To support State and local accountability for public education, inform parents of their schools’ performance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Kline introduced the following bill; which was referred to the Committee on

A BILL

To support State and local accountability for public education, inform parents of their schools’ performance, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Student Success Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Transition.
Sec. 5. Effective dates.
Sec. 6. Authorization of appropriations.

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

Subtitle A—In General

Sec. 101. Title heading.
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Sec. 103. Flexibility to use Federal funds.
Sec. 104. School improvement.
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Subtitle B—Improving the Academic Achievement of the Disadvantaged

Sec. 111. Part A headings.
Sec. 112. State plans.
Sec. 113. Local educational agency plans.
Sec. 114. Eligible school attendance areas.
Sec. 115. Schoolwide programs.
Sec. 116. Targeted assistance schools.
Sec. 117. Academic assessment and local educational agency and school improvement; school support and recognition.
Sec. 118. Parental involvement.
Sec. 119. Qualifications for teachers and paraprofessionals.
Sec. 120. Participation of children enrolled in private schools.
Sec. 121. Fiscal requirements.
Sec. 122. Coordination requirements.
Sec. 123. Grants for the outlying areas and the Secretary of the Interior.
Sec. 124. Allocations to States.
Sec. 125. Basic grants to local educational agencies.
Sec. 126. Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001.
Sec. 127. Education finance incentive grant program.
Sec. 128. Carryover and waiver.

Subtitle C—Additional Aid to States and School Districts

Sec. 131. Additional aid.

Subtitle D—National Assessment

Sec. 141. National assessment of title I.

Subtitle E—Title I General Provisions

Sec. 151. General provisions for title I.

TITLE II—GENERAL PROVISIONS FOR THE ACT

Sec. 201. General provisions for the Act.

1 SEC. 3. REFERENCES.

2 Except as otherwise expressly provided, whenever in

3 this Act an amendment or repeal is expressed in terms
of an amendment to, or repeal of, a section or other provi-
sion, the reference shall be considered to be made to a
section or other provision of the Elementary and Sec-
ondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 4. TRANSITION.

Unless otherwise provided in this Act, any person or
agency that was awarded a grant under the Elementary
and Secondary Education Act of 1965 (20 U.S.C. 6301
et seq.) prior to the date of the enactment of this Act shall
continue to receive funds in accordance with the terms of
such award, except that funds for such award may not
continue more than one year after the date of the enact-
ment of this Act.

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in
this Act, this Act, and the amendments made by this Act,
shall be effective upon the date of enactment of this Act.

(b) NONCOMPETITIVE PROGRAMS.—With respect to
noncompetitive programs under which any funds are allot-
ted by the Secretary of Education to recipients on the
basis of a formula, this Act, and the amendments made
by this Act, shall take effect on July 1, 2012.

(e) COMPETITIVE PROGRAMS.—With respect to pro-
grams that are conducted by the Secretary on a competi-
tive basis, this Act, and the amendments made by this Act,
shall take effect with respect to appropriations for use under those programs for fiscal year 2013.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

The Act (20 U.S.C. 6301 et seq.) is amended by inserting after section 2 the following:

“SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

“(a) TITLE I.—

“(1) PART A.—There are authorized to be appropriated to carry out part A of title I $16,662,771,000 for fiscal year 2013.

“(2) PART B.—There are authorized to be appropriated to carry out part B of title I $3,200,000 for fiscal year 2013.

“(b) OUT YEARS.—The amounts authorized by subsection (a) shall be increased for each of fiscal years 2014 through 2018 by a percentage equal to the percentage of inflation according to the Consumer Price Index, for the calendar year ending prior to the beginning of that fiscal year.”.

TITLE I—AID TO LOCAL EDUCATIONAL AGENCIES

Subtitle A—In General

SEC. 101. TITLE HEADING.

The title heading for title I (20 U.S.C. 6301 et seq.) is amended to read as follows:
“TITLE I—AID TO LOCAL
EDUCATIONAL AGENCIES”.

SEC. 102. STATEMENT OF PURPOSE.

Section 1001 (20 U.S.C. 6301) is amended to read as follows:

“SEC. 1001. STATEMENT OF PURPOSE.

“The purpose of this title is to provide all children the opportunity to graduate high school prepared for post-secondary education or the workforce. This purpose can be accomplished by—

“(1) meeting the educational needs of low-achieving children in our Nation’s highest-poverty schools, English learners, migratory children, children with disabilities, Indian children, and neglected or delinquent children;

“(2) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

“(3) affording parents substantial and meaningful opportunities to participate in the education of their children; and

“(4) challenging States and local educational agencies to embrace meaningful, evidence-based edu-
cation reform, while encouraging state and local in-

novation.”.

SEC. 103. FLEXIBILITY TO USE FEDERAL FUNDS.

Section 1002 (20 U.S.C. 6302) is amended to read
as follows:

“SEC. 1002. FLEXIBILITY TO USE FEDERAL FUNDS.

“(a) Alternative Uses of Federal Funds for
State Educational Agencies.—

“(1) In General.—Subject to subsections (c)
and (d) and notwithstanding any other provision of
law, a State educational agency may use the applica-
ble funding that the agency receives for a fiscal year
to carry out any State activity authorized or re-
quired under one or more of the following provisions:

“(A) Section 1003.

“(B) Section 1004.

“(C) Subpart 2 of part A of title I.

“(D) Subpart 3 of part A of title I.

“(E) Subpart 4 of part A of title I.

“(F) Subpart 5 of part A of title I.

“(G) Subpart 6 of part A of title I.

“(2) Notification.—Not later than June 1 of
each year, a State educational agency shall notify
the Secretary of the State educational agency’s in-
tention to use the applicable funding for any of the alternative uses under paragraph (1).

“(3) APPLICABLE FUNDING DEFINED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term ‘applicable funding’ means funds provided to carry out State activities under one or more of the following provisions.

“(i) Section 1003.

“(ii) Section 1004.

“(iii) Subpart 2 of part A of title I.

“(iv) Subpart 3 of part A of title I.

“(v) Subpart 4 of part A of title I.

“(vi) Subpart 5 of part A of title I.

“(B) LIMITATION.—In this subsection, the term ‘applicable funding’ does not include funds provided under any of the provisions listed in subparagraph (A) that State educational agencies are required by this Act—

“(i) to reserve, allocate, or spend for required activities;

“(ii) to allot or award to local educational agencies or other entities eligible to receive such funds; or
“(iii) to use for technical assistance or monitoring.

“(4) DISBURSEMENT.—The Secretary shall disburse the applicable funding to State educational agencies for alternative uses under paragraph (1) for a fiscal year at the same time as the Secretary disburses the applicable funding to State educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(b) ALTERNATIVE USES OF FEDERAL FUNDS FOR LOCAL EDUCATIONAL AGENCIES.—

“(1) IN GENERAL.—Subject to subsections (c) and (d) and notwithstanding any other provision of law, a local educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any local activity authorized or required under one or more of the following provisions:

“(A) Section 1003.

“(B) Subpart 1 of part A of title I.

“(C) Subpart 2 of part A of title I.

“(D) Subpart 3 of part A of title I.

“(E) Subpart 4 of part A of title I.

“(F) Subpart 5 of part A of title I.

“(G) Subpart 6 of part A of title I.
“(2) NOTIFICATION.—A local educational agency shall notify the State educational agency of the local educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1) by a date that is established by the State educational agency for the notification.

“(3) APPLICABLE FUNDING DEFINED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term ‘applicable funding’ means funds provided to carry out local activities under one or more of the following provisions:

“(i) Subpart 2 of part A of title I.

“(ii) Subpart 3 of part A of title I.

“(iii) Subpart 4 of part A of title I.

“(iv) Subpart 5 of part A of title I.

“(v) Subpart 6 of part A of title I.

“(B) LIMITATION.—In this subsection, the term ‘applicable funding’ does not include funds provided under any of the provisions listed in subparagraph (A) that local educational agencies are required by this Act—

“(i) to reserve, allocate, or spend for required activities;
“(ii) to allot or award to entities eligible to receive such funds; or

“(iii) to use for technical assistance or monitoring.

“(4) DISBURSEMENT.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under paragraph (1) for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(c) RULE FOR ADMINISTRATIVE COSTS.—A State educational agency or a local educational agency shall only use applicable funding (as defined in subsection (a)(3) or (b)(3), respectively) for administrative costs incurred in carrying out a provision listed in subsection (a)(1) or (b)(1), respectively, to the extent that the agency, in the absence of this section, could have used funds for administrative costs with respect to a program listed in subsection (a)(3) or (b)(3), respectively.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to relieve a State educational agen-
cy or local educational agency of any requirements relating
to—

“(1) use of Federal funds to supplement, not
supplant, non-Federal funds;
“(2) comparability of services;
“(3) equitable participation of private school
students and teachers;
“(4) applicable civil rights requirements;
“(5) subsections (a), (b), and (c) of section
1113; or
“(6) section 1111.”.

SEC. 104. SCHOOL IMPROVEMENT.

Section 1003 (20 U.S.C. 6303) is amended—

(1) in subsection (a)—

(A) by striking “2 percent” and inserting
“10 percent”; and

(B) by striking “subpart 2 of part A” and
all that follows through “sections 1116 and
1117,” and inserting “chapter B of subpart 1
of part A for each fiscal year to carry out sub-
section (b),”;

(2) in subsection (b)(1), by striking “for schools
identified for school improvement, corrective action,
and restructuring, for activities under section
1116(b)” and inserting “to carry out the State’s
system of school improvement under section 1111(b)(3)(B)(iii)”;

(3) in subsection (c)—

(A) in paragraph (1), by inserting “and” at the end;

(B) in paragraph (2), by striking “need for such funds; and” and inserting “commitment to using such funds to improve such schools.”; and

(C) by striking paragraph (3);

(4) in subsection (d)(1), by striking “subpart 2 of part A;” and inserting “chapter B of subpart 1 of part A;”;

(5) in subsection (c)—

(A) by striking “in any fiscal year” and inserting “in fiscal year 2014 and each subsequent fiscal year”;

(B) by striking “subpart 2” and inserting “chapter B of subpart 1 of part A”; and

(C) by striking “such subpart” and inserting “such chapter”;

(6) in subsection (f), by striking “and the percentage of students from each school from families with incomes below the poverty line”; and

(7) by striking subsection (g).
SEC. 105. STATE ADMINISTRATION.

Section 1004 (20 U.S.C. 6304) is amended to read as follows:

“SEC. 1004. STATE ADMINISTRATION.

“To carry out administrative duties under subparts 1, 2, and 3 of part A, each State may reserve 1 percent of the amounts received under such subparts.”.

Subtitle B—Improving the Academic Achievement of the Disadvantaged

SEC. 111. PART A HEADINGS.

(a) Part Heading.—The part heading for part A of title I (20 U.S.C. 6311 et seq.) is amended to read as follows:

“PART A—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED”.

(b) Subpart 1 Heading.—The Act is amended by striking the subpart heading for subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) and inserting the following:

“Subpart 1—Improving Basic Programs Operated by Local Educational Agencies

“CHAPTER A—BASIC PROGRAM REQUIREMENTS”.

(c) Subpart 2 Heading.—The Act is amended by striking the subpart heading for subpart 2 of part A of title I (20 U.S.C. 6331 et seq.) and inserting the following:
“CHAPTER B—ALLOCATIONS”.

SEC. 112. STATE PLANS.

Section 1111 (20 U.S.C. 6311) is amended to read as follows:

“SEC. 1111. STATE PLANS.

“(a) PLANS REQUIRED.—

“(1) IN GENERAL.—For any State desiring to receive a grant under this subpart, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, school leaders, specialized instructional support personnel, other appropriate school personnel, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act.

“(2) CONSOLIDATED PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 5302.

“(b) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND STATE ACCOUNTABILITY.—
“(1) ACADEMIC STANDARDS.—

“(A) IN GENERAL.—Each State plan shall demonstrate that the State has adopted academic content standards and academic achievement standards aligned with such content standards that comply with the requirements of this paragraph.

“(B) SUBJECTS.—The State shall have such academic standards for mathematics and reading or language arts, and may have any other subject determined by the State.

“(C) REQUIREMENTS.—The standards described in subparagraph (A) shall—

“(i) apply to all public schools and public school students in the State; and

“(ii) with respect to academic achievement standards, include the same knowledge, skills, and levels of achievement expected of all public school students in the State.

“(D) ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS.—Notwithstanding any other provision of this paragraph, a State may, through a documented and validated standards-setting process, adopt alternate academic
achievement standards for students with the most severe cognitive disabilities, if—

“(i) the determination about whether the achievement of an individual student should be measured against such standards is made separately for each student; and

“(ii) such standards—

“(I) are aligned with the State academic standards required under subparagraph (A);

“(II) promote access to the general curriculum; and

“(III) reflect professional judgment as to the highest possible standards achievable by such students.

“(E) English language proficiency standards.—Each State plan shall describe how the State educational agency will establish English language proficiency standards that are—

“(i) derived from the four recognized domains of speaking, listening, reading, and writing; and
“(ii) aligned with the State’s academic
content standards in reading or language
arts under subparagraph (A).

“(2) ACADEMIC ASSESSMENTS.—

“(A) IN GENERAL.—Each State plan shall
demonstrate that the State educational agency,
in consultation with local educational agencies,
has implemented a set of high-quality student
academic assessments in mathematics and read-
ing or language arts, and may have any other
subject chosen by the State.

“(B) REQUIREMENTS.—Such assessments
shall—

“(i) be used in determining the per-
formance of each local educational agency
and public school in the State in accord-
ance with the State’s accountability system
under paragraph (3);

“(ii) be the same academic assess-
ments used to measure the academic
achievement of all public school students in
the State;

“(iii) be aligned with the State’s aca-
demic standards and provide coherent in-
formation about student attainment of such standards;

“(iv) be used for purposes for which such assessments are valid and reliable, be of adequate technical quality for each purpose required under this Act, and be consistent with relevant, nationally recognized professional and technical standards;

“(v)(I) in the case of mathematics and reading, be administered in each of grades 3 through 8 and at least once in grades 9 through 12;

“(II) in the case of any other subject chosen by the State, be administered at the discretion of the State;

“(vi) measure individual student academic proficiency and growth;

“(vii) at the State’s discretion—

“(I) be administered through a single annual summative assessment;

or

“(II) be administered through multiple assessments during the course of the academic year that result in a single summative score that
provides valid, reliable, and transparent information on student achievement;

“(viii) include measures that assess higher-order thinking skills and understanding;

“(ix) provide for—

“(I) the participation in such assessments of all students;

“(II) the reasonable adaptations and accommodations for students with disabilities necessary to measure the academic achievement of such students relative to the State’s academic standards; and

“(III) the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided reasonable accommodations, including, to the extent practicable, assessments in the language and form most likely to yield accurate and reliable information on what such students know and can do in academic content areas, until such students
have achieved English language proficiency, as assessed by the State under subparagraph (D);

“(x) notwithstanding clause (ix)(III), provide for the assessment of reading or language arts in English for English learners who have attended school in the United States (not including Puerto Rico) for 3 or more consecutive school years, except that a local educational agency may, on a case-by-case basis, provide for the assessment of reading or language arts for each such student in a language other than English for a period not to exceed 2 additional consecutive years if the assessment would be more likely to yield accurate and reliable information on what such student knows and can do, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on reading or language arts assessments written in English;

“(xi) produce individual student interpretive, descriptive, and diagnostic reports
that allow parents, teachers, and school leaders to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments, and that are provided to parents, teachers, and school leaders, as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

“(xii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English language proficiency status, by migrant status, by status as a student with a disability, and by economically disadvantaged status, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would
reveal personally identifiable information about an individual student; and

“(xiii) be administered to not less than 95 percent of all students, and not less than 95 percent of each subgroup of students described in clause (xii).

“(C) ALTERNATE ASSESSMENTS.—A State may provide for alternate assessments aligned with the alternate academic standards adopted in accordance with paragraph (1)(D), for students with the most severe cognitive disabilities, if the State—

“(i) establishes and monitors implementation of clear and appropriate guidelines for individualized education program teams (as defined in section 614(d)(1)(B) of the Individuals with Disabilities Education Act) to apply when determining when a child’s significant cognitive disability justifies assessment based on alternate achievement standards;

“(ii) ensures that the parents of such students are informed that—
“(I) their child’s academic achievement will be measured against such alternate standards; and

“(II) whether participation in such assessments precludes the student from completing the requirements for a regular high school diploma, as determined by the State;

“(iii) demonstrates that such students are, to the extent practicable, included in the general curriculum and that such alternate assessments are aligned with such curriculum;

“(iv) develops, disseminates information about, and promotes the use of appropriate accommodations to increase the number of students with disabilities who are tested against academic achievement standards for the grade in which a student is enrolled; and

“(v) ensures that regular and special education teachers and other appropriate staff know how to administer the alternate assessments, including making appropriate
use of accommodations for students with disabilities.

“(D) ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY.—

“(i) IN GENERAL.—Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.

“(ii) ALIGNMENT.—The assessments described in clause (i) shall be aligned with the State’s English language proficiency standards described in paragraph (1)(E).

“(E) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with
the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

“(3) STATE ACCOUNTABILITY SYSTEMS.—

“(A) IN GENERAL.—Each State plan shall demonstrate that the State has developed and is implementing a single, statewide accountability system to ensure that all public school students graduate from high school prepared for postsecondary education or the workforce without the need for remediation.

“(B) ELEMENTS.—Each State accountability system described in subparagraph (A) shall at a minimum—

“(i) annually measure the academic achievement of all public school students in the State against the State’s academic standards adopted under paragraph (1), which may include measures of student growth toward such standards, using the assessments described in paragraph (2) and other valid and reliable academic indicators related to student achievement as identified by the State;
“(ii) annually evaluate and identify the academic performance of each public school in the State based on—

“(I) student academic achievement as measured in accordance with clause (i); and

“(II) overall performance of each category of students described in paragraph (2)(B)(xii), and achievement gaps between such categories of students; and

“(iii) include a system for school improvement for low-performing public schools receiving funds under this subpart that—

“(I) implements interventions in such schools that are designed to address such schools’ weaknesses; and

“(II) is implemented by local educational agencies serving such schools.

“(C) PROHIBITION.—Nothing in this section shall be construed to permit the Secretary to establish any criteria that specifies, defines, or prescribes any aspect of a State’s account-
ability system developed and implemented in accordance with this paragraph.

“(D) ACCOUNTABILITY FOR CHARTER SCHOOLS.—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.

“(4) REQUIREMENTS.—Each State plan shall describe—

“(A) how the State educational agency will assist each local educational agency and each public school affected by the State plan to comply with the requirements of this subpart; and

“(B) how the State educational agency will ensure that the results of the State assessments described in paragraph (2), the other indicators selected by the State under paragraph (3)(B)(i), and the school evaluations described in paragraph (3)(B)(ii), will be promptly provided to local educational agencies, schools, teachers, and parents in a manner that is clear and easy to understand, but not later than before the beginning of the school year following the school year in which such assessments, other indicators, or evaluations are taken or completed.
“(5) TIMELINE FOR IMPLEMENTATION.—Each State plan shall describe the process by which the State will adopt and implement the State academic standards, assessments, and accountability system required under this section within 6 years of enactment of the Student Success Act.

“(6) PROHIBITION.—Nothing in this section shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, control, support, or approve a State’s academic standards adopted in accordance with this subsection.

“(7) EXISTING STANDARDS.—Nothing in this subpart shall prohibit a State from revising, consistent with this section, any standard adopted under this section before or after the date of enactment of the Student Success Act.

“(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

“(1) the State will notify local educational agencies, schools, teachers, parents, and the public of the academic standards, academic assessments, and State accountability system developed and implemented under this section;
“(2) the State will participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act if the Secretary pays the costs of administering such assessments;

“(3) the State educational agency will notify local educational agencies and the public of the authority to operate schoolwide programs;

“(4) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this subpart;

“(5) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

“(6) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 1114; and

“(7) the State educational agency will inform local educational agencies in the State of the local
ed
educational agency’s authority to transfer funds under section 1002 and to obtain waivers under section 5401;

“(d) PARENTAL INVOLVEMENT.—Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

“(1) be based on the most current research that meets the highest professional and technical standards on effective parental involvement that fosters achievement to high standards for all children;

“(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement; and

“(3) be coordinated with programs funded under subpart 3 of part A of title III.

“(e) PEER REVIEW AND SECRETARIAL APPROVAL.—

“(1) ESTABLISHMENT.—The Secretary shall—

“(A) establish a peer-review process to assist in the review of State plans; and

“(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with
educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students.

“(2) APPROVAL.—The Secretary shall—

“(A) approve a State plan within 120 days of its submission;

“(B) disapprove of the State plan only if the Secretary demonstrates how the State plan fails to meet the requirements of this section and immediately notifies the State of such determination and the reasons for such determination;

“(C) not decline to approve a State’s plan before—

“(i) offering the State an opportunity to revise its plan;

“(ii) providing technical assistance in order to assist the State to meet the requirements of this section; and

“(iii) providing a hearing; and

“(D) have the authority to disapprove a State plan for not meeting the requirements of this subpart, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from,
such plan one or more specific elements of the
State’s academic standards or State account-
ability system, or to use specific academic as-
sessments or other indicators.

“(3) STATE REVISIONS.—A State plan shall be
revised by the State educational agency if it is nec-
essary to satisfy the requirements of this section.

“(4) PUBLIC REVIEW.—All communications,
feedback, and notifications under this subsection
shall be conducted in a manner that is immediately
made available to the public through the website of
the Department, including—

“(A) State plans submitted or resubmitted
by a State;

“(B) peer review comments;

“(C) State plan determinations by the Sec-
retary, including approvals or disapprovals; and

“(D) hearings.

“(f) DURATION OF THE PLAN.—

“(1) IN GENERAL.—Each State plan shall—

“(A) remain in effect for the duration of
the State’s participation under this subpart;

and

“(B) be periodically reviewed and revised
as necessary by the State educational agency to
reflect changes in the State’s strategies and programs under this subpart.

“(2) ADDITIONAL INFORMATION.—If a State makes significant changes to its State plan, such as the adoption of new State academic standards or new academic assessments, or adopts a new State accountability system, such information shall be submitted to the Secretary under subsection (e)(2) for approval.

“(g) FAILURE TO MEET REQUIREMENTS.—If a State fails to meet any of the requirements of this section then the Secretary shall withhold funds for State administration under this subpart until the Secretary determines that the State has fulfilled those requirements.

“(h) REPORTS.—

“(1) ANNUAL STATE REPORT CARD.—

“(A) IN GENERAL.—A State that receives assistance under this subpart shall prepare and disseminate an annual State report card. Such dissemination shall include, at a minimum, publicly posting the report card on the home page of the State educational agency’s website.

“(B) IMPLEMENTATION.—The State report card shall be—

“(i) concise; and
“(ii) presented in an understandable and uniform format that is developed in consultation with parents and, to the extent practicable, provided in a language that parents can understand.

“(C) REQUIRED INFORMATION.—The State shall include in its annual State report card information on—

“(i) the performance of students, in the aggregate and disaggregated by the categories of students described in subsection (b)(2)(B)(xii) (except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student), on the State academic assessments described in subsection (b)(2);

“(ii) the participation rate on such assessments, in the aggregate and disaggregated in accordance with clause (i));
“(iii) the performance of students, in the aggregate and disaggregated in accordance with clause (i), on other academic indicators described in subsection (b)(3)(B)(i);

“(iv) for each public high school in the State, the adjusted cohort graduation rate, and, at the State’s discretion, the extra-year adjusted cohort graduation rate, in the aggregate and disaggregated in accordance with clause (i);

“(v) each public school’s evaluation results as determined in accordance with subsection (b)(3)(B)(ii);

“(vi) the acquisition of English proficiency by English learners;

“(vii) information on the results of teacher evaluations conducted in accordance with section 2123(1); and

“(viii) the results of the assessments described in subsection (c)(2).

“(D) OPTIONAL INFORMATION.—The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other mem-
bers of the public with information regarding
the progress of each of the State’s public ele-
mentary schools and public secondary schools.

“(2) Annual local educational agency
report cards.—

“(A) In general.—A local educational
agency that receives assistance under this sub-
part shall prepare and disseminate an annual
local educational agency report card.

“(B) Minimum requirements.—The
State educational agency shall ensure that each
local educational agency collects appropriate
data and includes in the local educational agen-
cy’s annual report the information described in
paragraph (1)(C) as applied to the local edu-
cational agency and each school served by the
local educational agency, and—

“(i) in the case of a local educational
agency, information that shows how stu-
dents served by the local educational agen-
cy achieved on the statewide academic as-
essment and other academic indicators
adopted in accordance with subsection
(b)(3)(B)(i) compared to students in the
State as a whole; and
“(ii) in the case of a school, the school’s evaluation under subsection (b)(3)(B)(ii).

“(C) Other Information.—A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

“(D) Data.—A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

“(E) Public Dissemination.—The local educational agency shall publicly disseminate the information described in this paragraph to all schools served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, and make the information widely available through public
means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

“(3) Preexisting Report Cards.—A State educational agency or local educational agency may use public report cards on the performance of students, schools, local educational agencies, or the State, that were in effect prior to the enactment of the Student Success Act for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

“(4) Parents Right-to-Know.—

“(A) Achievement Information.—At the beginning of each school year, a school that receives funds under this subpart shall provide to each individual parent information on the level of achievement of the parent’s child in each of the State academic assessments and other academic indicators adopted in accordance with this subpart.
“(B) FORMAT.—The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(i) PRIVACY.—Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals consistent with section 444 of the General Education Provisions Act.

“(j) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section, except that the Secretary shall not attempt to influence, incentivize, or coerce State participation in any such partnerships.

“(k) CONSTRUCTION.—Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

“(l) SPECIAL RULE WITH RESPECT TO BUREAU-FUNDED SCHOOLS.—In determining the assessments to be used by each school operated or funded by the Bureau of Indian Education receiving funds under this subpart, the following shall apply:
“(1) Each such school that is accredited by the State in which it is operating shall use the assessments and other academic indicators the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment and academic indicators as approved by the Secretary of the Interior.

“(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment and other academic indicators, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments and academic indicators adopted by other schools in the same State or region, that meet the requirements of this section.

“(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment and other academic indicators developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment and academic indicators meet the requirements of this section.”.

SEC. 113. LOCAL EDUCATIONAL AGENCY PLANS.

Section 1112 (20 U.S.C. 6312) is amended to read as follows:
“SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

“(a) PLANS REQUIRED.—

“(1) SUBGRANTS.—A local educational agency may receive a subgrant under this subpart for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

“(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 5302.

“(b) PLAN PROVISIONS.—Each local educational agency plan shall describe—

“(1) how the local educational agency will monitor, in addition to the State assessments described in section 1111(b)(2), students’ progress in meeting the State’s academic standards;

“(2) how the local educational agency will identify quickly and effectively those students who may be at risk of failing to meet the State’s academic standards;
“(3) how the local educational agency will provide the additional educational assistance to individual students in need of additional help in meeting the State’s academic standards;

“(4) how the local educational agency will implement the school improvement system described in section 1111(b)(3)(B)(iii) for any of the agency’s schools identified under such section;

“(5) how the local educational agency will coordinate programs under this subpart with other programs under this Act and other Acts, as appropriate;

“(6) the poverty criteria that will be used to select school attendance areas under section 1113;

“(7) how teachers, in consultation with parents, administrators, and specialized instructional support personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this subpart;

“(8) in general, the nature of the programs to be conducted by the local educational agency’s schools under sections 1114 and 1115, and, where appropriate, educational services outside such schools for children living in local institutions for neglected and delinquent children, and for neglected
and delinquent children in community day school programs;

“(9) how the local educational agency will ensure that migratory children who are eligible to receive services under this subpart are selected to receive such services on the same basis as other children who are selected to receive services under this subpart;

“(10) the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(c)(3)(A);

“(11) the strategy the local educational agency will use to implement effective parental involvement under section 1118;

“(12) if appropriate, how the local educational agency will use funds under this subpart to support preschool programs for children, particularly children participating in a Head Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or another comparable public early childhood development program; and
“(13) how the local educational agency, through incentives for voluntary transfers, the provision of professional development, recruitment programs, incentive pay, performance pay, or other effective strategies, will address disparities in the rates of low-income and minority students and other students being taught by ineffective teachers.

“(c) ASSURANCES.—Each local educational agency plan shall provide assurances that the local educational agency will—

“(1) participate, if selected, in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 303(b)(2) of the National Assessment of Educational Progress Authorization Act;

“(2) inform schools of schoolwide program authority and the ability to consolidate funds from Federal, State, and local sources;

“(3) provide technical assistance to schoolwide programs;

“(4) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and mean-
ing consultation with private school officials regarding such services;

“(5) in the case of a local educational agency that chooses to use funds under this subpart to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;

“(6) inform eligible schools of the local educational agency’s authority to request waivers on the school’s behalf under Title V; and

“(7) ensure that the results of the academic assessments required under section 1111(b)(2) will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(d) SPECIAL RULE.—In carrying out subsection (c)(5), the Secretary shall—

“(1) consult with the Secretary of Health and Human Services and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local edu-
cational agencies to comply with such subparagraph; and

“(2) disseminate to local educational agencies the education performance standards in effect under section 641A(a)(1)(B) of the Head Start Act, and such agencies affected by such subsection shall plan for the implementation of such subsection (taking into consideration existing State and local laws, and local teacher contracts).

“(e) PLAN DEVELOPMENT AND DURATION.—

“(1) CONSULTATION.—Each local educational agency plan shall be developed in consultation with teachers, school leaders, administrators, and other appropriate school personnel, and with parents of children in schools served under this subpart.

“(2) DURATION.—Each such plan shall be submitted for the first year for which this part is in effect following the date of enactment of this Act and shall remain in effect for the duration of the agency’s participation under this subpart.

“(3) REVIEW.—Each local educational agency shall periodically review and, as necessary, revise its plan.

“(f) STATE APPROVAL.—
“(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

“(2) APPROVAL.—The State educational agency shall approve a local educational agency’s plan only if the State educational agency determines that the local educational agency’s plan—

“(A) enables schools served under this subpart to substantially help children served under this subpart to meet the State’s academic standards described in section 1111(b)(1); and

“(B) meets the requirements of this section.

“(3) REVIEW.—The State educational agency shall review the local educational agency’s plan to determine if such agency’s activities are in accordance with section 1118.

“(g) PARENTAL NOTIFICATION.—

“(1) IN GENERAL.—

“(A) NOTICE.—Each local educational agency using funds under this subpart and subpart 4 to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform parents of an English learner identified for par-
participation, or participating in, such a program of—

“(i) the reasons for the identification of their child as an English learner and in need of placement in a language instruction educational program;

“(ii) the child’s level of English proficiency, how such level was assessed, and the status of the child’s academic achievement;

“(iii) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

“(iv) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

“(v) how such program will specifically help their child learn English, and meet age-appropriate academic achieve-
ment standards for grade promotion and graduation;

“(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school for such program if funds under this subpart are used for children in secondary schools;

“(vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child;

“(viii) information pertaining to parental rights that includes written guidance—

“(I) detailing—

“(aa) the right that parents have to have their child immediately removed from such program upon their request; and

“(bb) the options that parents have to decline to enroll their child in such program or to
choose another program or method of instruction, if available; and

“(II) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

“(2) NOTICE.—The notice and information provided in paragraph (1) to parents of a child identified for participation in a language instruction educational program for English learners shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

“(3) Special rule applicable during the school year.—For those children who have not been identified as English learners prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

“(4) Parental participation.—Each local educational agency receiving funds under this subpart shall implement an effective means of outreach
to parents of English learners to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet the State’s academic standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this subpart.

“(5) Basis for admission or exclusion.—A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.”.

SEC. 114. ELIGIBLE SCHOOL ATTENDANCE AREAS.

Section 1113 (20 U.S.C. 6313) is amended—

(1) by striking “part” each place it appears and inserting “subpart”; and

(2) in subsection (c)(4)—

(A) by striking “subpart 2” and inserting “Chapter B”; and

(B) by striking “school improvement, corrective action, and restructuring under section
1116(b)” and inserting “school improvement under section 1111(b)(3)(B)(iii)”.

SECTION 115. SCHOOLWIDE PROGRAMS.

Section 1114 (20 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “part” and inserting “subpart”; and

(ii) by striking “in which” through “such families”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “part” and inserting “subpart”; and

(ii) in subparagraph (B)—

(I) by striking “children with limited English proficiency” and inserting “English learners”; and

(II) by striking “part” and inserting “subpart”;

(C) in paragraph (3)(B), by striking “maintenance of effort,” after “private school children”; and

(D) by striking paragraph (4); and

(2) in subsection (b)—

(A) in paragraph (1)—
(i) in subparagraph (A)—
  (I) by striking “(including” and all that follows through “1309(2))”; and
  (II) by striking “content standards and the State student academic achievement standards” and inserting “standards”;

(ii) in subparagraph (B)—
  (I) in clause (i), by striking “proficient” and all that follows through “section 1111(b)(1)(D)” and inserting “academic standards described in section 1111(b)(1)”;
  (II) in clause (ii), in the matter preceding subclause (I), by striking “based on scientifically based research” and inserting “evidence-based”;
  (III) in clause (iii)—
    (aa) by striking “student academic achievement standards” and inserting “academic standards”; and
(bb) by striking “schoolwide program,” and all that follows through “technical education programs; and” and inserting “schoolwide programs; and”; and

(IV) in clause (iv), by striking “the State and local improvement plans” and inserting “school improvement strategies”;

(iii) in subparagraph (C), by striking “highly qualified” and inserting “effective”;

(iv) in subparagraph (D)—

(I) by striking “In accordance with section 1119 and subsection (a)(4), high-quality” and inserting “High-quality”;

(II) by striking “pupil services” and inserting “specialized instructional support services”; and

(III) by striking “student academic achievement” and inserting “academic”;
(v) in subparagraph (E), by striking “high-quality highly qualified” and inserting “effective”;
(vi) in subparagraph (G), by striking “, such as Head Start, Even Start, Early Reading First, or a State-run preschool program,”;
(vii) in subparagraph (H), by striking “section 1111(b)(3)” and inserting “section 1111(b)(2)”;
(viii) in subparagraph (I), by striking “proficient or advanced levels of academic achievement standards” and inserting “State academic standards”; and
(ix) in subparagraph (J), by striking “vocational” and inserting “career”; and
(B) in paragraph (2)—
(i) in subparagraph (A)—
(I) in the matter preceding clause (i)—
(aa) by striking “first develop” and all that follows through “2001)” and inserting “have in place”; and
(bb) by striking “and its school support team or other technical assistance provider under section 1117”; (II) in clause (ii), by striking “part” and inserting “subpart”; and (III) in clause (iv), by striking “section 1111(b)(3)” and inserting “section 1111(b)(2)”;

(ii) in subparagraph (B)—

(I) in clause (i)—

(aa) by striking “, after consider- ing the recommendation of the technical assistance providers under section 1117,”; and (bb) by striking “the No Child Left Behind Act of 2001” and inserting “Student Success Act”;

(II) in clause (ii)—

(aa) by striking “(including administrators of programs described in other parts of this title)”; and
(bb) by striking “pupil services” and inserting “specialized instructional support services”;

(III) in clause (iii), by striking “part” and inserting “subpart”; and

(IV) in clause (v), by striking “Reading First, Early Reading First, Even Start,”; and

(3) in subsection (c)—

(A) by striking “part” and inserting “subpart”; and

(B) by striking “, such as Even Start” and all that follows through the period at the end.

SEC. 116. TARGETED ASSISTANCE SCHOOLS.

Section 1115 (20 U.S.C. 6315) is amended—

(1) in subsection (a)—

(A) by striking “are ineligible for a schoolwide program under section 1114, or that”; 

(B) by striking “operate such” and inserting “operate”; and

(C) by striking “part” and inserting “subpart”; 

(2) in subsection (b)—
(A) in paragraph (1)(B), by striking “challenging student academic achievement” and inserting “academic”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “limited English proficient children” and inserting “English learners”; and

(II) by striking “part” each place it appears and inserting “subpart”;

(ii) in subparagraph (B)—

(I) in the heading, by striking “, EVEN START, OR EARLY READING FIRST”; and

(II) by striking “, Even Start, or Early Reading First”;

(iii) in subparagraph (C)—

(I) by amending the heading to read as follows: “SUBPART 3—CHILDREN”;

(II) by striking “part C” and inserting “subpart 3”; and

(III) by striking “part” and inserting “subpart”;
(iv) in subparagraphs (D) and (E), by striking “part” each place it appears and inserting “subpart”; 

(C) in paragraph (3), by striking “part” and inserting “subpart”; 

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking “part” and inserting “subpart”; and

(II) by striking “challenging student academic achievement” and inserting “academic”;

(ii) in subparagraph (A)—

(I) by striking “part” and inserting “subpart”; and

(II) by striking “challenging student academic achievement” and inserting “academic”;

(iii) in subparagraph (B), by striking “part” and inserting “subpart”; 

(iv) in subparagraph (C)—
(I) by striking “based on scientifically based research” and inserting “evidence-based”; and

(II) by striking “part” and inserting “subpart”;

(v) in subparagraph (D), by striking “such as Head Start, Even Start, Early Reading First or State-run preschool programs”;

(vi) in subparagraph (E), by striking “highly qualified” and inserting “effective”;

(vii) in subparagraph (F)—

(I) by striking “in accordance with subsection (e)(3) and section 1119,”;

(II) by striking “part” and inserting “subpart”; and

(III) by striking “pupil services personnel” and inserting “specialized instructional support personnel”; 

(viii) in subparagraph (H), by striking “vocational” and inserting “career”; and

(B) in paragraph (2)—
(i) in the matter preceding subparagraph (A), by striking “proficient and advanced levels of achievement” and inserting “academic standards”;

(ii) in subparagraph (A), by striking “part” and inserting “subpart”; and

(iii) in subparagraph (B), by striking “challenging student academic achievement” and inserting “academic”;

(4) in subsection (d), in the matter preceding paragraph (1), by striking “part” each place it appears and inserting “subpart”; and

(5) in subsection (c)—

(A) in paragraph (2)(B)—

(i) in the matter preceding clause (i), by striking “part” and inserting “subpart”; and

(ii) by striking “pupil services” and inserting “specialized instructional support services”; and

(B) by striking paragraph (3).
SEC. 117. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT; SCHOOL SUPPORT AND RECOGNITION.

The Act is amended by repealing sections 1116 and 1117 (20 U.S.C. 6316; 6317).

SEC. 118. PARENTAL INVOLVEMENT.

Section 1118 (20 U.S.C. 6318) is amended—

(1) by striking “part” each place such term appears and inserting “subpart”.

(2) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “, and” and all that follows through “1116”;

and

(ii) in subparagraph (D), by striking “, such as” and all that follows through “preschool programs”; and

(B) in paragraph (3), by striking “subpart 2 of this part” each place it appears and inserting “chapter B of this subpart”; 

(3) in subsection (c)(4), by striking “and the proficiency levels students are expected to meet”;

(4) in subsection (d)(1), by striking “student academic achievement” and inserting “academic”;

(5) in subsection (e)—
(A) in paragraph (1), by striking “State’s academic content standards and State student academic achievement standards” and inserting “State’s academic standards”;

(B) in paragraph (3)—

(i) by striking “pupil services personnel,” and inserting “specialized instructional support personnel,”; and

(ii) by striking “principals,” and inserting “school leaders,”; and

(C) in paragraph (4), by striking “Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other” and inserting “other Federal, State, and local”; and

(6) by amending subsection (g) to read as follows:

“(g) FAMILY ENGAGEMENT IN EDUCATION PROGRAMS.—In a State operating a program under subpart 3 of part A of title III, each local educational agency or school that receives assistance under this subpart shall inform such parents and organizations of the existence of such programs.”.
SEC. 119. QUALIFICATIONS FOR TEACHERS AND PARA-
PROFESSIONALS.

The Act is amended by repealing section 1119 (20

SEC. 120. PARTICIPATION OF CHILDREN ENROLLED IN PRI-
VATE SCHOOLS.

Section 1120 (20 U.S.C. 6320) is amended to read
as follows:

“SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN
PRIVATE SCHOOLS.

“(a) General Requirement.—

“(1) In general.—To the extent consistent
with the number of eligible children identified under
section 1115(b) in the school district served by a
local educational agency who are enrolled in private
elementary schools and secondary schools, a local
educational agency shall—

“(A) after timely and meaningful consulta-
tion with appropriate private school officials,
provide such children, on an equitable basis and
individually or in combination, as requested by
the officials to best meet the needs of such chil-
dren, special educational services, instructional
services, counseling, mentoring, one-on-one tu-
toring, or other benefits under this subpart
(such as dual enrollment, educational radio and
television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and

“(B) ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to this subpart.

“(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.— Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

“(3) EQUITY.—

“(A) IN GENERAL.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this subpart, and shall be provided in a timely manner.

“(B) OMBUDSMAN.—To help ensure such equity for such private school children, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this subpart.

“(4) EXPENDITURES.—
“(A) IN GENERAL.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the expenditures for participating public school children, taking into account the number, and educational needs, of the children to be served.

“(B) OBLIGATION OF FUNDS.—Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall—

“(i) be obligated in the fiscal year for which the funds are received by the agency; and

“(ii) with respect to any such funds that cannot be so obligated, be used to serve such children in the following fiscal year.

“(5) PROVISION OF SERVICES.—The local educational agency or, in a case described in subsection (b)(6)(C), the State educational agency involved, may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

“(b) CONSULTATION.—
“(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency’s programs under this subpart in order to reach an agreement between the agency and the officials about equitable and effective programs for eligible private school children. Such process shall include consultation on issues such as—

“(A) how the children’s needs will be identified;

“(B) what services will be offered;

“(C) how, where, and by whom the services will be provided;

“(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

“(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services and how that proportion of funds is determined under such subsection;

“(F) the method or sources of data that are used under subsection (c) and section
1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

“(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers;

“(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor;

“(I) whether the agency will provide services under this section directly or through contracts with public and private agencies, organizations, and institutions; and

“(J) whether to provide equitable services to eligible private school children—

“(i) by creating a pool or pools of funds with all of the funds allocated under paragraph (4) based on all the children
from low-income families who attend pri-

vate schools in a participating school at-

tendance area of the agency from which

the local educational agency will provide

such services to all such children; or

“(ii) by providing such services to eli-

gible children in each private school in the

agency’s participating school attendance

area with the proportion of funds allocated

under paragraph (4) based on the number

of children from low-income families who

attend such school.

“(2) Disagreement.—If a local educational

agency disagrees with the views of private school of-

ficials with respect to an issue described in para-

graph (1), the local educational agency shall provide

in writing to such private school officials an analysis

of the reasons why the local educational agency has

chosen not to adopt the course of action requested

by such officials.

“(3) Timing.—Such consultation shall include

meetings of agency and private school officials and

shall occur before the local educational agency

makes any decision that affects the opportunities of

eligible private school children to participate in pro-
grams under this subpart. Such meetings shall continue throughout implementation and assessment of services provided under this section.

“(4) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

“(5) DOCUMENTATION.—Each local educational agency shall maintain in the agency’s records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultation have, taken place to the State educational agency.

“(6) COMPLIANCE.—
“(A) IN GENERAL.—A private school official shall have the right to file a complaint with the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not treat the private school or its students equitably as required by this section.

“(B) PROCEDURE.—If the private school official wishes to file a complaint, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

“(C) STATE EDUCATIONAL AGENCIES.—A State educational agency shall provide services under this section directly or through contracts with public and private agencies, organizations, and institutions, if—

“(i) the appropriate private school officials or their representatives have—
“(I) requested that the State educational agency provide such services directly; and

“(II) demonstrated that the local educational agency involved has not met the requirements of this section; or

“(ii) in a case in which—

“(I) a local educational agency has more than 10,000 children from low-income families who attend private elementary schools or secondary schools in a participating school attendance area of the agency that are not being served by the agency’s program under this section; or

“(II) 90 percent of the eligible private school students in a participating school attendance area of the agency are not being served by the agency’s program under this section.

“(c) Allocation for Equitable Service to Private School Students.—

“(1) Calculation.—A local educational agency shall have the final authority, consistent with this
section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

“(A) using the same measure of low income used to count public school children;

“(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

“(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

“(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

“(2) COMPLAINT PROCESS.—Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 5503.

“(d) PUBLIC CONTROL OF FUNDS.—

“(1) IN GENERAL.—The control of funds provided under this subpart, and title to materials,
equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property.

“(2) Provision of Services.—

“(A) Provider.—The provision of services under this section shall be provided—

“(i) by employees of a public agency;

or

“(ii) through contract by such public agency with an individual, association, agency, or organization.

“(B) Requirement.—In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

“(e) Standards for a Bypass.—If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is un-
willing to provide for such participation, as required by this section, the Secretary shall—

“(1) waive the requirements of this section for such local educational agency;

“(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 5503 and 5504; and

“(3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.”.

SEC. 121. FISCAL REQUIREMENTS.

Section 1120A (20 U.S.C. 6321) is amended—

(1) by striking “part” each place it appears and inserting “subpart”; and

(2) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (e), respectively.

SEC. 122. COORDINATION REQUIREMENTS.

Section 1120B (20 U.S.C. 6322) is amended—

(1) by striking “part” each place it appears and inserting “subpart”;}
(2) in subsection (a), by striking "such as the Early Reading First program"; and

(3) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "such as the Early Reading First program,";

(B) in paragraphs (1) through (3), by striking "such as the Early Reading First program" each place it appears;

(C) in paragraph (4), by striking "Early Reading First program staff,"; and

(D) in paragraph (5), by striking "and entities carrying out Early Reading First programs".

SEC. 123. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

Section 1121 (20 U.S.C. 6331) is amended—

(1) in subsection (a), by striking "appropriated for payments to States for any fiscal year under section 1002(a) and 1125A(f)"’ and inserting “reserved for this subpart under section 1122(a) and 1125A(f)”; and

(2) in subsection (b)—
(A) in paragraph (2), by striking “the No Child Left Behind Act of 2001” and inserting “the Student Success Act”;

(B) in paragraph (3)—

(i) in subparagraph (B), by striking “basis,” and all that follows through the period at the end and inserting “basis.”;

(ii) in subparagraph (C)(ii), by striking “challenging State academic content standards” and inserting “State academic standards”; and

(iii) by striking subparagraph (D); and

(C) in subsection (d)(2), by striking “part” and inserting “subpart”.

SEC. 124. ALLOCATIONS TO STATES.

Section 1122 (20 U.S.C. 6332) is amended—

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

“(a) RESERVATION.—

“(1) IN GENERAL.—Subject to section 1125A(f), from the amounts appropriated under section 3(a)(1), the Secretary shall reserve 91 percent of such amounts to carry out this chapter.
“(2) ALLOCATION FORMULA.—Of the amount reserved under paragraph (1) for each of fiscal years 2013 to 2018 (referred to in this subsection as the current fiscal year)—

“(A) an amount equal to the amount made available to carry out section 1124 for fiscal year 2001 shall be used to carry out section 1124;

“(B) an amount equal to the amount made available to carry out section 1124A for fiscal year 2001 shall be used to carry out section 1124A; and

“(C) an amount equal to 100 percent of the amount, if any, by which the total amount made available to carry out sections 1124, 1124A, and 1125 for the fiscal year for which the determination is made exceeds the total amount available to carry out sections 1124 and 1124A for fiscal year 2001 shall be used to carry out section 1125.”;

(2) in subsection (b)(1), by striking “subpart” and inserting “chapter”;

(3) in subsection (c)(3), by striking “part” and inserting “subpart”; and
(4) in subsection (d)(1), by striking “subpart” and inserting “chapter”.

SEC. 125. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

Section 1124 (20 U.S.C. 6333) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking “subpart” and inserting “chapter”; and

(ii) in subparagraph (C)(i), by striking “subpart” and inserting “chapter”; and

(B) in paragraph (4)(C), by striking “subpart” each place it appears and inserting “chapter”; and

(2) in subsection (c)—

(A) in paragraph (1)(B), by striking “subpart 1 of part D” and inserting “chapter A of subpart 3”; and

(B) in paragraph (2), by striking “part” and inserting “subpart”.


SEC. 126. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

Section 1125AA (20 U.S.C. 6336) is amended to read as follows:


“Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this subpart shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 1125 in the applicable fiscal year meets the requirements of section 1122(a).”.

SEC. 127. EDUCATION FINANCE INCENTIVE GRANT PROGRAM.

Section 1125A (20 U.S.C. 6337) is amended—

(1) by striking “part” each place it appears and inserting “subpart”;

(2) in subsection (a), by striking “appropriated” and inserting “reserved”;

(3) in subsection (b)(1)—

(A) in subparagraph (A), by striking “appropriated” and inserting “reserved”; and
(B) in subparagraph (B)(i), by striking “total appropriations” and inserting “the total amount reserved under section 1122(a) to carry out this section”;

(4) by striking subsection (e);

(5) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively;

(6) by amending subsection (e) (as so redesignated) to read as follows:

“(e) RESERVATIONS.—From amounts reserved under section 1122(a)(1), the Secretary shall reserve 23 percent to carry out this section.”; and

(7) in subsection (f) (as so redesignated), in the subsection heading, by striking “APPROPRIATIONS” and inserting “RESERVATIONS”.

SEC. 128. CARRYOVER AND WAIVER.

Section 1127 (20 U.S.C. 6339) is amended by striking “subpart” each place it appears and inserting “chapter”.

Subtitle C—Additional Aid to States and School Districts

SEC. 131. ADDITIONAL AID.

(a) IN GENERAL.—Title I (20 U.S.C. 6301 et seq.) is amended—
(1) by striking parts B through D and F through H; and

(2) by inserting after subpart 1 of part A the following:

“SUBPART 2—EDUCATION OF MIGRATORY CHILDREN

“SEC. 1131. PROGRAM PURPOSES.

“The purposes of this subpart are as follows:

“(1) To assist States in supporting high-quality and comprehensive educational programs and services during the school year, and as applicable, during summer or intercession periods, that address the unique educational needs of migratory children.

“(2) To ensure that migratory children who move among the States, not be penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic standards.

“(3) To help such children succeed in school, meet the State academic standards that all children are expected to meet, and graduate from high school prepared for postsecondary education and the workforce without the need for remediation.

“(4) To help such children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and
other factors that inhibit the ability of such children to succeed in school.

“(5) To help such children benefit from State and local systemic reforms.

“SEC. 1132. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—From the amounts appropriated under section 3(a)(1), the Secretary shall reserve 2.5 percent to carry out this subpart.

“(b) GRANTS AWARDED.—From the amounts reserved under subsection (a) and not reserved under section 1138(c), the Secretary shall make allotments for the fiscal year to State educational agencies, or consortia of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this subpart.

“SEC. 1133. STATE ALLOCATIONS.

“(a) STATE ALLOCATIONS.—Except as provided in subsection (c), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this subpart an amount equal to the product of—

“(1) the sum of—

“(A) the average number of identified eligible migratory children aged 3 through 21 residing in the State, based on data for the preceding 3 years; and
“(B) the number of identified eligible migratory children, aged 3 through 21, who received services under this subpart in summer or intersession programs provided by the State during the previous year; multiplied by

“(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

“(b) HOLD HARMLESS.—Notwithstanding subsection (a), for each of fiscal years 2013 through 2015, no State shall receive less than 90 percent of the State’s allocation under this section for the previous year.

“(c) ALLOCATION TO PUERTO RICO.—For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1) if such subsection applied to the Commonwealth of Puerto Rico by the product of—

“(1) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States, except that the percentage calculated
under this subparagraph shall not be less than 85 percent; and

“(2) 32 percent of the average per-pupil expenditure in the United States.

“(d) RATABLE REDUCTIONS; REALLOCATIONS.—

“(1) IN GENERAL.—

“(A) RATABLE REDUCTIONS.—If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this subpart for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

“(B) REALLOCATION.—If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this subpart.

“(2) SPECIAL RULE.—

“(A) FURTHER REDUCTIONS.—The Secretary shall further reduce the amount of any grant to a State under this subpart for any fiscal year if the Secretary determines, based on available information on the numbers and needs
of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1134.

“(B) REALLOCATION.— The Secretary shall reallocate such excess funds to other States whose grants under this subpart would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

“(e) CONSORTIUM ARRANGEMENTS.—

“(1) IN GENERAL.—In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

“(2) PROPOSALS.—Any State, regardless of the amount of such State’s allocation, may submit a consortium arrangement to the Secretary for approval.

“(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or
(2) if the proposal demonstrates that the arrange-
ment will—

“(A) reduce administrative costs or pro-
gram function costs for State programs; and

“(B) make more funds available for direct
services to add substantially to the educational
achievement of children to be served under this
subpart.

“(f) Determining Numbers of Eligible Chil-
dren.—In order to determine the identified number of
migratory children residing in each State for purposes of
this section, the Secretary shall—

“(1) use the most recent information that most
accurately reflects the actual number of migratory
children;

“(2) develop and implement a procedure for
monitoring the accuracy of such information;

“(3) implement the procedure for more accu-
rately reflecting cost factors for different types of
summer and intersession program designs; and

“(4) conduct an analysis of the options for ad-
justing the formula so as to better direct services to
migratory children, including the most at-risk migra-
tory children.
“(g) NONPARTICIPATING STATES.—In the case of a State desiring to receive an allocation under this subpart for a fiscal year that did not receive an allocation for the previous fiscal year or that has been participating for less than 3 consecutive years, the Secretary shall calculate the State’s number of identified migratory children aged 3 through 21 for purposes of subsection (a)(1)(A) by using the most recent data available that identifies the migratory children residing in the State until data is available to calculate the 3-year average number of such children in accordance with such subsection.

“SEC. 1134. STATE APPLICATIONS; SERVICES.

“(a) APPLICATION REQUIRED.—Any State desiring to receive a grant under this subpart for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(b) PROGRAM INFORMATION.—Each such application shall include—

“(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this subpart, the State and its local operating agencies will ensure that the unique educational needs of migratory children, including preschool migratory children, are identified and addressed through—
“(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

“(B) joint planning among local, State, and Federal educational programs serving migratory children, including language instruction educational programs under chapter A of subpart 4; and

“(C) the integration of services available under this subpart with services provided by those other programs;

“(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same State academic standards that all children are expected to meet;

“(3) a description of how the State will use funds received under this subpart to promote interstate and intrastate coordination of services for migratory children, including how the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such a move occurs during the regular school year;
“(4) a description of the State’s priorities for the use of funds received under this subpart, and how such priorities relate to the State’s assessment of needs for services in the State;

“(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d), and the availability of funds from other Federal, State, and local programs; and

“(6) a description of how the State will encourage programs and projects assisted under this subpart to offer family literacy services if the programs and projects serve a substantial number of migratory children whose parents do not have a regular high school diploma or its recognized equivalent or who have low levels of literacy.

“(c) ASSURANCES.—Each such application shall also include assurances that—

“(1) funds received under this subpart will be used only—

“(A) for programs and projects, including the acquisition of equipment, in accordance with section 1136; and
“(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

“(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, subsections (b) and (e) of section 1120A, and part C;

“(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parents of migratory children for programs of not less than one school year in duration, and that all such programs and projects are carried out—

“(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 1118, unless extraordinary circumstances make such provision impractical; and

“(B) in a format and language understandable to the parents;

“(4) in planning and carrying out such programs and projects, there has been, and will be, ade-
quate provision for addressing the unmet education needs of preschool migratory children;

“(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under subpart 1;

“(6) to the extent feasible, such programs and projects will provide for—

“(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

“(B) professional development programs, including mentoring, for teachers and other program personnel;

“(C) high-quality, evidence-based family literacy programs;

“(D) the integration of information technology into educational and related programs;

and

“(E) programs to facilitate the transition of secondary school students to postsecondary
education or employment without the need for
remediation; and

“(7) the State will assist the Secretary in deter-
mining the number of migratory children under
paragraph (1) of section 1133(a).

“(d) PRIORITY FOR SERVICES.—In providing services
with funds received under this subpart, each recipient of
such funds shall give priority to migratory children who
are failing, or most at risk of failing, to meet the State’s
academic standards under section 1111 (b)(1) .

“(e) CONTINUATION OF SERVICES.—Notwith-
standing any other provision of this subpart—

“(1) a child who ceases to be a migratory child
during a school term shall be eligible for services
until the end of such term;

“(2) a child who is no longer a migratory child
may continue to receive services for one additional
school year, but only if comparable services are not
available through other programs; and

“(3) secondary school students who were eligi-
ble for services in secondary school may continue to
be served through credit accrual programs until
graduation.
“SEC. 1135. SECRETARIAL APPROVAL; PEER REVIEW.

“(a) SECRETARIAL APPROVAL.—The Secretary shall approve each State application that meets the requirements of this subpart.

“(b) PEER REVIEW.—The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

“SEC. 1136. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

“(a) COMPREHENSIVE PLAN.—

“(1) IN GENERAL.—Each State that receives assistance under this subpart shall ensure that the State and its local operating agencies identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan that—

“(A) is integrated with other programs under this Act or other Acts, as appropriate;

“(B) may be submitted as a part of a consolidated application under section 5302, if—

“(i) the unique needs of migratory children are specifically addressed in the comprehensive State plan;
“(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

“(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this subpart;

“(C) provides that migratory children will have an opportunity to meet the same State academic standards under section 1111(b)(1) that all children are expected to meet;

“(D) specifies measurable program goals and outcomes;

“(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

“(F) is the product of joint planning among such local, State, and Federal programs, including programs under subpart 1, early childhood programs, and language instruction educational programs under chapter A of subpart 4; and
“(G) provides for the integration of services available under this subpart with services provided by such other programs.

“(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

“(A) remain in effect for the duration of the State’s participation under this subpart; and

“(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State’s strategies and programs under this subpart.

“(b) AUTHORIZED ACTIVITIES.—

“(1) FLEXIBILITY.—In implementing the comprehensive plan described in subsection (a), each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this subpart, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

“(2) UNADDRESSED NEEDS.—Funds provided under this subpart shall be used to address the
needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under subpart 1 may receive those services through funds provided under that subpart, or through funds under this subpart that remain after the agency addresses the needs described in paragraph (1).

“(3) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

“SEC. 1137. BYPASS.

“The Secretary may use all or part of any State’s allocation under this subpart to make arrangements with any public or private agency to carry out the purpose of this subpart in such State if the Secretary determines that—

“(1) the State is unable or unwilling to conduct educational programs for migratory children;

“(2) such arrangements would result in more efficient and economic administration of such programs; or
“(3) such arrangements would add substantially to the educational achievement of such children.

“SEC. 1138. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

“(a) IMPROVEMENT OF COORDINATION.—

“(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies’ educational programs, including through the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

“(2) DURATION.—Grants or contracts under this subsection may be awarded for not more than 5 years.

“(b) STUDENT RECORDS.—

“(1) ASSISTANCE.—The Secretary shall assist States in developing and maintaining an effective system for the electronic transfer of student records and in determining the number of migratory children in each State.

“(2) INFORMATION SYSTEM.—
“(A) IN GENERAL.—The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, the date of enactment of this Act. The Secretary shall determine the minimum data elements that each State receiving funds under this subpart shall collect and maintain. Such minimum data elements may include—

“(i) immunization records and other health information;

“(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 1111(b)(2);

“(iii) other academic information essential to ensuring that migratory children achieve to the States’s academic standards; and
“(iv) eligibility for services under the Individuals with Disabilities Education Act.

“(B) The Secretary shall consult with States before updating the data elements that each State receiving funds under this subpart shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information.

“(3) NO COST FOR CERTAIN TRANSFERS.—A State educational agency or local educational agency receiving assistance under this subpart shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

“(4) REPORT TO CONGRESS.—

“(A) IN GENERAL.—Not later than April 30, 2013, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary’s findings and
recommendations regarding the maintenance
and transfer of health and educational informa-
tion for migratory students by the States.

“(B) REQUIRED CONTENTS.—The Sec-
retary shall include in such report—

“(i) a review of the progress of States
in developing and linking electronic records
transfer systems;

“(ii) recommendations for maintaining
such systems; and

“(iii) recommendations for improving
the continuity of services provided for mi-
gratory students.

“(c) AVAILABILITY OF FUNDS.—The Secretary shall
reserve not more than $10,000,000 of the amount re-
served under section 1132 to carry out this section for
each fiscal year.

“(d) DATA COLLECTION.—The Secretary shall direct
the National Center for Education Statistics to collect
data on migratory children.

“SEC. 1139. DEFINITIONS.

“As used in this subpart:

“(1) LOCAL OPERATING AGENCY.—The term
‘local operating agency’ means—
“(A) a local educational agency to which a State educational agency makes a subgrant under this subpart;

“(B) a public or private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this subpart; or

“(C) a State educational agency, if the State educational agency operates the State’s migrant education program or projects directly.

“(2) MIGRATORY CHILD.—The term ‘migratory child’ means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

“(A) has moved from one school district to another;

“(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

“(C) resides in a school district of more than 15,000 square miles, and migrates a dis-
Subpart 3—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

SEC. 1141. PURPOSE AND PROGRAM AUTHORIZATION.

“(a) Purpose.—It is the purpose of this subpart—

“(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same State academic standards that all children in the State are expected to meet;

“(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

“(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.
“(b) PROGRAM AUTHORIZED.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve 0.3 of one percent to carry out this subpart.

“(c) GRANTS AWARDED.—From the amounts reserved under subsection (b) and not reserved under section 1004 and section 1159, the Secretary shall make grants to State educational agencies that have plans submitted under section 1154 approved to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

“SEC. 1142. PAYMENTS FOR PROGRAMS UNDER THIS SUBPART.

“(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1152, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under chapter A.

“(b) LOCAL SUBGRANTS.—Each State shall retain, for the purpose of carrying out chapter B, funds generated throughout the State under subpart 1 of this part based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.
“CHAPTER A—STATE AGENCY PROGRAMS

“SEC. 1151. ELIGIBILITY.

“A State agency is eligible for assistance under this chapter if such State agency is responsible for providing free public education for children and youth—

“(1) in institutions for neglected or delinquent children and youth;

“(2) attending community day programs for neglected or delinquent children and youth; or

“(3) in adult correctional institutions.

“SEC. 1152. ALLOCATION OF FUNDS.

“(a) SUBGRANTS TO STATE AGENCIES.—

“(1) IN GENERAL.—Each State agency described in section 1151 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this chapter, for each fiscal year, in an amount equal to the product of—

“(A) the number of neglected or delinquent children and youth described in section 1151 who—

“(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

“(ii) are enrolled for at least 20 hours per week—
“(I) in education programs in institutions for neglected or delinquent children and youth; or

“(II) in community day programs for neglected or delinquent children and youth; and

“(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

“(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

“(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

“(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency’s annual programs.

“(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—
“(1) IN GENERAL.—For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this chapter shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) for the Commonwealth of Puerto Rico by the product of—

“(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

“(B) 32 percent of the average per-pupil expenditure in the United States.

“(2) MINIMUM PERCENTAGE.—The percentage in paragraph (1)(A) shall not be less than 85 percent.

“(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount reserved for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

“SEC. 1153. STATE REALLOCATION OF FUNDS.

“If a State educational agency determines that a State agency does not need the full amount of the
subgrant for which such State agency is eligible under this chapter for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this chapter, in such amounts as the State educational agency shall determine.

“SEC. 1154. STATE PLAN AND STATE AGENCY APPLICATIONS.

“(a) State Plan.—

“(1) In general.—Each State educational agency that desires to receive a grant under this chapter shall submit, for approval by the Secretary, a plan—

“(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

“(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

“(C) that is integrated with other programs under this Act or other Acts, as appropriate.

“(2) Contents.—Each such State plan shall—

“(A) describe how the State will assess the effectiveness of the program in improving the
academic, career, and technical skills of children in the program;

“(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State; and

“(C) contain an assurance that the State educational agency will—

“(i) ensure that programs assisted under this chapter will be carried out in accordance with the State plan described in this subsection;

“(ii) carry out the evaluation requirements of section 1171; and

“(iii) ensure that the State agencies receiving subgrants under this chapter comply with all applicable statutory and regulatory requirements.

“(3) Duration of the Plan.—Each such State plan shall—

“(A) remain in effect for the duration of the State’s participation under this chapter; and
“(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State’s strategies and programs under this chapter.

“(b) Secretarial Approval and Peer Review.—

“(1) Secretarial Approval.—The Secretary shall approve each State plan that meets the requirements of this chapter.

“(2) Peer Review.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

“(c) State Agency Applications.—Any State agency that desires to receive funds to carry out a program under this chapter shall submit an application to the State educational agency that—

“(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served under this chapter;

“(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;
“(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

“(4) describes how the program will meet the goals and objectives of the State plan;

“(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1156 are of high quality;

“(6) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of Public Law 105–220, career and technical education programs, State and local dropout prevention programs, and special education programs;

“(7) describes how the State agency will encourage correctional facilities receiving funds under this chapter to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to and after their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;
“(8) describes how appropriate professional development will be provided to teachers and other staff;

“(9) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of such children and youth from such facility or institution to locally operated programs;

“(10) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

“(11) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

“(12) provides assurances that the State agency will work with parents to secure parents’ assistance in improving the educational achievement of their children and youth, and preventing their children’s and youth’s further involvement in delinquent activities;
‘‘(13) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child’s or youth’s local school if the child or youth—

‘‘(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

‘‘(B) intends to return to the local school;

‘‘(14) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school and obtain a regular high school diploma once the term of the incarceration is completed, or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or obtain a regular high school diploma or its recognized equivalent if the child or youth does not intend to return to school;
“(15) provides an assurance that effective teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

“(16) describes any additional services to be provided to children and youth, such as career counseling, distance education, and assistance in securing student loans and grants; and

“(17) provides an assurance that the program under this chapter will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.

“SEC. 1155. USE OF FUNDS.

“(a) USES.—

“(1) IN GENERAL.—A State agency shall use funds received under this chapter only for programs and projects that—

“(A) are consistent with the State plan under section 1154(a); and

“(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, career or technical training, further
education, or employment without the need for remediation.

“(2) Programs and projects.—Such programs and projects—

“(A) may include the acquisition of equipment;

“(B) shall be designed to support educational services that—

“(i) except for institution-wide projects under section 1156, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the State’s academic standards; and

“(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

“(iii) afford such children and youth an opportunity to meet State academic standards; and

“(C) shall be carried out in a manner consistent with section 1120A and part C (as applied to programs and projects under this chapter).
“(b) SUPPLEMENT, NOT SUPPLANT.—A program under this chapter that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant the requirement of section 1120A (as applied to this chapter) without regard to the subject areas in which instruction is given during those hours.

SEC. 1156. INSTITUTION-WIDE PROJECTS.

“A State agency that provides free public education for children and youth in an institution for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community day program for such children and youth may use funds received under this chapter to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

“(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

“(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;
“(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet State academic standards in order to improve the likelihood that the children and youth will complete secondary school, obtain a regular high school diploma or its recognized equivalent, or find employment after leaving the institution;

“(4) describes the instructional program, specialized instructional support services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1);

“(5) specifically describes how such funds will be used;

“(6) describes the measures and procedures that will be used to assess and improve student achievement;

“(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community day programs for neglected or delinquent children and youth, and
with personnel from the State educational agency;

and

“(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

“SEC. 1157. THREE-YEAR PROGRAMS OR PROJECTS.

“If a State agency operates a program or project under this chapter in which individual children or youth are likely to participate for more than one year, the State educational agency may approve the State agency’s application for a subgrant under this chapter for a period of not more than 3 years.

“SEC. 1158. TRANSITION SERVICES.

“(a) Transition Services.—Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this chapter for any fiscal year to support—

“(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

“(2) the successful re-entry of youth offenders, who are age 20 or younger and have received a regular high school diploma or its recognized equiva-
lent, into postsecondary education, or career and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or career and technical training programs, such as—

“(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

“(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

“(C) essential support services to ensure the success of the youth, such as—

“(i) personal, career and technical, and academic counseling;

“(ii) placement services designed to place the youth in a university, college, or junior college program;

“(iii) information concerning, and assistance in obtaining, available student financial aid;
“(iv) counseling services; and
“(v) job placement services.

“(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private organizations.

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

“SEC. 1159. TECHNICAL ASSISTANCE.

“The Secretary shall reserve not more than 1 percent of the amount reserved under section 1141 to provide technical assistance to and support State agency programs assisted under this chapter.

“CHAPTER B—LOCAL AGENCY PROGRAMS

“SEC. 1161. PURPOSE.

“The purpose of this chapter is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

“(1) to carry out high quality education programs to prepare children and youth for secondary
school completion, training, employment, or further education;

“(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

“(3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

“SEC. 1162. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

“(a) LOCAL SUBGRANTS.—With funds made available under section 1142(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

“(b) SPECIAL RULE.—A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the
correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

“(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this chapter.

“(d) TRANSITIONAL AND ACADEMIC SERVICES.—Transitional and supportive programs operated in local educational agencies under this chapter shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

“SEC. 1163. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

“Each local educational agency desiring assistance under this chapter shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

“(1) a description of the program to be assisted;
“(2) a description of formal agreements, regarding the program to be assisted, between—

“(A) the local educational agency; and

“(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;

“(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

“(4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

“(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational
programs to meet the unique educational needs of such children and youth;

“(6) as appropriate, a description of how schools will coordinate with existing social, health, and other services to meet the needs of students returning from correctional facilities and at-risk children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

“(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

“(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

“(9) a description of how the program under this chapter will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105–220 and career and tech-
technical education programs serving at-risk children
and youth;

“(10) a description of how the program will be
coordinated with programs operated under the Juve-
nile Justice and Delinquency Prevention Act of 1974
and other comparable programs, if applicable;

“(11) as appropriate, a description of how
schools will work with probation officers to assist in
meeting the needs of children and youth returning
from correctional facilities;

“(12) a description of the efforts participating
schools will make to ensure correctional facilities
working with children and youth are aware of a
child’s or youth’s existing individualized education
program; and

“(13) as appropriate, a description of the steps
participating schools will take to find alternative
placements for children and youth interested in con-
tinuing their education but unable to participate in
a traditional public school program.

“SEC. 1164. USES OF FUNDS.

“Funds provided to local educational agencies under
this chapter may be used, as appropriate, for—

“(1) programs that serve children and youth re-
turning to local schools from correctional facilities,
to assist in the transition of such children and youth
to the school environment and help them remain in
school in order to complete their education;

“(2) dropout prevention programs which serve
at-risk children and youth;

“(3) the coordination of health and social serv-
ices for such individuals if there is a likelihood that
the provision of such services, including day care,
drug and alcohol counseling, and mental health serv-
ices, will improve the likelihood such individuals will
complete their education;

“(4) special programs to meet the unique aca-
demic needs of participating children and youth, in-
cluding career and technical education, special edu-
cation, career counseling, curriculum-based youth
entrepreneurship education, and assistance in secur-
ing student loans or grants for postsecondary edu-
cation; and

“(5) programs providing mentoring and peer
mediation.

**SEC. 1165. PROGRAM REQUIREMENTS FOR CORREC-
TIONAL FACILITIES RECEIVING FUNDS
UNDER THIS SECTION.**

“Each correctional facility entering into an agree-
ment with a local educational agency under section
1163(2) to provide services to children and youth under this chapter shall—

“(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student’s home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act;

“(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

“(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

“(4) provide support programs that encourage children and youth who have dropped out of school to re-enter school and obtain a regular high school diploma once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment
or seek a regular high school diploma or its recognized equivalent;

“(5) work to ensure that the correctional facility is staffed with effective teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

“(6) ensure that educational programs in the correctional facility are related to assisting students to meet the States’s academic standards;

“(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

“(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

“(9) coordinate funds received under this chapter with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105–220, and career and technical education funds;

“(10) coordinate programs operated under this chapter with activities funded under the Juvenile
Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

“(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth; and

“(12) consult with the local educational agency for a period jointly determined necessary by the correctional facility and local educational agency upon discharge from that facility to coordinate educational services so as to minimize disruption to the child’s or youth’s achievement.

“SEC. 1166. ACCOUNTABILITY.

“The State educational agency—

“(1) may require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this chapter for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a regular high school diploma or its recognized equivalent, or obtaining employment after such children and youth are released; and

“(2) may reduce or terminate funding for projects under this chapter if a local educational
agency, or correctional facility or institution, as applicable, does not show progress in the number of children and youth returning to school, obtaining a regular high school diploma or its recognized equivalent, or obtaining employment after such children and youth are released.

“CHAPTER C—GENERAL PROVISIONS

“SEC. 1171. PROGRAM EVALUATIONS.

“(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under chapters A or B shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years, to determine the program’s impact on the ability of participants—

“(1) to maintain and improve educational achievement;

“(2) to accrue school credits that meet State requirements for grade promotion and high school graduation;

“(3) to make the transition to a regular program or other education program operated by a local educational agency;

“(4) to complete high school (or high school equivalency requirements) and obtain employment
after leaving the correctional facility or institution
for neglected or delinquent children and youth; and
“(5) as appropriate, to participate in postsec-
ondary education and job training programs.
“(b) EXCEPTION.—The disaggregation required
under subsection (a) shall not be required in a case in
which the number of students in a category is insufficient
to yield statistically reliable information or the results
would reveal personally identifiable information about an
individual student.
“(c) EVALUATION MEASURES.—In conducting each
evaluation under subsection (a), a State agency or local
educational agency shall use multiple and appropriate
measures of student progress.
“(d) EVALUATION RESULTS.—Each State agency
and local educational agency shall—
“(1) submit evaluation results to the State edu-
cational agency and the Secretary; and
“(2) use the results of evaluations under this
section to plan and improve subsequent programs
for participating children and youth.
“SEC. 1172. DEFINITIONS.
“In this subpart:
“(1) ADULT CORRECTIONAL INSTITUTION.—
The term ‘adult correctional institution’ means a fa-
cility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

“(2) AT-RISK.—The term ‘at-risk’, when used with respect to a child, youth, or student, means a school-aged individual who

“(A) is at-risk of academic failure; and

“(B) has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, is an English learner, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

“(3) COMMUNITY DAY PROGRAM.—The term ‘community day program’ means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

“(4) INSTITUTION FOR NEGLECTED OR DELINQUENT CHILDREN AND YOUTH.—The term ‘institution for neglected or delinquent children and youth’ means—
“(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

“(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

“SUBPART 4—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT

“SEC. 1181. PURPOSES.

“The purposes of this subpart are—

“(1) to help ensure that English learners, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement in English;

“(2) to assist all English learners, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same State academic standards that all
children are expected to meet, consistent with section 1111(b)(1);

“(3) to assist State educational agencies, local educational agencies, and schools in establishing, implementing, and sustaining high-quality, flexible, evidence-based language instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;

“(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality, evidence-based instructional programs designed to prepare English learners, including immigrant children and youth, to enter all-English instruction settings; and

“(5) to promote parental and community participation in language instruction educational programs for the parents and communities of English learners.

“CHAPTER A—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

“SEC. 1191. FORMULA GRANTS TO STATES.

“(a) IN GENERAL.—In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 1192, the Secretary shall
reserve 4.4 percent of funds appropriated under section 3(a)(1) to make a grant for the year to the agency for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State educational agency under subsection (c).

“(b) USE OF FUNDS.—

“(1) SUBGRANTS TO ELIGIBLE ENTITIES.—The Secretary may make a grant under subsection (a) only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency’s allotment under subsection (c) for a fiscal year—

“(A) to award subgrants, from allocations under section 1193, to eligible entities to carry out the activities described in section 1194 (other than subsection (e)); and

“(B) to award subgrants under section 1193(d)(1) to eligible entities that are described in that section to carry out the activities described in section 1194(e).

“(2) STATE ACTIVITIES.—Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) may reserve not more than 5 percent of the agency’s allotment under subsection (c) to carry out the following activities:
“(A) Professional development activities, and other activities, which may include assisting personnel in—

“(i) meeting State and local certification and licensing requirements for teaching English learners; and

“(ii) improving teacher skills in meeting the diverse needs of English learners, including in how to implement evidence-based programs and curricula on teaching English learners.

“(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

“(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this chapter, including assistance in—

“(i) identifying and implementing evidence-based language instruction educational programs and curricula for teaching English learners;
“(ii) helping English learners meet the same State academic standards that all children are expected to meet;

“(iii) identifying or developing, and implementing, measures of English proficiency; and

“(iv) strengthening and increasing parent, family, and community engagement.

“(D) Developing, enhancing, aligning, and implementing the English language proficiency standards and assessments described in section 1111(b).

“(E) Providing recognition, which may include providing financial awards, to subgrantees that have significantly improved the achievement and progress of English learners in—

“(i) reaching English language proficiency, based on the State’s English language proficiency assessment under section 1111(b)(2)(D); and

“(ii) meeting the State academic standards under section 1111(b)(1).

“(3) ADMINISTRATIVE EXPENSES.—From the amount reserved under paragraph (2), a State edu-
cational agency may use not more than 40 percent of such amount or $175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

“(c) Reservations and Allotments.—

“(1) Reservations.—From the amount reserved under section 1191(a) for each fiscal year, the Secretary shall reserve—

“(A) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this chapter, as determined by the Secretary, for activities, approved by the Secretary, consistent with this chapter; and

“(B) 6.5 percent of such amount for national activities under section 1211, except that not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 1222.

“(2) State Allotments.—

“(A) In general.—Except as provided in subparagraph (B), from the amount reserved under section 1191(a) for each fiscal year that
remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 1192(c)—

“(i) an amount that bears the same relationship to 80 percent of the remainder as the number of English learners in the State bears to the number of such children in all States; and

“(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

“(B) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this paragraph that is less than $500,000.

“(C) REALLOTMENT.—If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of
this chapter, the Secretary shall reallocate any portion of such allotment to the remaining State educational agencies in accordance with subparagraph (A).

“(D) Special rule for Puerto Rico.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (1) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

“(3) Use of data for determinations.—In making State allotments under paragraph (2), the Secretary shall determine the number of English learners in a State and in all States, and the number of immigrant children and youth in a State and in all States for each fiscal year, using the most accurate, up-to-date data of such children and youth, which shall be—

“(A) data from the American Community Survey conducted by the Department of Commerce; or

“(B) the number of students being assessed for English language proficiency, based on the State’s English language proficiency assessment under section 1111(b)(2)(D).
SEC. 1192. STATE EDUCATIONAL AGENCY PLANS.

(a) PLAN REQUIRED.—Each State educational agency desiring a grant under this chapter shall submit a plan to the Secretary at such time and in such manner as the Secretary may require.

(b) CONTENTS.—Each plan submitted under subsection (a) shall—

(1) describe the process that the agency will use in awarding subgrants to eligible entities under section 1193(d)(1);

(2) describe how the agency will support local educational agencies in raising the level of English language proficiency for English learners and aligning English language proficiency standards with State academic standards;

(3) provide an assurance that—

(A) the agency will ensure that eligible entities receiving a subgrant under this chapter comply with the requirement in section 1111(b)(2)(B)(x) to annually assess in English learners who have been in the United States for 3 or more consecutive years;

(B) the agency will ensure that eligible entities receiving a subgrant under this chapter annually assess the English proficiency of all English learners participating in a program...
funded under this chapter, consistent with section 1111(b)(2)(D);

“(C) in awarding subgrants under section 1193, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

“(D) subgrants to eligible entities under section 1193(d)(1) will be of sufficient size and scope to allow such entities to carry out high-quality, evidence-based language instruction educational programs for English learners;

“(E) the agency will require an eligible entity receiving a subgrant under this chapter to use the subgrant in ways that will build such recipient’s capacity to continue to offer high-quality evidence-based language instruction educational programs that assist English learners in meeting State academic standards;

“(F) the agency will monitor the eligible entity receiving a subgrant under this chapter for compliance with applicable Federal fiscal requirements; and

“(G) the plan has been developed in consultation with local educational agencies, teach-
ers, administrators of programs implemented
under this chapter, parents, and other relevant
stakeholders;

“(4) describe how the agency will coordinate its
programs and activities under this chapter with
other programs and activities under this Act and
other Acts, as appropriate;

“(5) describe how eligible entities in the State
will be given the flexibility to teach English learn-
ers—

“(A) using a high-quality, evidence-based
language instruction curriculum for teaching
English learners; and

“(B) in the manner the eligible entities de-
dtermine to be the most effective; and

“(6) describe how the agency will assist eligible
entities in increasing the number of English learners
who acquire English proficiency.

“(c) APPROVAL.—The Secretary, after using a peer
review process, shall approve a plan submitted under sub-
section (a) if the plan meets the requirements of this sec-
tion.

“(d) DURATION OF PLAN.—
“(1) IN GENERAL.—Each plan submitted by a State educational agency and approved under subsection (c) shall—

“(A) remain in effect for the duration of the agency’s participation under this chapter; and

“(B) be periodically reviewed and revised by the agency to reflect changes to the agency’s strategies and programs carried out under this subpart.

“(2) ADDITIONAL INFORMATION.—

“(A) AMENDMENTS.—If the State educational agency amends the plan, the agency shall submit such amendment to the Secretary.

“(B) APPROVAL.—The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this subpart.

“(e) CONSOLIDATED PLAN.—A plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 5302.
“(f) SECRETARY ASSISTANCE.—The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards and assessments.

“SEC. 1193. WITHIN-STATE ALLOCATIONS.

“(a) IN GENERAL.—After making the reservation required under subsection (d)(1), each State educational agency receiving a grant under section 1191(c)(2) shall award subgrants for a fiscal year by allocating in a timely manner to each eligible entity in the State having a plan approved under section 1195 an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of English learners in schools served by the eligible entity bears to the population of English learners in schools served by all eligible entities in the State.

“(b) LIMITATION.—A State educational agency shall not award a subgrant from an allocation made under subsection (a) if the amount of such subgrant would be less than $10,000.

“(c) REALLOCATION.—Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate,
reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

“(d) REQUIRED RESERVATION.—A State educational agency receiving a grant under this chapter for a fiscal year—

“(1) shall reserve not more than 15 percent of the agency’s allotment under section 1191(c)(2) to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

“(2) in awarding subgrants under paragraph (1)—

“(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

“(B) shall consider the quality of each local plan under section 1195 and ensure that
each subgrant is of sufficient size and scope to meet the purposes of this subpart.

“SEC. 1194. SUBGRANTS TO ELIGIBLE ENTITIES.

“(a) PURPOSES OF SUBGRANTS.—A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this chapter only if the entity agrees to expend the funds to improve the education of English learners, by assisting the children to learn English and meet State academic standards. In carrying out activities with such funds, the eligible entity shall use evidence-based approaches and methodologies for teaching English learners and immigrant children and youth for the following purposes:

“(1) Developing and implementing new language instruction educational programs and academic content instruction programs for English learners and immigrant children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

“(2) Carrying out highly focused, innovative, locally designed, evidence-based activities to expand or enhance existing language instruction educational programs and academic content instruction pro-
grams for English learners and immigrant children and youth.

“(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

“(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for English learners and immigrant children and youth.

“(b) ADMINISTRATIVE EXPENSES.—Each eligible entity receiving funds under section 1193(a) for a fiscal year shall use not more than 2 percent of such funds for the cost of administering this chapter.

“(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligible entity receiving funds under section 1193(a) shall use the funds—

“(1) to increase the English language proficiency of English learners by providing high-qual-
ity, evidence-based language instruction educational programs that meet the needs of English learners and have demonstrated success in increasing—

“(A) English language proficiency; and

“(B) student academic achievement in the core academic subjects;

“(2) to provide high-quality, evidence-based professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), school leaders, administrators, and other school or community-based organization personnel, that is—

“(A) designed to improve the instruction and assessment of English learners;

“(B) designed to enhance the ability of teachers and school leaders to understand and implement curricula, assessment practices and measures, and instruction strategies for English learners;

“(C) evidence-based in increasing children’s English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of teachers; and
“(D) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers’ performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher’s supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher, as appropriate; and

“(3) to provide and implement other evidence-based activities and strategies that enhance or supplement language instruction educational programs for English learners, including parental and community engagement activities and strategies that serve to coordinate and align related programs.

“(d) AUTHORIZED SUBGRANTEE ACTIVITIES.—Subject to subsection (c), an eligible entity receiving funds under section 1193(a) may use the funds to achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities:
“(1) Upgrading program objectives and effective instruction strategies.

“(2) Improving the instruction program for English learners by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

“(3) Providing to English learners—

“(A) tutorials and academic or career education for English learners; and

“(B) intensified instruction.

“(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

“(5) Improving the English language proficiency and academic achievement of English learners.

“(6) Providing community participation programs, family literacy services, and parent outreach and training activities to English learners and their families—

“(A) to improve the English language skills of English learners; and

“(B) to assist parents in helping their children to improve their academic achievement
and becoming active participants in the education of their children.

“(7) Improving the instruction of English learners by providing for—

“(A) the acquisition or development of educational technology or instructional materials;

“(B) access to, and participation in, electronic networks for materials, training, and communication; and

“(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this chapter.

“(8) Carrying out other activities that are consistent with the purposes of this section.

“(e) Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth.—

“(1) In general.—An eligible entity receiving funds under section 1193(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—
“(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

“(B) support for personnel, including para-professionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

“(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

“(D) identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with awarded funds;

“(E) basic instruction services that are directly attributable to the presence in the local educational agency involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

“(F) other instruction services that are designed to assist immigrant children and youth
to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

“(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

“(2) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State educational agency under section 1193(d)(1) shall be determined by the agency in its discretion.

“(f) SELECTION OF METHOD OF INSTRUCTION.—

“(1) IN GENERAL.—To receive a subgrant from a State educational agency under this chapter, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist English learners to attain English language proficiency and meet State academic standards.

“(2) CONSISTENCY.—Such selection shall be consistent with sections 1204 through 1206.
“(g) SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this chapter shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

“SEC. 1195. LOCAL PLANS.

“(a) PLAN REQUIRED.—Each eligible entity desiring a subgrant from the State educational agency under section 1193 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

“(b) CONTENTS.—Each plan submitted under subsection (a) shall—

“(1) describe the evidence-based programs and activities proposed to be developed, implemented, and administered under the subgrant that will help English learners increase their English language proficiency and meet the State academic standards;

“(2) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this chapter accountable for annually assessing the English language proficiency of all
children participating under this subpart, consistent
with section 1111(b);

“(3) describe how the eligible entity will pro-
mote parent and community engagement in the edu-
cation of English learners;

“(4) contain an assurance that the eligible enti-
ity consulted with teachers, researchers, school ad-
ministrators, parents and community members, pub-
lic or private organizations, and institutions of high-
er education, in developing and implementing such
plan;

“(5) describe how language instruction edu-
cational programs carried out under the subgrant
will ensure that English learners being served by the
programs develop English language proficiency; and

“(6) contain assurances that—

“(A) each local educational agency that is
included in the eligible entity is complying with
section 1112(g) prior to, and throughout, each
school year; and

“(B) the eligible entity is not in violation
of any State law, including State constitutional
law, regarding the education of English learn-
ers, consistent with sections 1205 and 1206.
“(c) Teacher English Fluency.—Each eligible entity receiving a subgrant under section 1193 shall include in its plan a certification that all teachers in any language instruction educational program for English learners that is, or will be, funded under this subpart are fluent in English and any other language used for instruction, including having written and oral communications skills.

“CHAPTER B—ADMINISTRATION

“SEC. 1201. REPORTING.

“(a) In General.—Each eligible entity that receives a subgrant from a State educational agency under chapter A shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with a report, in a form prescribed by the agency, that includes—

“(1) a description of the programs and activities conducted by the entity with funds received under chapter A during the two immediately preceding fiscal years, including how such programs and activities supplemented programs funded primarily with State or local funds;

“(2) a description of the progress made by English learners in learning the English language and in meeting State academic standards;
“(3) the number and percentage of English learners in the programs and activities attaining English language proficiency based on the State English language proficiency standards established under section 1111(b)(1)(E) by the end of each school year, as determined by the State’s English language proficiency assessment;

“(4) the number of English learners who exit the language instruction educational programs based on their attainment of English language proficiency and transitioned to classrooms not tailored for English learners;

“(5) a description of the progress made by English learners in meeting the State academic standards for each of the 2 years after such children are no longer receiving services under this subpart;

“(6) the number and percentage of English learners who have not attained English language proficiency within five years of initial classification as an English learner and first enrollment in the local educational agency; and

“(7) any such other information as the State educational agency may require.
“(b) USE OF REPORT.—An report provided by an eligible entity under subsection (a) shall be used by the entity and the State educational agency—

“(1) to determine the effectiveness of programs and activities in assisting children who are English learners—

“(A) to attain English language proficiency; and

“(B) to make progress in meeting State academic standards under section 1111(b)(1); and

“(2) upon determining the effectiveness of programs and activities based on the criteria in paragraph (1), to decide how to improve programs.

“SEC. 1202. ANNUAL REPORT.

“(a) STATES.—Based upon the reports provided to a State educational agency under section 1201, each such agency that receives a grant under this subpart shall prepare and submit annually to the Secretary a report on programs and activities carried out by the State educational agency under this subpart and the effectiveness of such programs and activities in improving the education provided to English learners.

“(b) SECRETARY.—Annually, the Secretary shall prepare and submit to the Committee on Education and the
Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

“(1) on programs and activities carried out to serve English learners under this subpart, and the effectiveness of such programs and activities in improving the academic achievement and English language proficiency of English learners;

“(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this subpart to teach English learners;

“(3) containing a critical synthesis of data reported by eligible entities to States under section 1201(a);

“(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 1191(b)(2)(C);

“(5) containing an estimate of the number of effective teachers working in language instruction educational programs and educating English learners, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

“(6) containing the number of programs or activities, if any, that were terminated because the en-
entities carrying out the programs or activities were not able to reach program goals;

“(7) containing the number of English learners served by eligible entities receiving funding under this subpart who were transitioned out of language instruction educational programs funded under this subpart into classrooms where instruction is not tailored for English learners; and

“(8) containing other information gathered from other reports submitted to the Secretary under this subpart when applicable.

“SEC. 1203. COORDINATION WITH RELATED PROGRAMS.

“In order to maximize Federal efforts aimed at serving the educational needs of children of English learners, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and English learners that are administered by the Department and other agencies.

“SEC. 1204. RULES OF CONSTRUCTION.

“Nothing in this subpart shall be construed—

“(1) to prohibit a local educational agency from serving English learners simultaneously with children with similar educational needs, in the same educational settings where appropriate;
“(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for English learners; or
“(3) to limit the preservation or use of Native American languages.

“SEC. 1205. LEGAL AUTHORITY UNDER STATE LAW.
“Nothing in this subpart shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

“SEC. 1206. CIVIL RIGHTS.
“Nothing in this subpart shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

“SEC. 1207. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.
“Notwithstanding any other provision of this subpart, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying
Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

“SEC. 1208. PROHIBITION.

“In carrying out this subpart, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating English learners.

“CHAPTER C—NATIONAL ACTIVITIES

“SEC. 1211. NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.

“The Secretary shall use funds made available under section 1191(c)(1)(B) to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education or public or private organizations with relevant experience and capacity (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for English learners and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve English learners. Grants awarded under this subsection may be used—
“(1) for preservice, evidence-based professional
development programs that will assist local schools
and institutions of higher education to upgrade the
qualifications and skills of educational personnel who
are not certified or licensed, especially educational
paraprofessionals;

“(2) for the development of curricula or other
instructional strategies appropriate to the needs of
the consortia participants involved;

“(3) to support strategies that strengthen and
increase parent and community member engagement
in the education of English learners; and

“(4) to share and disseminate evidence-based
practices in the instruction of English learners and
in increasing their student achievement.

“CHAPTER D—GENERAL PROVISIONS

“SEC. 1221. DEFINITIONS.

“Except as otherwise provided, in this subpart:

“(1) CHILD.—The term ‘child’ means any indi-
vidual aged 3 through 21.

“(2) COMMUNITY-BASED ORGANIZATION.—The
term ‘community-based organization’ means a pri-
ivate nonprofit organization of demonstrated effec-
tiveness, Indian tribe, or tribally sanctioned edu-
cational authority, that is representative of a com-
munity or significant segments of a community and
that provides educational or related services to indi-
viduals in the community. Such term includes a Na-
tive Hawaiian or Native American Pacific Islander
native language educational organization.

“(3) ELIGIBLE ENTITY.—The term ‘eligible en-
tity’ means—

“(A) one or more local educational agen-
cies; or

“(B) one or more local educational agen-
cies, in consortia (or collaboration) with an in-
stitution of higher education, community-based
organization, or State educational agency.

“(4) IMMIGRANT CHILDREN AND YOUTH.—The
term ‘immigrant children and youth’ means individ-
uals who—

“(A) are age 3 through 21;

“(B) were not born in any State; and

“(C) have not been attending one or more
schools in any one or more States for more
than 3 full academic years.

“(5) INDIAN TRIBE.—The term ‘Indian tribe’
means any Indian tribe, band, nation, or other organ-
ized group or community, including any Native vil-
lage or Regional Corporation or Village Corporation
as defined in or established pursuant to the Alaska
Native Claims Settlement Act, that is recognized as
candidate for the special programs and services pro-
vided by the United States to Indians because of
their status as Indians.

“(6) LANGUAGE INSTRUCTION EDUCATIONAL
PROGRAM.—The term ‘language instruction edu-
cational program’ means an instruction course—

“(A) in which an English learner is placed
for the purpose of developing and attaining
English language proficiency, while meeting
State academic standards, as required by sec-
tion 1111(b)(1); and

“(B) that may make instructional use of
both English and a child’s native language to
enable the child to develop and attain English
language proficiency, and may include the par-
ticipation of English language proficient chil-
dren if such course is designed to enable all
participating children to become proficient in
English and a second language.

“(7) NATIVE AMERICAN AND NATIVE AMERICAN
LANGUAGE.—The terms ‘Native American’ and ‘Na-
tive American language’ shall have the meanings
given such terms in section 103 of the Native Amer-
ican Languages Act.

“(8) NATIVE LANGUAGE.—The term ‘native
language’, when used with reference to English
learner, means—

“(A) the language normally used by such
individual; or

“(B) in the case of a child or youth, the
language normally used by the parents of the
child or youth.

“(9) PARAPROFESSIONAL.—The term ‘para-
professional’ means an individual who is employed in
a preschool, elementary school, or secondary school
under the supervision of a certified or licensed teach-
er, including individuals employed in language in-
struction educational programs, special education,
and migrant education.

“(10) STATE.—The term ‘State’ means each of
the 50 States, the District of Columbia, and the
Commonwealth of Puerto Rico.

“SEC. 1222. NATIONAL CLEARINGHOUSE.

“The Secretary shall establish and support the oper-
ation of a National Clearinghouse for English Language
Acquisition and Language Instruction Educational Pro-
grams, which shall collect, analyze, synthesize, and dis-
seminate information about language instruction educational programs for English learners, and related programs. The National Clearinghouse shall—

“(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;

“(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

“(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs; and

“(4) collect and disseminate information on—

“(A) educational research and processes related to the education of English learners; and

“(B) accountability systems that monitor the academic progress of English learners in language instruction educational programs, including information on academic content and English language proficiency assessments for language instruction educational programs; and

“(5) publish, on an annual basis, a list of grant recipients under this subpart.
“SEC. 1223. REGULATIONS.

“In developing regulations under this subpart, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing English learners, and organizations representing teachers and other personnel involved in the education of English learners.

“SUBPART 5—RURAL ACHIEVEMENT EDUCATION PROGRAM

“SEC. 1231. PURPOSE.

“It is the purpose of this subpart to address the unique needs of rural school districts that frequently—

“(1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and

“(2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

“SEC. 1232. GRANT PROGRAM AUTHORIZED.

“(a) Program Authorized.—

“(1) In general.—From amounts appropriated under section 3(a)(1) for a fiscal year, the Secretary shall reserve one percent of such funds for the purposes of this subpart.

“(2) Grants awarded.—From amounts reserved under paragraph (1) and not reserved under
subsection (c), the Secretary shall make allotments for the fiscal year to State educational agencies that have applications submitted under section 1233 approved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 1235.

“(b) Allotments to States.—

“(1) Determination of initial amounts.—

“(A) In general.—Subject to subparagraph (B), from amounts described in subsection (a)(2), the Secretary shall allot to each State educational agency an amount that is equal to the sum of—

“(i) the total amount received by local educational agencies in such State under section 6212; and

“(ii) the amount received by such State educational agency under section 6221;

as those sections were in effect on the day prior to the date of the enactment of the Student Success Act.

“(B) Ratable reduction.—If the funds described under subparagraph (A) are insuffi-
cient to pay the full amounts that all States are eligible to receive under subparagraph (A) for any fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

“(2) Determination of Additional Funds.—For any fiscal year for which the funds reserved under subsection (a)(1) exceed the total amount required to make allotments under paragraph (1) the Secretary shall allot—

“(A) 50 percent of such excess funds to each State educational agency based on the amount that bears the same ratio to those amounts as the number of students in average daily attendance served by rural, low-income local educational agencies in the State for that fiscal year to the number of all such students served by rural, low-income local educational agencies in all States for that fiscal year; and

“(B) 50 percent of such excess funds to each State educational agency based on the amount that bears the same ratio to those amounts as the number of students in weighted average daily attendance served by small, rural local educational agencies in the State for that fiscal year to the number of all such students
in weighted average daily attendance served by small, rural local educational agencies in all States for that fiscal year.

“(c) RESERVATIONS.—From amounts reserved under subsection (a)(1) for this subpart for a fiscal year, the Secretary shall reserve—

“(1) one-quarter of one percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Education, to carry out the activities authorized under this subpart; and

“(2) one-quarter of one percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

“(d) DEFINITIONS.—For purposes of this subpart:

“(1) RURAL, LOW-INCOME LOCAL EDUCATIONAL AGENCY.—The term ‘rural, low-income local educational agency’ means a local educational agency in which—

“(A) all of the schools served by the local educational agency are designated with a school locale code of 32 or 33, as determined by the Secretary; and
“(B) 20 percent or more of the children
ages 5 through 17 years served by the local
educational agency are from families with in-
comes below the poverty line.

“(2) SMALL, RURAL LOCAL EDUCATIONAL
AGENCY.—The term ‘small, rural local educational
agency’ means a local educational agency in which—

“(A)(i) the total number of students in av-
erage daily attendance at all of the schools
served by the local educational agency is fewer
than 600; or

“(ii) each county in which a school served
by the local educational agency is located has a
total population density of fewer than 10 per-
sons per square mile; and

“(B) all of the schools served by the local
educational agency are designated with a school
locale code of 41, 42, or 43, as determined by
the Secretary;

“(3) WEIGHTED AVERAGE DAILY ATTEND-
ANCE.—The term ‘weighted average daily attend-
ance’ means the sum of—

“(A) 20,000 students; and

“(B) the product of—
“(1) the number of students in average daily attendance in excess of 50 students; and

“(ii) 100;

except that such term shall not exceed 60,000 students.

“(4) **Specially Qualified Agency.**—The term ‘specially qualified agency’ means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subpart.

“(e) **Specially Qualified Agency.**—

“(1) **Eligibility and Application.**—If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 1233 approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

“(2) **Direct Awards.**—The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to
receive under subsection (b) directly to a specially qualified agency in the State that has submitted an application in accordance with 1233 and obtained approval of the application.

“SEC. 1233. APPLICATION.

“(a) IN GENERAL.—Each State educational agency or specially qualified agency desiring to receive a grant under this subpart shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(b) CONTENTS.—Each application submitted under this section shall include information on specific activities to be carried out through the grant, which shall include activities to—

“(1) increase student academic achievement consistent with State academic standards under section 1111(b)(1);

“(2) increase graduation rates;

“(3) describe how the State educational agency or specially qualified agency plans to use funds allotted under this section; and

“(4) if the State educational agency or specially qualified agency will competitively award grants to eligible local educational agencies, as described in
section 1234(b)(2), the application under this section shall include—

“(A) the methods and criteria the State educational agency or specially qualified agency will use for reviewing applications and awarding funds to local educational agencies on a competitive basis; and

“(B) how the State educational agency or specially qualified agency will notify eligible local educational agencies of the grant competition.

“SEC. 1234. STATE USES OF FUNDS; IN-STATE ALLOTMENTS.

“(a) AWARD BASIS.—A State educational agency or specially qualified agency that receives a grant under section 1232(b) shall, after making the reservation under subsection (e), award grants to rural, low-income local educational agencies and small, rural local educational agencies in accordance with this section.

“(b) DETERMINATION OF AMOUNTS.—

“(1) IN GENERAL.—The State educational agency shall allot—

“(A) 50 percent of the amount the State received under section 1232(b) to rural, low-income local educational agencies based on the amount that bears the same ratio to such
amount as the number of students in average
daily attendance served by such local edu-
cational agency for that fiscal year to the num-
ber of all such students served by such local
educational agencies in the State for that fiscal
year; and

“(B) 50 percent of the amount the State
received under section 1232(b) to small, rural
local educational agencies based on the amount
that bears the same ratio to such amount as
the number of students in weighted average
daily attendance served by such local edu-
cational agency for that fiscal year to the num-
ber of all such students in weighted average
daily attendance served by such local edu-
cational agencies in the State for that fiscal
year.

“(2) ALTERNATE METHOD.—The State edu-
cational agency may allot funds through a competi-
tive process according to the methods and criteria
described in section 1233(b)(4).

“(c) HOLD HARMLESS.—

“(1) IN GENERAL.—Notwithstanding subsection
(b), each local educational agency shall receive an
amount at least equal to the amount such agency re-
ceived under sections 6212 and 6221 as those sec-
tions were in effect on the day prior to the date of
the enactment of the Student Success Act.

“(2) EXCEPTION.—This subsection shall not
apply to any local educational agency that received
funds competitively under section 6221(b) as that
section was in effect on the day prior to the date of
the enactment of the Student Success Act.

“(d) RATABLE REDUCTION.—If the amount made
available to carry out this subpart for any fiscal year is
not sufficient to pay in full the amounts described in sub-
section (c), the State educational agency shall ratably re-
duce such amounts for such year.

“(e) ADMINISTRATIVE COSTS.—A State educational
agency receiving a grant under this subpart shall not use
more than 3 percent of the amount of the grant for State
administrative costs and to provide technical assistance to
eligible local educational agencies.

“SEC. 1235. USES OF FUNDS.

“Grant funds awarded to local educational agencies
under this subpart shall be used for any of the following:

“(1) Teacher recruitment and retention, includ-
ing the use of signing bonuses, performance pay and
other financial incentives.
“(2) Teacher professional development, including programs that train special education teachers and provide innovative ways to teach core academic subjects to increase student achievement.

“(3) Parental involvement activities.

“(4) Activities authorized under subpart 1.

“(5) To support activities and programs authorized under title III.

“SEC. 1236. LOCAL APPLICATION.

“An eligible local educational agency shall notify the State educational agency of the local educational agency’s intention to use the funding in accordance with local uses described in section 1235(a), by a date that is established by the State educational agency for the notification.

“SEC. 1237. ANNUAL AVERAGE DAILY ATTENDANCE DETERMINATION.

“(a) CENSUS DETERMINATION.—Each local educational agency and specially qualified agency desiring a grant under this subpart shall—

“(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and
“(2) not later than March 1 of each year, submit the number described in paragraph (1) to the Secretary and to the State educational agency.

“(b) PENALTY.—If the Secretary determines that a local educational agency has knowingly submitted false information under paragraphs (1) and (2) of subsection (a) for the purpose of gaining additional funds under section 1234, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under such section and the correct amount the agency would have received under such section if the agency had submitted accurate information under paragraphs (1) and (2) of subsection (a).

“SEC. 1238. ACCOUNTABILITY.

“(a) STATE REPORT.—Each State educational agency or specially qualified agency that receives a grant under this subpart shall prepare and submit an annual report to the Secretary. The report shall describe—

“(1) how local educational agencies and schools used funds provided under this subpart; and

“(2) the degree to which progress has been made toward meeting the goals and objectives of those activities specified in paragraphs (1) and (2) of section 1233(b).
“(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe—

“(1) how State educational agencies, local educational agencies, and schools used funds provided under this subpart; and

“(2) the degree to which progress has been made toward meeting the goals and objectives of those activities specified in paragraphs (1) and (2) of section 1233(b).

“SEC. 1239. SUPPLEMENT, NOT SUPPLANT.

“Funds made available under this subpart shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

“SEC. 1240. RULE OF CONSTRUCTION.

“Nothing in this subpart shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this subpart.
“SUBPART 6—INDIAN EDUCATION

“SEC. 1251. STATEMENT OF POLICY.

“It is the policy of the United States to fulfill the Federal Government’s unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

“SEC. 1252. PURPOSE.

“(a) PURPOSE.—It is the purpose of this subpart to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities—

“(1) to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the State academic standards that all students are expected to meet; and

“(2) to ensure that school leaders, teachers, and other staff who serve Indian and Alaska Native stu-
Students have the ability and training to provide appropriate instruction to meet the unique academic needs of such students.

“CHAPTER A—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

“SEC. 1261. PURPOSE.

“It is the purpose of this chapter to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs are designed to—

“(1) meet the unique educational needs of such students; and

“(2) ensure that such students have the opportunity to meet the State academic standards.

“SEC. 1262. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES.

“(a) In general.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve .6 of one percent to local educational agencies and Indian tribes in accordance with this section and section 1263.

“(b) Local Educational Agencies.—

“(1) Enrollment requirements.—A local educational agency shall be eligible for a grant under this chapter for any fiscal year if the number of In-
dian children eligible under section 1267 who were
enrolled in the schools of the agency, and to whom
the agency provided free public education, during
the preceding fiscal year—
“(A) was at least 10; or
“(B) constituted not less than 25 percent
of the total number of individuals enrolled in
the schools of such agency.
“(2) Exclusion.—The requirement of para-
graph (1) shall not apply in Alaska, California, or
Oklahoma, or with respect to any local educational
agency located on, or in proximity to, an Indian res-
ervation.
“(c) Indian Tribes.—
“(1) In General.—If a local educational agen-
cy that is otherwise eligible for a grant under this
chapter does not establish a committee under section
1264(c)(4) for such grant, an Indian tribe or a con-
sortium of such entities that represents not less than
½ of the eligible Indian children who are served by
such local educational agency may apply for such
grant.
“(2) Special Rule.—The Secretary shall treat
each Indian tribe or consortium of such entities ap-
plying for a grant pursuant to paragraph (1) as if
such Indian tribe were a local educational agency for purposes of this chapter, except that any such tribe is not subject to section 1264(c)(4) or section 1269.

“(3) ELIGIBILITY.—If more than 1 Indian tribe qualifies to apply for a grant under paragraph (1), the entity that represents the most eligible Indian children who are served by the local educational agency shall be eligible to receive the grant or the tribes may choose to apply in consortium.

“SEC. 1263. AMOUNT OF GRANTS.

“(a) AMOUNT OF GRANT AWARDS.—

“(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this chapter an amount equal to the product of—

“(A) the number of Indian children who are eligible under section 1267 and served by such agency; and 

“(B) the greater of—

“(i) the average per pupil expenditure of the State in which such agency is located; or 

“(ii) 80 percent of the average per pupil expenditure of all the States.
“(2) REDUCTION.—The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

“(b) MINIMUM GRANT.—

“(1) IN GENERAL.—Notwithstanding subsection (e), an entity that is eligible for a grant under section 1262, and a school that is operated or supported by the Bureau of Indian Education that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this chapter in an amount that is not less than $3,000.

“(2) CONSORTIA.—Local educational agencies may form a consortium with other local educational agencies or Indian tribes for the purpose of obtaining grants under this chapter.

“(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such an increase is necessary to ensure the quality of the programs provided.

“(e) DEFINITION.—For the purpose of this section, the term ‘average per pupil expenditure’, used with respect to a State, means an amount equal to—
“(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

“(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

“(d) Schools Operated or Supported by the Bureau of Indian Education.—

“(1) In general.—Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

“(A) the total number of Indian children enrolled in schools that are operated by—

“(i) the Bureau of Indian Education;

or

“(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that
tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribal Controlled Schools Act of 1988; and

“(B) the greater of—

“(i) the average per pupil expenditure of the State in which the school is located; or

“(ii) 80 percent of the average per pupil expenditure of all the States.

“(2) SPECIAL RULE.—Any school described in paragraph (1)(A) that wishes to receive an allocation under this chapter shall submit an application in accordance with section 1264, and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not be subject to section 1264(c)(4) or section 1269.

“(e) RATABLE REDUCTIONS.—If the sums reserved for any fiscal year under section 1262 are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.
``SEC. 1264. APPLICATIONS.

(a) Application Required.—Each local educational agency that desires to receive a grant under this chapter shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(b) Comprehensive Program Required.—Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2)(A) is aligned with and supports the State and local plans submitted under other provisions of this Act; and

(B) includes academic standards for such children that are based on the State academic standards adopted under subpart 1 for all children;

(3) explains how the local educational agency will use the funds made available under this chapter to supplement other Federal, State, and local pro-
grams, especially programs carried out under sub-
part 1, to meet the needs of such students;

“(4) demonstrates how funds made available
under this chapter will be used for activities de-
scribed in section 1265;

“(5) describes the professional development op-
portunities that will be provided, as needed, to en-
sure that—

“(A) teachers, school leaders, and other
school professionals who are new to the Indian
community are prepared to work with Indian
children; and

“(B) all teachers who will be involved in
programs assisted under this chapter have been
properly trained to carry out such programs;
and

“(6) describes how the local educational agen-
cy—

“(A) will periodically assess the progress of
all Indian children enrolled in the schools of the
local educational agency, including Indian chil-
dren who do not participate in programs as-
sisted under this chapter, in meeting the stand-
ards described in paragraph (2);
“(B) will provide the results of each assessment referred to in subparagraph (A) to—

“(i) the committee described in subsection (c)(4); and

“(ii) the community, including Indian tribes, whose children are served by the local educational agency; and

“(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A); and

“(7) describes the processes the local educational agency used to collaborate with Indian tribes in the community in the development of the comprehensive programs.

“(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

“(1) the local educational agency will use funds received under this chapter only to supplement the funds that, in the absence of the Federal funds made available under this chapter, such agency would make available for the education of Indian children, and not to supplant such funds;

“(2) the local educational agency will prepare and submit to the Secretary such reports in such form as the Secretary may require to—
“(A) carry out the functions of the Secretary under this chapter; and

“(B) determine the extent to which activities carried out with funds provided to the local educational agency under this chapter are effective in improving the educational achievement of Indian students served by such agency;

“(3) the program for which assistance is sought—

“(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

“(B) will use the best available talents and resources, including individuals from the Indian community; and

“(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the pro-
gram and to offer recommendations regarding
the program; and
“(4) the local educational agency developed the
program with the participation and written approval
of a committee—
“(A) that is composed of, and selected
by—
“(i) parents of Indian children in the
local educational agency’s schools;
“(ii) teachers in the schools; and
“(iii) if appropriate, Indian students
attending secondary schools of the agency;
“(B) a majority of whose members are
parents of Indian children;
“(C) that has set forth such policies and
procedures, including policies and procedures
relating to the hiring of personnel, as will en-
sure that the program for which assistance is
sought will be operated and evaluated in con-
sultation with, and with the involvement of,
parents of the children, and representatives of
the area, to be served;
“(D) with respect to an application de-
scribing a schoolwide program in accordance
with section 1265(c), that has—
“(i) reviewed in a timely fashion the program; and

“(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and

“(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

“SEC. 1265. AUTHORIZED SERVICES AND ACTIVITIES.

“(a) General Requirements.—Each local educational agency that receives a grant under this chapter shall use the grant funds, in a manner consistent with the purpose specified in section 1261, for services and activities that—

“(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 1264(a);

“(2) are designed with special regard for the language and cultural needs of the Indian students; and

“(3) supplement and enrich the regular school program of such agency.
“(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

“(1) culturally related activities that support the program described in the application submitted by the local educational agency;

“(2) early childhood and family programs that emphasize school readiness;

“(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of State academic standards;

“(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

“(5) programs that help engage parents and tribes to meet the unique educational needs of Indian children;

“(6) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Career and Technical Education Act of 2006;

“(7) activities to educate individuals concerning the prevention of substance abuse, violence, and suicide;
“(8) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 1261;

“(9) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

“(10) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State academic standards into the curriculum used by the local educational agency;

“(11) family literacy services; and

“(12) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

“(c) Schoolwide Programs.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this chapter to support a schoolwide program under section 1114 if—

“(1) the committee established pursuant to section 1264(e)(4) approves the use of the funds for the schoolwide program; and
“(2) the schoolwide program is consistent with the purpose described in section 1261.

“(d) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

“(e) LIMITATION ON USE OF FUNDS.— Funds provided to a grantee under this chapter may not be used for long-distance travel expenses for training activities available locally or regionally.

“SEC. 1266. INTEGRATION OF SERVICES AUTHORIZED.

“(a) PLAN.—An entity receiving funds under this chapter may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

“(b) CONSOLIDATION OF PROGRAMS.—Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive pro-
gram and reduces administrative costs by consolidating administrative functions.

“(c) PROGRAMS AFFECTED.—The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

“(d) PLAN REQUIREMENTS.—For a plan to be acceptable pursuant to subsection (b), the plan shall—

“(1) identify the programs or funding sources to be consolidated;

“(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

“(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this chapter;
“(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

“(5) identify the projected expenditures under the plan in a single budget;

“(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

“(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

“(8) set forth measures for student academic achievement consistent with State academic standards under section 1111(b)(1); and

“(9) be approved by a committee formed in accordance with section 1264(c)(4), if such a committee exists.

“(e) PLAN REVIEW.—Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding
any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this chapter or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

“(f) PLAN APPROVAL.—Within 90 days after the receipt of an entity’s plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary’s approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

“(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION.—The Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation and coordination of the demonstration projects authorized under this
section. The lead agency head for a demonstration project under this section shall be—

“(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

“(2) the Secretary of Education, in the case of any other entity.

“(h) RESPONSIBILITIES OF LEAD AGENCY.—The responsibilities of the lead agency shall include—

“(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

“(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

“(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

“(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept
or reject the plan for providing such technical assistance and the technical assistance provider.

“(i) Report Requirements.—A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h), together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

“(j) No Reduction in Amounts.—In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

“(k) Interagency Fund Transfers Authorized.—The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.
“(l) Administration of Funds.—

“(1) In General.—Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

“(2) Separate Records Not Required.—Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

“(m) Overage.—The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program’s or agency’s regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for
Federal audit purposes, if the overage is used for the purposes provided for under this section.

“(n) Fiscal Accountability.—Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

“(o) Report on Statutory Obstacles to Program Integration.—

“(1) In General.—The Secretary of Education shall annually submit a report to the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate, and the Committee on Education and the Workforce and the Committee on Natural Resources of the House of Representatives on the status of the implementation of the demonstration projects authorized under this section.

“(2) Contents.—Such report shall identify—

“(A) statutory barriers to the ability of participants to more effectively integrate their education and related services to Indian students in a manner consistent with the objectives of this section; and
“(B) the effective practices for program integration that result in increased student achievement and other relevant outcomes for Indian students.

“(p) DEFINITIONS.—For the purposes of this section, the term ‘Secretary’ means—

“(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

“(2) the Secretary of Education, in the case of any other entity.

“SEC. 1267. STUDENT ELIGIBILITY FORMS.

“(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this chapter, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this chapter, and that otherwise meets the requirements of subsection (b).

“(b) FORMS.—The form described in subsection (a) shall include—

“(1) either—
“(A)(i) the name of the tribe or band of Indians (as defined in section 1295) with respect to which the child claims membership;

“(ii) the enrollment number establishing the membership of the child (if readily available); and

“(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

“(B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

“(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

“(3) the name and address of the parent or legal guardian of the child; and
“(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied.

“(c) Statutory Construction.—Nothing in this section shall be construed to affect a definition contained in section 1295.

“(d) Forms and Standards of Proof.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

“(1) to establish eligibility under this chapter; and

“(2) to meet the requirements of subsection (a).

“(e) Documentation.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 1263, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band.
Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

“(f) MONITORING AND EVALUATION REVIEW.—

“(1) IN GENERAL.—

“(A) REVIEW.—For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this chapter, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this chapter. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

“(B) EXCEPTION.—A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.
“(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this chapter shall—

“(A) be ineligible to apply for any other grant under this Act; and

“(B) be liable to the United States for any funds from the grant that have not been expended.

“(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 1263.

“(g) TRIBAL GRANT AND CONTRACT SCHOOLS.—Notwithstanding any other provision of this section, in calculating the amount of a grant under this chapter to a tribal school that receives a grant or contract from the Bureau of Indian Education, the Secretary shall use only one of the following, as selected by the school:

“(1) A count of the number of students in the schools certified by the Bureau.

“(2) A count of the number of students for whom the school has eligibility forms that comply with this section.
“(h) TIMING OF CHILD COUNTS.—For purposes of determining the number of children to be counted in calculating the amount of a local educational agency’s grant under this chapter (other than in the case described in subsection (g)(1)), the local educational agency shall—

“(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 1264; and

“(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

“SEC. 1268. PAYMENTS.

“(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this chapter the amount determined under section 1263. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

“(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this
chapter to a local educational agency for a fiscal year if,
for such fiscal year, the State in which the local edu-
cational agency is located takes into consideration pay-
ments made under this chapter in determining the eligi-
bility of the local educational agency for State aid, or the
amount of the State aid, with respect to the free public
education of children during such fiscal year or the pre-
ceeding fiscal year.

“(c) REALLOCATIONS.—The Secretary may reallo-
cate, in a manner that the Secretary determines will best
carry out the purpose of this chapter, any amounts that—
“(1) based on estimates made by local edu-
cational agencies or other information, the Secretary
determines will not be needed by such agencies to
carry out approved programs under this chapter; or
“(2) otherwise become available for reallocation
under this chapter.

“SEC. 1269. STATE EDUCATIONAL AGENCY REVIEW.

“Before submitting an application to the Secretary
under section 1264, a local educational agency shall sub-
mit the application to the State educational agency, which
may comment on such application. If the State educational
agency comments on the application, the agency shall com-
ment on all applications submitted by local educational
agencies in the State and shall provide those comments
to the respective local educational agencies, with an opportunity to respond.

"CHAPTER B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN"

"SEC. 1271. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

“(a) Purpose.—

“(1) In general.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

“(2) Coordination.—The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this chapter with—

“(A) other programs funded under this Act; and

“(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

“(b) Eligible Entities.—In this section, the term ‘eligible entity’ means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for
Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

"(c) Grants Authorized.—

"(1) In general.—From amounts appropriated under section 3(a)(1), the Secretary shall reserve 0.2 of one percent to award grants to eligible entities to enable such entities to carry out activities under this section and section 1272.

"(2) Uses of funds.—An eligible entity that receives a grant under this section shall use the funds for one or more activities, including—

"(A) innovative programs related to the educational needs of educationally disadvantaged children;

"(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

"(C) bilingual and bicultural programs and projects;
“(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

“(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

“(F) comprehensive guidance, counseling, and testing services;

“(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

“(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

“(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with
the knowledge and skills such youth need to
make an effective transition from school to a
high-skill, high-wage career;

“(J) programs designed to encourage and
assist Indian students to work toward, and gain
entrance into, an institution of higher edu-
cation;

“(K) family literacy services;

“(L) activities that recognize and support
the unique cultural and educational needs of In-
dian children, and incorporate appropriately
qualified tribal elders and seniors; or

“(M) other services that meet the purpose
described in this section.

“(3) PROFESSIONAL DEVELOPMENT.—Evidence
based professional development of teaching profes-
sionals and paraprofessionals may be a part of any
program assisted under this section.

“(d) GRANT REQUIREMENTS AND APPLICATIONS.—

“(1) GRANT REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary may
make multiyear grants under subsection (c) for
the planning, development, pilot operation, or
demonstration of any activity described in sub-
section (c) for a period not to exceed 5 years.
“(B) PRIORITY.—In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

“(C) PROGRESS.—The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

“(2) DISSEMINATION GRANTS.—

“(A) IN GENERAL.—In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

“(B) DETERMINATION.—The Secretary may award a dissemination grant described in
this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

“(i) has been adequately reviewed;

“(ii) has demonstrated educational merit; and

“(iii) can be replicated.

“(3) APPLICATION.—

“(A) IN GENERAL.—Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

“(B) CONTENTS.—Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

“(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

“(ii) assurances that the applicant will participate, at the request of the Secretary,
in any national evaluation of activities assisted under this section;

“(iii) information demonstrating that the proposed program for the activities is an evidence-based program, which may include a program that has been modified to be culturally appropriate for students who will be served; and

“(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over.

“(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the funds provided to a grantee under this chapter for any fiscal year may be used for administrative purposes.

“SEC. 1272. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.

“(a) PURPOSES.—The purposes of this section are—

“(1) to increase the number of qualified Indian teachers, school leaders, or other education professionals serving Indian students, including through recruitment strategies;

“(2) to provide training to qualified Indian individuals to enable such individuals to become effective
teachers, school leaders, administrators, teacher aides, social workers, and ancillary educational personnel; and

“(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

“(b) Eligible Entities.—For the purpose of this section, the term ‘eligible entity’ means—

“(1) an institution of higher education, including an Indian institution of higher education;

“(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

“(3) an Indian tribe or organization, in consortium with an institution of higher education; and

“(4) a Bureau-funded school (as defined in section 1146 of the Education Amendments of 1978).

“(c) Program Authorized.—The Secretary is authorized to award grants from funds reserved under section 1271(c)(1) to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d).

“(d) Authorized Activities.—

“(1) In General.—Grant funds under this section shall be used for activities to provide support
and training for Indian individuals in a manner consistent with the purposes of this section.

“(2) SPECIAL RULES.—

“(A) TYPE OF TRAINING.—For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

“(B) PROGRAM.—For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

“(e) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonable require. An application shall include how the eligible entity will—

“(1) recruit qualified Indian individuals, such as students who may not be of traditional college age, to become teachers or school leaders;

“(2) use funds made available under the grant to support the recruitment, preparation, and professional development of Indian teachers or school leaders in local educational agencies that serve a high proportion of Indian students; and
“(3) assist participants in meeting the requirements under subsection (h).

“(f) SPECIAL RULE.—In awarding grants under this section, the Secretary—

“(1) shall consider the prior performance of the eligible entity; and

“(2) may not limit eligibility to receive a grant under this section on the basis of—

“(A) the number of previous grants the Secretary has awarded such entity; or

“(B) the length of any period during which such entity received such grants.

“(g) GRANT PERIOD.—Each grant under this section shall be awarded for an initial period of not more than three years, and may be renewed for not more than an additional two years if the Secretary finds that the grantee is meeting the grant objectives.

“(h) SERVICE OBLIGATION.—

“(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

“(A) perform work—

“(i) related to the training received under this section; and
“(ii) that benefits Indian people; or

“(B) repay all or a prorated part of the assistance received.

“(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

“CHAPTER C—FEDERAL ADMINISTRATION

“SEC. 1281. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

“(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ‘Council’), which shall—

“(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

“(2) represent different geographic areas of the United States.

“(b) DUTIES.—The Council shall—

“(1) advise the Secretary concerning the funding and administration (including the development of}
regulations and administrative policies and prac-
tices) of any program, including any program estab-
lished under this subpart—

“(A) with respect to which the Secretary
has jurisdiction; and

“(B)(i) that includes Indian children or
adults as participants; or

“(ii) that may benefit Indian children
or adults;

“(2) make recommendations to the Secretary
for filling the position of Director of Indian Edu-
cation whenever a vacancy occurs; and

“(3) submit to Congress, not later than June
30 of each year, a report on the activities of the
Council, including—

“(A) any recommendations that the Coun-
cil considers appropriate for the improvement of
Federal education programs that include Indian
children or adults as participants, or that may
benefit Indian children or adults; and

“(B) recommendations concerning the
funding of any program described in subpara-
graph (A).
“SEC. 1282. PEER REVIEW.

“The Secretary may use a peer review process to review applications submitted to the Secretary under chapter B.

“SEC. 1283. PREFERENCE FOR INDIAN APPLICANTS.

“In making grants and entering into contracts or cooperative agreements under chapter B, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

“SEC. 1284. MINIMUM GRANT CRITERIA.

“The Secretary may not approve an application for a grant, contract, or cooperative agreement under chapter B unless the application is for a grant, contract, or cooperative agreement that is—

“(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

“(2) based on relevant research findings.

“CHAPTER D—DEFINITIONS

“SEC. 1291. DEFINITIONS.

“For the purposes of this subpart:

“(1) ADULT.—The term ‘adult’ means an individual who—
“(A) has attained the age of 16 years; or

“(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

“(2) FREE PUBLIC EDUCATION.—The term ‘free public education’ means education that is—

“(A) provided at public expense, under public supervision and direction, and without tuition charge; and

“(B) provided as elementary or secondary education in the applicable State or to preschool children.

“(3) INDIAN.—The term ‘Indian’ means an individual who is—

“(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

“(i) any tribe or band terminated since 1940; and

“(ii) any tribe or band recognized by the State in which the tribe or band resides;

“(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);
“(C) considered by the Secretary of the Interior to be an Indian for any purpose;

“(D) an Eskimo, Aleut, or other Alaska Native; or

“(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America’s Schools Act of 1994.”.

(b) STRIKE.—The Act is amended by striking title VII (20 U.S.C. 7401 et seq.).

Subtitle D—National Assessment

SEC. 141. NATIONAL ASSESSMENT OF TITLE I.

(a) IN GENERAL.—Part E of title I (20 U.S.C. 6491 et seq.) is transferred and redesignated as part B of title I.

(b) REPEALS.—Sections 1502 and 1504 (20 U.S.C. 6492; 6494) are repealed.

(c) REDESIGNATIONS.—Sections 1501 and 1503 (20 U.S.C. 6491; 6493) are redesignated as sections 1301 and 1302, respectively.

(d) AMENDMENTS TO SECTION 1301.—Section 1301 (20 U.S.C. 6491), as so redesignated, is amended—

(1) in subsection (a)—
(A) in paragraph (1), by inserting “, acting through the Director of the Institute of Education Sciences (in this section and section 1302 referred to as the ‘Director’),” after “The Secretary”; 

(B) in paragraph (2)—

(i) by striking “Secretary” and inserting “Director”; 

(ii) in subparagraph (A), by striking “reaching the proficient level” and all that follows and inserting “graduating high school prepared for postsecondary education or the workforce.”;

(iii) in subparagraph (B), by striking “reach the proficient” and all that follows and inserting “meet State academic standards.”;

(iv) by striking subparagraphs (D) and (G) and redesignating subparagraphs (E), (F), and (H) through (O) as subparagraphs (D) through (M), respectively;

(v) in subparagraph (D)(v) (as so redesignated), by striking “help schools in which” and all that follows and inserting “address disparities in the percentages of
effective teachers teaching in low-income schools.''

(vi) in subparagraph (G) (as so redesignated)—

(I) by striking “section 1116” and inserting “section 1111(b)(3)(B)(iii)”; and

(II) by striking “, including the following” and all that follows and inserting a period;

(vii) in subparagraph (I) (as so redesignated), by striking “qualifications” and inserting “effectiveness”;

(viii) in subparagraph (J) (as so redesignated), by striking “, including funds under section 1002,”;

(ix) in subparagraph (L) (as so redesignated), by striking “section 1111(b)(2)(C)(v)(II)” and inserting “section 1111(b)(2)(B)(xiii)”; and

(x) in subparagraph (M) (as so redesignated), by striking “Secretary” and inserting “Director”;

(C) in paragraph (3), by striking “Secretary” and inserting “Director”;


(D) in paragraph (4), by striking “Secretary” and inserting “Director”; 

(E) in paragraph (5), by striking “Secretary” and inserting “Director”; and 

(F) in paragraph (6)— 

(i) by striking “No Child Left Behind Act of 2001” each place it appears and inserting “Student Success Act”; and 

(ii) by striking “Secretary” each place it appears and inserting “Director”; 

(2) in subsection (b), by striking “Secretary” each place it appears and inserting “Director”; 

(3) in subsection (c)— 

(A) in paragraph (1)— 

(i) by striking “Secretary” and inserting “Director”; and 

(ii) by striking “part A” and inserting “subpart 1 of part A”; 

(B) in paragraph (2)— 

(i) by striking “Secretary” and inserting “Director”; 

(ii) in subparagraph (B), by striking “challenging academic achievement standards” and inserting “State academic standards”;
(iii) in subparagraph (E), by striking “effects of the availability” and all that follows and inserting “extent to which actions authorized under section 1111(b)(3)(B)(iii) improve the academic achievement of disadvantaged students and low-performing schools.”; and

(iv) in subparagraph (F), by striking “Secretary” and inserting “Director”; and

(C) in paragraph (3)—

(i) by striking “Secretary” and inserting “Director”; and

(ii) by striking subparagraph (C) and inserting the following:

“(C) analyzes varying models or strategies for delivering school services, including schoolwide and targeted services.”; and

(4) in subsection (d), by striking “Secretary” each place it appears and inserting “Director”.

(e) AMENDMENTS TO SECTION 1302.—Section 1302 (20 U.S.C. 6493), as so redesignated, is amended—

(1) in subsection (a)—

(A) by striking “Secretary” and inserting “Director”; and
(B) by striking “and for making decisions about the promotion and graduation of students”; 

(2) in subsection (b)—

(A) by striking “Secretary” and inserting “Director”; 

(B) by striking “process,” and inserting “process consistent with section 5534,”; and 

(C) by striking “Assistant Secretary of Educational Research and Improvement” and inserting “Director”; 

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “to the State-defined level of proficiency” and inserting “toward meeting the State academic standards”; and 

(ii) in subparagraph (C), by striking “pupil-services” and inserting “specialized instructional support services”; 

(B) in paragraph (3), by striking “limited and nonlimited English proficient students” and inserting “English learners”; and 

(C) in paragraph (6), by striking “Secretary” and inserting “Director”; and
(4) in subsection (f)—

(A) by striking “Secretary” and inserting “Director”; and

(B) by striking “authorized to be appropriated for this part” and inserting “appropriated under section 3(A)(2)”.

Subtitle E—Title I General Provisions

SEC. 151. GENERAL PROVISIONS FOR TITLE I.

Part I of title I (20 U.S.C. 6571 et seq.)—

(1) is transferred to and redesignated as part C of title I of the Act; and

(2) is amended to read as follows:

“PART C—GENERAL PROVISIONS

“SEC. 1401. FEDERAL REGULATIONS.

“(a) IN GENERAL.—The Secretary may, in accordance with subsections (b) through (d), issue such regulations as are necessary to reasonably ensure there is compliance with this title.

“(b) NEGOTIATED RULEMAKING PROCESS.—

“(1) IN GENERAL.—Before publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers,
and members of local school boards and other organ-
izations involved with the implementation and oper-
ation of programs under this title.

“(2) MEETINGS AND ELECTRONIC EX-
CHANGE.—Such advice and recommendations may
be obtained through such mechanisms as regional
meetings and electronic exchanges of information.

“(3) PROPOSED REGULATIONS.—After obtain-
ing such advice and recommendations, and before
publishing proposed regulations, the Secretary
shall—

“(A) establish a negotiated rulemaking
process;

“(B) select individuals to participate in
such process from among individuals or groups
that provided advice and recommendations, in-
cluding representation from all geographic re-
gions of the United States, in such numbers as
will provide an equitable balance between rep-
resentatives of parents and students and rep-
resentatives of educators and education offi-
cials; and

“(C) prepare a draft of proposed policy op-
tions that shall be provided to the individuals
selected by the Secretary under subparagraph
(B) not less than 15 days before the first meeting under such process.

“(c) PROPOSED RULEMAKING.—If the Secretary determines that a negotiated rulemaking process is unnecessary or the individuals selected to participate in the process under paragraph (3)(B) fail to reach unanimous agreement, the Secretary may propose regulations under the following procedure:

“(1) Not less than 30 days prior to beginning a rulemaking process, the Secretary shall provide to Congress, including the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, notice that shall include—

“(A) a copy of the proposed regulations;

“(B) the need to issue regulations;

“(C) the anticipated burden the regulations will have on State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulations; and

“(D) any regulations that will be repealed when the new regulations are issued.
“(2) If, within 30 days of receiving the notice and report under paragraph (1), the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate has not expressed an intent to delay or prohibit the regulations, the Secretary may begin a rulemaking process with respect to the regulations.

“(3) The comment and review period for any proposed regulation shall be 90 days unless an emergency requires a shorter period, in which case such period shall be not less than 45 days and the Secretary shall—

“(A) designate the proposed regulation as an emergency with an explanation of the emergency in the notice and report to Congress under paragraph (1); and

“(B) publish the length of the comment and review period in such notice and in the Federal Register.

“(4) No regulation shall be made final after the comment and review period until the Secretary has published in the Federal Register an independent assessment of—
“(A) the burden, including the cost burden, the regulation will impose on State educational agencies, local educational agencies, schools and other entities that may be impacted by the regulation; and

“(B) an explanation of how the entities described in subparagraph (A) will pay for implementing the new regulation.

“(d) LIMITATION.—Regulations to carry out this title may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

“SEC. 1402. AGREEMENTS AND RECORDS.

“(a) AGREEMENTS.—In the case in which a negotiated rule making process is established under subsection (b) of section 1401, all published proposed regulations shall conform to agreements that result from the rulemaking described in section 1401 unless the Secretary reopens the negotiated rulemaking process.

“(b) RECORDS.—The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

“SEC. 1403. STATE ADMINISTRATION.

“(a) RULEMAKING.—
“(1) IN GENERAL.—Each State that receives funds under this title shall—

“(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) for review and comment;

“(B) minimize such rules, regulations, and policies to which the State’s local educational agencies and schools are subject;

“(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs;

“(D) identify any such rule, regulation, or policy as a State-imposed requirement; and

“(E)(i) identify any duplicative or contrasting requirements between the State and Federal rules or regulations;

“(ii) eliminate the rules and regulations that are duplicative of Federal requirements; and
“(iii) report any conflicting requirements to the Secretary and determine which Federal or State rule or regulation shall be followed.

“(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the State academic standards.

“(b) COMMITTEE OF PRACTITIONERS.—

“(1) IN GENERAL.—Each State educational agency that receives funds under this title shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

“(2) MEMBERSHIP.—Each such committee shall include—

“(A) as a majority of its members, representatives from local educational agencies;

“(B) administrators, including the administrators of programs described in other parts of this title;

“(C) teachers from public charter schools, traditional public schools, and career and technical educators;

“(D) parents;
“(E) members of local school boards;

“(F) representatives of private school children; and

“(G) specialized instructional support personnel.

“(3) DUTIES.—The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

“SEC. 1404. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.

“Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, support, or control a State, local educational agency, or school’s specific instructional content, academic standards and assessments, curriculum, or program of instruction.”
“SEC. 1405. RULE OF CONSTRUCTION ON EQUALIZED SPENDING.

“Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.”.

TITLE II—GENERAL PROVISIONS FOR THE ACT

SEC. 201. GENERAL PROVISIONS FOR THE ACT.

(a) Amending Title V.—Title V (20 U.S.C. 7201 et seq.) is amended to read as follows:

“TITLE V—GENERAL PROVISIONS

"PART A—DEFINITIONS

“SEC. 5101. DEFINITIONS.

“Except as otherwise provided, in this Act:

“(1) ADJUSTED COHORT GRADUATION RATE.—

“(A) IN GENERAL.—The term ‘adjusted cohort graduation rate’ means the rate for the grades included in a high school in which—

“(i) the denominator consists of the number of students in the original cohort of students who entered the entry grade together in the entry year of high school, adjusted by—

“(I) adding the students who joined that cohort, after the beginning of the entry year of high school and
before the conclusion of the exit year of high school, by enrolling; and

“(II) subtracting only those students who left that cohort, after the beginning of the entry year of high school and before the conclusion of the exit year of high school, as described in subparagraph (B); and

“(ii) the numerator consists of the number of students in the cohort, as adjusted under clause (i), who earned a regular high school diploma before, during, or at the conclusion of—

“(I) the exit year of high school; or

“(II) a summer session immediately following the exit year of high school.

“(B) COHORT REMOVAL.—To remove a student from a cohort, a school or local educational agency shall require documentation to confirm that the student has transferred out, emigrated to another country, or is deceased.

“(C) TRANSFERRED OUT.—
“(i) In General.—For purposes of this paragraph, the term ‘transferred out’ means a student who the high school or local educational agency has confirmed, according to clause (ii), has transferred—

“(I) to another school from which the student is expected to receive a regular high school diploma;

“(II) to another educational program from which the student is expected to receive a regular high school diploma; or

“(III) to a prison or juvenile facility to which the student is confined that has a school (as defined under State law) or provides an educational program that culminates in the award of a regular high school diploma.

“(ii) Confirmation Requirements.—

“(I) Documentation Required.—The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation
from the receiving school or program
that the student enrolled in the receiving school or program.

“(II) LACK OF CONFIRMATION.— A student who was enrolled, but for whom there is no confirmation of the student having transferred out, shall remain in the adjusted cohort.

“(iii) PROGRAMS NOT PROVIDING CREDIT.—A student enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma shall not be considered transferred out and shall remain in the adjusted cohort.

“(2) AVERAGE DAILY ATTENDANCE.—

“(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term ‘average daily attendance’ means—

“(i) the aggregate number of days of attendance of all students during a school year; divided by

“(ii) the number of days school is in session during that year.
“(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

“(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this Act—

“(i) consider the child to be in attendance at a school of the agency making the payment; and

“(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

“(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act,
the Secretary shall, for the purpose of this Act, consider the child to be in attendance at a school of the agency making the payment.

“(3) AVERAGE PER-PUPIL EXPENDITURE.—The term ‘average per-pupil expenditure’ means, in the case of a State or of the United States—

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

“(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

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

“(B) the aggregate number of children in average daily attendance to whom those agen-
cies provided free public education during that preceding year.

“(4) CHARTER SCHOOL.—The term ‘charter school’ means a public school that—

“(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

“(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

“(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;

“(D) provides a program of elementary or secondary education, or both;

“(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations;

“(F) does not charge tuition;

“(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

“(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

“(J) meets all applicable Federal, State, and local health and safety requirements;

“(K) operates in accordance with State law;

“(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to
any other assessments mutually agreeable to
the authorized public chartering agency and the
charter school; and

“(M) may serve pre-kindergarten or post-
secondary school students.

“(5) CHILD.—The term ‘child’ means any per-
son within the age limits for which the State pro-
vides free public education.

“(6) CHILD WITH A DISABILITY.—The term
‘child with a disability’ has the same meaning given
that term in section 602 of the Individuals with Dis-
abilities Education Act.

“(7) COMMUNITY-BASED ORGANIZATION.—The
term ‘community-based organization’ means a public
or private nonprofit organization of demonstrated ef-
fectiveness that—

“(A) is representative of a community or
significant segments of a community; and

“(B) provides educational or related serv-
ices to individuals in the community.

“(8) CONSOLIDATED LOCAL APPLICATION.—
The term ‘consolidated local application’ means an
application submitted by a local educational agency
pursuant to section 5305.
“(9) CONSOLIDATED LOCAL PLAN.—The term ‘consolidated local plan’ means a plan submitted by a local educational agency pursuant to section 5305.

“(10) CONSOLIDATED STATE APPLICATION.—The term ‘consolidated State application’ means an application submitted by a State educational agency pursuant to section 5302.

“(11) CONSOLIDATED STATE PLAN.—The term ‘consolidated State plan’ means a plan submitted by a State educational agency pursuant to section 5302.

“(12) CORE ACADEMIC SUBJECTS.—The term ‘core academic subjects’ means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

“(13) COUNTY.—The term ‘county’ means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

“(14) COVERED PROGRAM.—The term ‘covered program’ means each of the programs authorized by—

“(A) part A of title I;

“(B) title II; and
“(C) title III.

“(15) CURRENT EXPENDITURES.—The term ‘current expenditures’ means expenditures for free public education—

“(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

“(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I.

“(16) DEPARTMENT.—The term ‘Department’ means the Department of Education.

“(17) DISTANCE EDUCATION.—The term ‘distance education’ means the use of one or more technologies to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor synchronously or nonsynchronously.

“(18) EDUCATIONAL SERVICE AGENCY.—The term ‘educational service agency’ means a regional
public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

“(19) ELEMENTARY SCHOOL.—The term ‘elementary school’ means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

“(20) ENGLISH LEARNER.—The term ‘English learner’, when used with respect to an individual, means an individual—

“(A) who is aged 3 through 21;

“(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

“(C)(i) who was not born in the United States or whose native language is a language other than English;

“(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

“(II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or
“(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

“(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

“(i) the ability to meet the State’s academic standards described in section 1111;

“(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

“(iii) the opportunity to participate fully in society.

“(21) Extra-year Adjusted Cohort Graduation Rate.—

“(A) In general.—The term ‘extra-year adjusted cohort graduation rate’ means the rate for the grades included in a high school in which—

“(i) the denominator consists of the number of students in the original cohort
of students who entered the entry grade
together in the entry year of high school,
adjusted by—

“(I) adding the students who
joined that cohort, after the beginning
of the entry year of high school and
before the conclusion of the extra year
of high school, by enrolling; and

“(II) subtracting only those stu-
dents who left that cohort, after the
beginning of the entry year of high
school and before the conclusion of
the extra year of high school, as de-
described in subparagraph (B); and

“(ii) the numerator consists of the
number of students in the cohort, as ad-
justed under clause (i), who earned a reg-
ular high school diploma before, during, or
at the conclusion of—

“(I) the extra year of high
school; or

“(II) a summer session imme-
diately following the extra year of
high school.
'(B) COHORT REMOVAL.—To remove a student from a cohort, a school or local educational agency shall require documentation to confirm that the student has transferred out, emigrated to another country, or is deceased.

'(C) TRANSFERRED OUT.—

'(i) IN GENERAL.—For purposes of this paragraph, the term ‘transferred out’ means a student who the high school or local educational agency has confirmed, according to clause (ii), has transferred—

'(I) to another school from which the student is expected to receive a regular high school diploma;

'(II) to another educational program from which the student is expected to receive a regular high school diploma; or

'(III) to a prison or juvenile facility to which the student is confined that has a school (as defined under State law) or provides an educational program that culminates in the award of a regular high school diploma.
“(ii) Confirmation requirements.—

“(I) Documentation required.—The confirmation of a student’s transfer to another school or educational program described in clause (i) requires documentation from the receiving school or program that the student enrolled in the receiving school or program.

“(II) Lack of confirmation.—A student who was enrolled, but for whom there is no confirmation of the student having transferred out, shall remain in the extra-year adjusted cohort.

“(iii) Programs not providing credit.—A student enrolled in a GED or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma shall not be considered transferred out and shall remain in the extra-year adjusted cohort.
“(22) FAMILY LITERACY SERVICES.—The term ‘family literacy services’ means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

“(A) Interactive literacy activities between parents and their children.

“(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

“(C) Parent literacy training that leads to economic self-sufficiency.

“(D) An age-appropriate education to prepare children for success in school and life experiences.

“(23) FREE PUBLIC EDUCATION.—The term ‘free public education’ means education that is provided—

“(A) at public expense, under public supervision and direction, and without tuition charge; and

“(B) as elementary school or secondary school education as determined under applicable
State law, except that the term does not include any education provided beyond grade 12.

“(24) GRADUATION RATE.—The term ‘graduation rate’ means the adjusted cohort graduation rate.

“(25) HIGH SCHOOL.—The term ‘high school’ means a secondary school that—

“(A) grants a diploma, as defined by the State; and

“(B) includes, at least, grade 12.

“(26) INSTITUTION OF HIGHER EDUCATION.— The term ‘institution of higher education’ has the meaning given that term in section 101(a) of the Higher Education Act of 1965.

“(27) LOCAL EDUCATIONAL AGENCY.—

“(A) IN GENERAL.—The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a
State as an administrative agency for its public elementary schools or secondary schools.

“(B) Administrative control and direction.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

“(C) BIE schools.—The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

“(D) Educational service agencies.—The term includes educational service agencies and consortia of those agencies.
“(E) **STATE EDUCATIONAL AGENCY.**—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

“(28) **NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.**—The terms ‘Native American’ and ‘Native American language’ have the same meaning given those terms in section 103 of the Native American Languages Act of 1990.

“(29) **OTHER STAFF.**—The term ‘other staff’ means specialized instructional support personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

“(30) **OUTLYING AREA.**—The term ‘outlying area’—

“(A) means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands;

“(B) means the Republic of Palau, to the extent permitted under section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188; 117 Stat. 2751) and until an agreement for the ex-
tension of United States education assistance
under the Compact of Free Association becomes
effective for the Republic of Palau; and

“(C) for the purpose of any discretionary
grant program under this Act, includes the Re-
public of the Marshall Islands and the Fed-
erated States of Micronesia, to the extent per-
mitted under section 105(f)(1)(B)(viii) of the
Compact of Free Association Amendments Act
2751).

“(31) PARENT.—The term ‘parent’ includes a
legal guardian or other person standing in loco
parentis (such as a grandparent or stepparent with
whom the child lives, or a person who is legally re-
sponsible for the child’s welfare).

“(32) PARENTAL INVOLVEMENT.—The term
‘parental involvement’ means the participation of
parents in regular, two-way, and meaningful commu-
nication involving student academic learning and
other school activities, including ensuring—

“(A) that parents play an integral role in
assisting in their child’s learning;
“(B) that parents are encouraged to be actively involved in their child’s education at school;

“(C) that parents are full partners in their child’s education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child; and

“(D) the carrying out of other activities, such as those described in section 1118.

“(33) POVERTY LINE.—The term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

“(34) PROFESSIONAL DEVELOPMENT.—The term ‘professional development’—

“(A) includes activities that—

“(i) improve and increase teachers’ knowledge of the academic subjects the teachers teach, and enable teachers to become effective educators;
“(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

“(iii) give teachers, school leaders, and administrators the knowledge and skills to provide students with the opportunity to meet State academic standards;

“(iv) improve classroom management skills;

“(v)(I) are high quality, job-embedded, and continuous in order to have a positive and lasting impact on classroom instruction and the teacher’s performance in the classroom; and

“(II) are not 1-day or short-term workshops or conferences;

“(vi) support the recruiting, hiring, and training of effective teachers, including teachers who became certified or licensed through State and local alternative routes to certification;

“(vii) advance teacher understanding of effective instructional strategies that are—

“(I) evidence-based; and
“(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and

“(viii) are aligned with and directly related to—

“(I) State academic standards and assessments; and

“(II) the curricula and programs tied to the standards described in sub-clause (I);

“(ix) are developed with extensive participation of teachers, school leaders, parents, and administrators of schools to be served under this Act;

“(x) are designed to give teachers of English learners and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

“(xi) to the extent appropriate, provide training for teachers and school leaders in the use of technology so that tech-
nology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;

“(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of the professional development;

“(xiii) provide instruction in methods of teaching children with special needs;

“(xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and

“(xv) include instruction in ways that teachers, school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents; and

“(B) may include activities that—

“(i) involve the forming of partnerships with institutions of higher education to establish school-based teacher training
programs that provide prospective teachers and new teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

“(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under subpart 1 of part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

“(iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

“(35) REGULAR HIGH SCHOOL DIPLOMA.—

“(A) IN GENERAL.—The term ‘regular high school diploma’ means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma. Such term shall not include a GED or other recog-
nized equivalent of a diploma, a certificate of attendance, or any lesser diploma award.

“(B) Exception for students with significant cognitive disabilities.—For a student who is assessed using an alternate assessment aligned to alternate academic standards under section 1111(b)(1)(D), receipt of a regular high school diploma or a State-defined alternate diploma aligned with completion of the student’s right to a free appropriate public education under the Individuals with Disabilities Education Act shall be counted as graduating with a regular high school diploma for the purposes of this Act.

“(36) Secondary school.—The term ‘secondary school’ means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

“(37) Secretary.—The term ‘Secretary’ means the Secretary of Education.

“(38) Specialized instructional support personnel; specialized instructional support services.—
“(A) SPECIALIZED INSTRUCTIONAL SUPPORT PERSONNEL.—The term ‘specialized instructional support personnel’ means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

“(B) SPECIALIZED INSTRUCTIONAL SUPPORT SERVICES.—The term ‘specialized instructional support services’ means the services provided by specialized instructional support personnel.

“(39) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

“(40) STATE EDUCATIONAL AGENCY.—The term ‘State educational agency’ means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.
“(41) TECHNOLOGY.—The term ‘technology’ means products, services, or tools including, but not limited to, the latest developments in the Internet, one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, wireless communication devices, audio conferencing, cassettes, video cassettes, DVDs, or CD-ROMS.

“SEC. 5102. APPLICABILITY OF TITLE.

“ Parts B, C, D, and E of this title do not apply to title IV of this Act.

“SEC. 5103. APPLICABILITY TO BUREAU OF INDIAN EDUCATION OPERATED SCHOOLS.

“For the purpose of any competitive program under this Act—

“(1) a consortium of schools operated by the Bureau of Indian Education;

“(2) a school operated under a contract or grant with the Bureau of Indian Education in consortium with another contract or grant school or a tribal or community organization; or

“(3) a Bureau of Indian Education school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,
shall be given the same consideration as a local educational agency.

“PART B—FLEXIBILITY IN THE USE OF
ADMINISTRATIVE AND OTHER FUNDS

“SEC. 5201. CONSOLIDATION OF STATE ADMINISTRATIVE
FUNDS FOR ELEMENTARY AND SECONDARY
EDUCATION PROGRAMS.

“(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—
“(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2).

“(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

“(b) USE OF FUNDS.—
“(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

“(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under pro-
grams included in the consolidation under subsection (a), such as—

“(A) the coordination of those programs with other Federal and non-Federal programs;

“(B) the establishment and operation of peer-review mechanisms under this Act;

“(C) the administration of this title;

“(D) the dissemination of information regarding model programs and practices;

“(E) technical assistance under any program under this Act;

“(F) State-level activities designed to carry out this title;

“(G) training personnel engaged in audit and other monitoring activities; and

“(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

“(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).
“(d) Review.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

“(e) Unused Administrative Funds.—If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

“(f) Consolidation of Funds for Standards and Assessment Development.—In order to develop State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) for those purposes under title I.

“SEC. 5202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

“A State educational agency that also serves as a local educational agency shall, in its applications or plans under this Act, describe how the agency will eliminate duplication in conducting administrative functions.
“SEC. 5203. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

“(a) General Authority.—

“(1) Transfer.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under subpart 6 of part A of title I, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

“(2) Agreement.—

“(A) In general.—The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

“(B) Contents.—The agreement shall—

“(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness; and

and
“(ii) be developed in consultation with Indian tribes.

“(b) Administration.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

“PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

“SEC. 5301. PURPOSES.

“The purposes of this part are—

“(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

“(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

“(3) to enhance the integration of programs under this Act with State and local programs.

“SEC. 5302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

“(a) General Authority.—

“(1) Simplification.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Sec-
Secretary, in accordance with subsection (b), shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

“(A) each of the covered programs in which the State participates; and

“(B) such other programs as the Secretary may designate.

“(2) Consolidated applications and plans.—After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

“(b) Collaboration.—

“(1) In general.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private agencies, orga-
organizations, and institutions, private schools, and parents, students, and teachers.

“(2) CONTENTS.—Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

“(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

“SEC. 5303. CONSOLIDATED REPORTING.

“(a) IN GENERAL.—In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

“(b) CONTENTS.—The report shall contain information about the programs included in the report, including
the performance of the State under those programs, and
other matters as the Secretary determines are necessary,
such as monitoring activities.

“(c) REPLACEMENT.—The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

“SEC. 5304. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

“(a) ASSURANCES.—A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 5302, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

“(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

“(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, an eligible private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and
“(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

“(3) the State will adopt and use proper methods of administering each such program, including—

“(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

“(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

“(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

“(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

“(5) the State will use such fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

“(6) the State will—
“(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary’s duties under each such program; and

“(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary’s duties; and

“(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

“(b) GEPA Provision.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

“SEC. 5305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

“(a) General Authority.—

“(1) Consolidated Plan.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.
“(2) AVAILABILITY TO GOVERNOR.—The State educational agency shall make any consolidated local plans and applications available to the Governor.

“(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has an approved consolidated State plan or application under section 5302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

“(c) COLLABORATION.—A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

“(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

“SEC. 5306. OTHER GENERAL ASSURANCES.

“(a) ASSURANCES.—Any applicant, other than a State educational agency that submits a plan or applica-
tion under this Act, shall have on file with the State edu-
cational agency a single set of assurances, applicable to
each program for which a plan or application is submitted,
that provides that—

“(1) each such program will be administered in
accordance with all applicable statutes, regulations,
program plans, and applications;

“(2)(A) the control of funds provided under
each such program and title to property acquired
with program funds will be in a public agency or in
an eligible private agency, institution, organization,
or Indian tribe, if the law authorizing the program
provides for assistance to those entities; and

“(B) the public agency, eligible private agency,
institution, or organization, or Indian tribe will ad-
minister the funds and property to the extent re-
quired by the authorizing statutes;

“(3) the applicant will adopt and use proper
methods of administering each such program, in-
cluding—

“(A) the enforcement of any obligations
imposed by law on agencies, institutions, orga-
nizations, and other recipients responsible for
carrying out each program; and
“(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

“(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

“(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

“(6) the applicant will—

“(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

“(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the
State educational agency’s or the Secretary’s
duties; and

“(7) before the application was submitted, the
applicant afforded a reasonable opportunity for pub-
lic comment on the application and considered such
comment.

“(b) GEPA PROVISION.—Section 442 of the General
Education Provisions Act shall not apply to programs
under this Act.

“PART D—WAIVERS

“SEC. 5401. WAIVERS OF STATUTORY AND REGULATORY RE-
QUIREMENTS.

“(a) IN GENERAL.—

“(1) REQUEST FOR WAIVER.—A State edu-
cational agency, local educational agency, or Indian
tribe that receives funds under a program authorized
under this Act may submit a request to the Sec-
retary to waive any statutory or regulatory require-
ment of this Act.

“(2) RECEIPT OF WAIVER.—Except as provided
in subsection (c), the Secretary shall waive any stat-
utory or regulatory requirement of this Act for a
State educational agency, local educational agency,
Indian tribe, or school (through a local educational
agency), that submits a waiver request pursuant to this subsection.

“(b) PLAN.—

“(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe that desires a waiver under this section shall submit a waiver request to the Secretary, which shall include a plan that—

“(A) identifies the Federal programs affected by the requested waiver;

“(B) describes which Federal statutory or regulatory requirements are to be waived;

“(C) reasonably demonstrates that the waiver will improve instruction for students and advance student academic achievement;

“(D) describes the methods the State educational agency, local educational agency, or Indian tribe will use to monitor the effectiveness of the implementation of the plan;

“(E) describes the State educational agency, local educational agency, or Indian tribe’s process for holding public schools accountable for student academic achievement and intervening in low performing schools; and
“(F) describes how schools will continue to provide assistance to the same populations served by programs for which the waiver is requested.

“(2) ADDITIONAL INFORMATION.—A waiver request under this section—

“(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

“(B) shall be developed and submitted—

“(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

“(II) by State educational agencies (on their own behalf, or on behalf of, and based on the requests of, local educational agencies in the State) to the Secretary; or

“(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

“(3) GENERAL REQUIREMENTS.—

“(A) STATE EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a State educational agency acting on its own be-
half, or on behalf of local educational agencies in the State, the State educational agency shall—

“(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment and provide input on the request;

“(ii) submit the comments and input to the Secretary; and

“(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public.

“(B) LOCAL EDUCATIONAL AGENCIES.—In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

“(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency; and

“(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver.
in the manner in which that agency customarily provides similar notices and information to the public.

“(4) PEER REVIEW.—

“(A) ESTABLISHMENT.—The Secretary shall establish a multi-disciplinary peer review team to review waiver requests under this section.

“(B) APPLICABILITY.—The Secretary may approve a waiver request under this section without conducting a peer review of the request, but shall use the peer review process under this paragraph before disapproving such a request.

“(C) STANDARD AND NATURE OF REVIEW.—Peer reviewers shall conduct a good faith review of waiver requests submitted to them under this section. Peer reviewers shall review such waiver requests—

“(i) in their totality;

“(ii) in deference to State and local judgment; and

“(iii) with the goal of promoting State- and local-led innovation.

“(5) WAIVER DETERMINATION, DEMONSTRATION, AND REVISION.—
“(A) IN GENERAL.—The Secretary shall approve a waiver request not more than 60 days after the date on which such request is submitted, unless the Secretary determines and demonstrates that—

“(i) the waiver request does not meet the requirements of this section;

“(ii) the waiver is not permitted under subsection (c);

“(iii) the plan that is required under paragraph (1)(C), and reviewed with deference to State and local judgment, provides no reasonable evidence to determine that a waiver will enhance student academic achievement; or

“(iv) the waiver request does not provide for adequate evaluation to ensure review and continuous improvement of the plan.

“(B) WAIVER DETERMINATION AND REVISION.—If the Secretary determines and demonstrates that the waiver request does not meet the requirements of this section, the Secretary shall—

“(i) immediately—
“(I) notify the State educational agency, local educational agency, or Indian tribe of such determination; and

“(II) at the request of the State educational agency, local educational agency, or Indian tribe, provide detailed reasons for such determination in writing;

“(ii) offer the State educational agency, local educational agency, or Indian tribe an opportunity to revise and resubmit the waiver request not more than 60 days after the date of such determination; and

“(iii) if the Secretary determines that the resubmission does not meet the requirements of this section, at the request of the State educational agency, local educational agency, or Indian tribe, conduct a public hearing not more than 30 days after the date of such resubmission.

“(C) WAIVER DISAPPROVAL.—The Secretary may disapprove a waiver request if—

“(i) the State educational agency, local educational agency, or Indian tribe
has been notified and offered an opportunity to revise and resubmit the waiver request, as described under clauses (i) and (ii) of subparagraph (B); and

“(ii) the State educational agency, local educational agency, or Indian tribe—

“(I) does not revise and resubmit the waiver request; or

“(II) revises and resubmits the waiver request, and the Secretary determines that such waiver request does not meet the requirements of this section after a hearing conducted under subparagraph (B)(iii), if requested.

“(D) EXTERNAL CONDITIONS.—The Secretary shall not disapprove a waiver request under this section based on conditions outside the scope of the waiver request.

“(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

“(1) the allocation or distribution of funds to States, local educational agencies, Indian tribes, or other recipients of funds under this Act;
“(2) comparability of services;
“(3) use of Federal funds to supplement, not
supplant, non-Federal funds;
“(4) equitable participation of private school
students and teachers;
“(5) parental participation and involvement;
“(6) applicable civil rights requirements;
“(7) the prohibitions regarding—
“(A) State aid in section 5521;
“(B) use of funds for religious worship or
instruction in section 5505; and
“(C) activities in section 5525; or
“(8) the selection of a school attendance area or
school under subsections (a) and (b) of section 1113,
except that the Secretary may grant a waiver to
allow a school attendance area or school to partici-
pate in activities under subpart 1 of part A of title
I if the percentage of children from low-income fami-
lies in the school attendance area or who attend the
school is not more than 10 percentage points below
the lowest percentage of those children for any
school attendance area or school of the local edu-
cational agency that meets the requirements of sub-
sections (a) and (b) of section 1113.
“(d) DURATION AND EXTENSION OF WAIVER; LIMITATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 3 years.

“(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the State demonstrates that—

“(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

“(B) the extension is in the public interest.

“(3) SPECIFIC LIMITATIONS.—The Secretary shall not require a State educational agency, local educational agency, or Indian tribe, as a condition of approval of a waiver request, to—

“(A) include in, or delete from, such request, specific academic standards;

“(B) use specific academic assessment instruments or items; or

“(C) include in, or delete from, such waiver request any criterion that specifies, defines,
or prescribes the standards or measures that a
State or local educational agency or Indian
tribe uses to establish, implement, or improve—
“(i) State academic standards;
“(ii) academic assessments;
“(iii) State accountability systems; or
“(iv) teacher and school leader evaluation systems.
“(e) REPORTS.—
“(1) WAIVER REPORTS.—A State educational agency, local educational agency, or Indian tribe
that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the Secretary that—
“(A) describes the uses of the waiver by the agency or by schools;
“(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and
“(C) evaluates the progress of the agency and schools, or Indian tribe, in improving the quality of instruction or the academic achievement of students.
“(2) REPORT TO CONGRESS.—The Secretary shall annually submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

“(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

“(B) describing the status of the waivers in improving academic achievement.

“(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver and the recipient of the waiver has failed to make revisions needed to carry out the purpose of the waiver, or if the waiver is no longer necessary to achieve its original purpose.

“(g) PUBLICATION.—A notice of the Secretary’s decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators,
parents, students, advocacy and civil rights organizations, and the public.

“PART E—UNIFORM PROVISIONS

“SUBPART 1—PRIVATE SCHOOLS

“SEC. 5501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

“(a) Private School Participation.—

“(1) In general.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

“(2) Secular, neutral, and nonideological services or benefits.—Educational services
or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

“(3) SPECIAL RULE.—Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

“(4) EXPENDITURES.—

“(A) IN GENERAL.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the expenditures for participating public school children, taking into account the number, and educational needs, of the children to be served.

“(B) OBLIGATION OF FUNDS.—Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall—

“(i) be obligated in the fiscal year for which the funds are received by the agency; and
“(ii) with respect to any such funds that cannot be so obligated, be used to serve such children in the following fiscal year.

“(C) NOTICE OF ALLOCATION.—Each State educational agency shall—

“(i) determine, in a timely manner, the proportion of funds to be allocated to each local educational agency in the State for educational services and other benefits under this subpart to eligible private school children; and

“(ii) provide notice, simultaneously, to each such local educational agency and the appropriate private school officials in the State of such allocation of funds.

“(5) PROVISION OF SERVICES.—An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

“(b) APPLICABILITY.—

“(1) IN GENERAL.—This section applies to programs under—

“(A) part A of title II;
“(B) part B of title II; and
“(C) part B of title III.
“(2) DEFINITION.—For the purpose of this section, the term ‘eligible children’ means children eligible for services under a program described in paragraph (1).
“(c) CONSULTATION.—
“(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—
“(A) how the children’s needs will be identified;
“(B) what services will be offered;
“(C) how, where, and by whom the services will be provided;
“(D) how the services will be assessed and how the results of the assessment will be used to improve those services;
“(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational
personnel and the amount of funds available for those services;

“(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers; and

“(G) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

“(2) DISAGREEMENT.—If the agency, consortium, or entity disagrees with the views of the private school officials with respect to an issue described in paragraph (1), the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to adopt the course of action requested by such officials.
“(3) TIMING.—The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

“(4) DISCUSSION REQUIRED.—The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

“(5) DOCUMENTATION.—Each local educational agency shall maintain in the agency’s records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. If such officials do not
provide such affirmation within a reasonable period
of time, the local educational agency shall forward
the documentation that such consultation has, or at-
ttempts at such consultation have, taken place to the
State educational agency.

“(d) PUBLIC CONTROL OF FUNDS.—

“(1) IN GENERAL.—The control of funds used
to provide services under this section, and title to
materials, equipment, and property purchased with
those funds, shall be in a public agency for the uses
and purposes provided in this Act, and a public
agency shall administer the funds and property.

“(2) PROVISION OF SERVICES.—

“(A) IN GENERAL.—The provision of serv-
ices under this section shall be provided—

“(i) by employees of a public agency;
or

“(ii) through contract by the public
agency with an individual, association,
agency, organization, or other entity.

“(B) INDEPENDENCE; PUBLIC AGENCY.—

In the provision of those services, the employee,
person, association, agency, organization, or
other entity shall be independent of the private
school and of any religious organization, and
the employment or contract shall be under the control and supervision of the public agency.

“(C) COMMINGLING OF FUNDS PROHIBITED.—Funds used to provide services under this section shall not be commingled with non-Federal funds.

“SEC. 5502. STANDARDS FOR BY-PASS.

“(a) IN GENERAL.—If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 5501, the Secretary shall—

“(1) waive the requirements of that section for the agency, consortium, or entity; and

“(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 5501, 5503, and 5504.
“(b) DETERMINATION.—In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

“SEC. 5503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

“(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 5501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within 45 days.

“(b) APPEALS TO SECRETARY.—The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within the 45-day time limit. The appeal shall be accompanied by a copy of the State educational agency’s resolution, and, if there is one, a complete statement of the reasons
supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 90 days after receipt of the appeal.

"SEC. 5504. BY-PASS DETERMINATION PROCESS.

“(a) Review.—

“(1) In general.—

“(A) Written objections.—The Secretary shall not take any final action under section 5502 until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

“(B) Prior to reduction.—Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

“(2) Petition for review.—
“(A) PETITION.—If the affected agency, consortium, or entity is dissatisfied with the Secretary’s final action after a proceeding under paragraph (1), the agency, consortium, or entity may, within 60 days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action.

“(B) TRANSMISSION.—A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

“(C) FILING.—The Secretary, upon receipt of the copy of the petition, shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

“(3) FINDINGS OF FACT.—

“(A) IN GENERAL.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary’s previous
action, and shall file in the court the record of
the further proceedings.

“(B) NEW OR MODIFIED FINDINGS.—Any
new or modified findings of fact shall likewise
be conclusive if supported by substantial evi-
dence.

“(4) JURISDICTION.—

“(A) IN GENERAL.—Upon the filing of a
petition, the court shall have jurisdiction to af-
firm the action of the Secretary or to set the
action aside, in whole or in part.

“(B) JUDGMENT.—The judgment of the
court shall be subject to review by the Supreme
Court of the United States upon certiorari or
certification as provided in section 1254 of title
28, United States Code.

“(b) DETERMINATION.—Any determination by the
Secretary under this section shall continue in effect until
the Secretary determines, in consultation with that agen-
cy, consortium, or entity and representatives of the af-
feated private school children, teachers, or other edu-
cational personnel, that there will no longer be any failure
or inability on the part of the agency, consortium, or enti-
ty to meet the applicable requirements of section 5501 or
any other provision of this Act.
“(c) Payment From State Allotment.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of those services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

“(d) Prior Determination.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Student Success Act shall remain in effect to the extent the Secretary determines that determination is consistent with the purpose of this section.

“SEC. 5505. Prohibition Against Funds for Religious Worship or Instruction.

“Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.


“(a) Applicability to Nonrecipient Private Schools.—Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, nor shall any student who attends a private school that does not receive funds or services under
this Act be required to participate in any assessment referenced in this Act.

“(b) Applicability to Home Schools.—Nothing in this Act shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this Act.

“(c) Rule of Construction on Prohibition of Federal Control Over Nonpublic Schools.—Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

“(d) Rule of Construction on State and Local Educational Agency Mandates.—Nothing in this Act shall be construed to require any State educational agency or local educational agency that receives funds under this Act to mandate, direct, or control the curriculum of a private or home school, regardless or whether or not a home school is treated as a private school under state law, nor shall any funds under this Act be used for this purpose.
Subpart 2—Other Provisions

SEC. 5521. PROHIBITION REGARDING STATE AID.

A State shall not take into consideration payments under this Act (other than under title IV) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

SEC. 5522. PRIVACY OF ASSESSMENT RESULTS.

Any results from an individual assessment referred to in this Act of a student that become part of the education records of the student shall have the protections provided in section 444 of the General Education Provisions Act.

SEC. 5523. SCHOOL PRAYER.

(a) GUIDANCE.—The Secretary shall biannually provide guidance to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available on the Internet. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.
“(b) Certification.—As a condition of receiving funds under this Act, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance required under subsection (a). The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

“(c) Enforcement.—The Secretary is authorized and directed to effectuate subsection (b) by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

“SEC. 5524. EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES.

“(a) Short Title.—This section may be cited as the ‘Boy Scouts of America Equal Access Act’.
“(b) IN GENERAL.—

“(1) EQUAL ACCESS.—Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 of the United States Code (as a patriotic society).

“(2) VOLUNTARY SPONSORSHIP.—Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 of the United States Code (as a patriotic society).
“(c) Termination of Assistance and Other Action.—

“(1) Departmental Action.—The Secretary is authorized and directed to effectuate subsection (b) by issuing and securing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b).

“(2) Procedure.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.
“(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of the Civil Rights Act of 1964. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of such Act.

“(d) DEFINITION AND RULE.—

“(1) DEFINITION.—In this section, the term ‘youth group’ means any group or organization intended to serve young people under the age of 21.

“(2) RULE.—For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

“SEC. 5525. GENERAL PROHIBITIONS.

“(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

“(1) to develop or distribute materials, or operate programs or courses of instruction directed at
youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

“(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

“(3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

“(4) to operate a program of contraceptive distribution in schools.

“(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

“(1) authorize an officer or employee of the Federal Government to mandate, direct, review, support, or control a State, local educational agency, or school’s instructional content, curriculum, and related activities;

“(2) limit the application of the General Education Provisions Act;

“(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

“(4) create any legally enforceable right.
“SEC. 5526. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

“(a) GENERAL PROHIBITION.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, support, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“(b) PROHIBITION ON ENDORSEMENT OF CURRICULUM.—Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this Act may be used by the Department to endorse, approve, develop, support, coerce, or sanction any curriculum designed to be used in an elementary school or secondary school.

“(c) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.—Notwithstanding any other provision of Federal law, no State shall be required to have academic standards approved or certified by the Federal Government, in order to receive assistance under this Act.

“(d) RULE OF CONSTRUCTION ON BUILDING STANDARDS.—Nothing in this Act shall be construed to mandate
national school building standards for a State, local educational agency, or school.

“SEC. 5527. ARMED FORCES RECRUITER ACCESS TO STUDENTS AND STUDENT RECRUITING INFORMATION.

“(a) POLICY.—

“(1) ACCESS TO STUDENT RECRUITING INFORMATION.—Notwithstanding section 444(a)(5)(B) of the General Education Provisions Act, each local educational agency receiving assistance under this Act shall provide, upon a request made by a military recruiter or an institution of higher education, access to the name, address, and telephone listing of each secondary school student served by the local educational agency, unless the parent of such student has submitted the prior consent request under paragraph (2).

“(2) CONSENT.—

“(A) OPT-OUT PROCESS.—A parent of a secondary school student may submit a written request, to the local educational agency, that the student’s name, address, and telephone listing not be released for purposes of paragraph (1) without prior written consent of the parent. Upon receiving such request, the local edu-
cational agency may not release the student’s name, address, and telephone listing for such purposes without the prior written consent of the parent.

“(B) Notification of opt-out process.—Each local educational agency shall notify the parents of the students served by the agency of the option to make a request described in subparagraph (A).

“(3) Same access to students.—Each local educational agency receiving assistance under this Act shall provide military recruiters the same access to secondary school students as is provided generally to institutions of higher education or to prospective employers of those students.

“(4) Rule of construction prohibiting opt-in processes.—Nothing in this subsection shall be construed to allow a local educational agency to withhold access to a student’s name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process under paragraph (2)(A).
“(5) PARENTAL CONSENT.—For purposes of this subsection, whenever a student has attained 18 years of age, the permission or consent required of and the rights accorded to the parents of the student shall only be required of and accorded to the student.

“(b) NOTIFICATION.—The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after the date of enactment of the Student Success Act, notify school leaders, school administrators, and other educators about the requirements of this section.

“(c) EXCEPTION.—The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

“SEC. 5528. PROHIBITION ON FEDERALLY SPONSORED TESTING.

“(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to support, develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test or testing materials in reading, mathematics, or any
other subject, unless specifically and explicitly authorized by law.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(5) of the Education Sciences Reform Act of 2002 and administered to only a representative sample of pupils in the United States and in foreign nations.

“SEC. 5529. LIMITATIONS ON NATIONAL TESTING OR CERTIFICATION FOR TEACHERS.

“(a) MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any supporting, planning, development, implementation, coercion or administration of such test or certification.

“(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.
SEC. 5530. PROHIBITION ON NATIONWIDE DATABASE.

Nothing in this Act (other than section 1138(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.

SEC. 5531. PROHIBITION ON DISCRIMINATION.

Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

SEC. 5532. CIVIL RIGHTS.

Nothing in this Act shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, or disability in any program funded under this Act.

SEC. 5533. RULEMAKING.

The Secretary shall issue regulations under this Act as prescribed under section 1401 only to the extent that such regulations are necessary to ensure that there is com-
pliance with the specific requirements and assurances re-
quired by this Act.

“SEC. 5534. PEER REVIEW.

“(a) IN GENERAL.—If the Secretary uses a peer re-
view panel to evaluate an application for any program re-
quired under this Act, the Secretary shall conduct it in
 accordance with this section.

“(b) MAKEUP.—The Secretary shall—

“(1) solicit nominations for peers to serve on
 the panel from States that are—

“(A) practitioners in the subject matter; or

“(B) experts in the subject matter; and

“(2) select the peers from such nominees, ex-
 cept that there shall be at least 75 percent practi-
 tioners on each panel and in each group formed
 from the panel.

“(c) GUIDANCE.—The Secretary shall issue the peer
 review guidance concurrently with the notice of the grant.

“(d) REPORTING.—The Secretary shall—

“(1) make the names of the peer reviewers
 available to the public before the final deadline for
 the application of the grant;

“(2) make the peer review notes publically
 available once the review has concluded; and
“(3) make any deviations from the peer reviewers’ recommendations available to the public with an explanation of the deviation.

“(e) APPLICANT REVIEWS.—An applicant shall have an opportunity to review the peer review notes and appeal the score to the Secretary prior to the Secretary making any final determination.

“(f) PROHIBITION.—The Secretary, and the Secretary’s staff, may not attempt to participate in, or influence, the peer review process. No Federal employee may participate in, or attempt to influence the peer review process, except to respond to questions of a technical nature, which shall be publicly reported.

“SEC. 5535. GUN-FREE REQUIREMENTS.

“(a) SHORT TITLE.—This section may be cited as the ‘Gun-Free Schools Act’.

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—Each State receiving Federal funds under any title of this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such
State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student’s regular school setting from providing educational services to such student in an alternative setting.

“(3) DEFINITION.—For the purpose of this section, the term ‘firearm’ has the same meaning given such term in section 921(a) of title 18, United States Code.

“(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

“(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any title of this Act shall provide to the State, in the application requesting such assistance—

“(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and
“(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

“(A) the name of the school concerned;

“(B) the number of students expelled from such school; and

“(C) the type of firearms concerned.

“(e) REPORTING.—Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

“(f) DEFINITION.—For the purpose of subsection (d), the term ‘school’ means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

“(g) EXCEPTION.—Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

“(h) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.—

“(1) IN GENERAL.—No funds shall be made available under any title of this Act to any local edu-
cational agency unless such agency has a policy re-
quiring referral to the criminal justice or juvenile de-
linquency system of any student who brings a fire-
arm or weapon to a school served by such agency.

“(2) DEFINITION.—For the purpose of this subsection, the term ‘school’ has the same meaning
given to such term by section 921(a) of title 18,
United States Code.

“SEC. 5536. PARENTAL CONSENT.

“ Upon receipt of written notification from the par-
ents or legal guardians of a student, the local educational
agency shall withdraw such student from any program or
activity funded under this Act. The local educational agen-
cy shall make reasonable efforts to inform parents or legal
guardians of the content of such programs or activities
funded under this Act, other than classroom instruction.

“SEC. 5537. PROHIBITED USES OF FUNDS.

“ No funds under this Act may be used for—

“(1) construction, renovation, or repair of any
school facility (except for those activities under sub-
part 1 of part A of title III and title IV); or

“(2) medical services, drug treatment or reha-
bilitation, except for specialized instructional support
services or referral to treatment for students who
are victims of, or witnesses to, crime or who illegally use drugs.

“SEC. 5538. TRANSFER OF SCHOOL DISCIPLINARY RECORDS.

“(a) NONAPPLICATION OF PROVISIONS.—This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

“(b) DISCIPLINARY RECORDS.—In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

“SEC. 5539. SEVERABILITY.

“ If any provision of this Act is held invalid, the remainder of this Act shall be unaffected thereby.”.
(b) STRIKE.—The Act is amended by striking title IX (20 U.S.C. 7801 et seq.).

(c) AMENDMENT TO IDEA.—Section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) is amended by striking paragraph (10).