide parents and teachers with information
20 and training concerning early diagnosis of,
21 intervention for, and effective teaching strate-
22 gies for, young children with reading disabil-
23 ities.



1 “(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL AC-
2 TIVITIES.—In carrying out this section, the Secretary may
3 support—

4 “(1) educational media activities that are de-
5 signed to be of educational value in the classroom
6 setting to children with disabilities;

7 “(2) providing video description, open cap-
8 tioning, or closed captioning of television programs,
9 videos, or other materials with an education-based
10 content for use in the classroom setting when such
11 services are not provided by the producer or dis-
12 tributor of such information, including programs
13 and materials associated with new and emerging
14 technologies such as CDs, DVDs, video streaming,
15 and other forms of multimedia;

16 “(3) distributing materials described in para-
17 graphs (1) and (2) through such mechanisms as a
18 loan service; and

19 “(4) providing free educational materials, in-
20 cluding textbooks, in accessible media for visually
21 impaired and print-disabled students in elementary
22 and secondary schools.

23 “(d) APPLICATIONS.—Any eligible entity (as defined
24 in section 662(b)) that wishes to receive a grant, or enter
25 into a contract or cooperative agreement, under this sec-



1 tion shall submit an application to the Secretary at such
2 time, in such manner, and containing such information as
3 the Secretary may require.

4 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to carry out this subpart
6 \$58,710,000 for fiscal year 2004 and such sums as may
7 be necessary for each of the fiscal years 2005 through
8 2009.”.

