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National Association of Protection & Advocacy Systems

Side by Side Comparison of Senate Bill 1248 and House Bill 1350 Parts A and B of the IDEA (Current Law)

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Notes: This document is intended as an overview only – an attempt to cover those proposed changes expected to be of greatest interest to parents/advocates. We do not guarantee to have covered every possible change proposed in the bills. Language that is not in quotes is a paraphrase of the bill or statutory language. Pagination and alignment across the page may vary slightly from printer to printer.

Bold = In the “Bill Language” column it shows a change from current law. In the “Current Law” column, it is used for comparison against the change proposed in the bill.

Bold Italics = Areas of potential concern to advocates for children with disabilities or questions.

Plain Italics = Editorial/usage notes

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Current Law	Senate Bill 1248	House Bill 1350
Findings and Purposes		
<p>600(c) Findings</p> <p>“(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142) --</p> <p>(A) the special educational needs of children with disabilities were not being fully met;</p> <p>(B) more than one-half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;</p> <p>(C) 1,000,000 of the children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;</p> <p>(D) there were many children with disabilities throughout the United States participating in regular school programs whose disabilities prevented such children from having a successful educational experience because their disabilities were undetected; and</p> <p>(E) because of the lack of adequate services within the public school system, families were often forced to find services outside the public school system, often at great distance from their residence and at</p>	<p>601(c) Findings</p> <p>...“(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94 09142), the educational needs of millions of children with disabilities were not being fully met because_</p> <p>“(A) the children did not receive appropriate educational services;</p> <p>“(B) the children were excluded entirely from the public school system and from being educated with their peers;</p> <p>“(C) undiagnosed disabilities prevented the children from having a successful educational experience; or</p> <p>“(D) a lack of adequate resources within the public school system forced families to find services outside the public school system...”</p>	<p>601(c) Findings</p> <p>“(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), the special educational needs of millions of children with disabilities were not being fully met and there were many children with disabilities participating in regular school programs whose undiagnosed disabilities prevented them from having a successful educational experience.”</p>

their own expense. ...”		
600(C)(4) Findings [The Congress finds the following:...] “However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.”	601(C)(4) Findings Same as current law	601(C)(4) Findings Removed
600(c)(5) [(5) Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—] “... (B) strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home...”	601(c)(5) ... “(B) Strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.”	601(c)(4)(B) Same as S 1248 - 601(c)(5)(B)
600(c)(5) “... (E) supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them ...”	601(c)(5) “... (E) supporting high-quality, intensive preservice preparation professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible; ...”	601(c)(4) “... (D) supporting high-quality, intensive professional development for personnel who work with children with disabilities.”
600(c)(5) “... (F) providing incentives for whole-school approaches and pre-referral intervention to reduce the	601(c)(5) “... (F) providing incentives for whole-school approaches, scientifically based early reading	601(c)(4) “... (E) providing incentives for scientifically based early reading

need to label children as disabled in order to address their learning needs; ...”	programs, positive behavioral interventions and supports , and prereferral intervention to reduce the need to label children as disabled in order to address their learning and behavioral needs;...”	programs , and prereferral intervention services to reduce the need to label children as disabled in order to address their learning and behavioral needs;...”
600(c) N/A (not in current law)	601(c)(5) ”...(H) supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities. ”	601(c)(4)(G) Same as S. 1248-- 601(c)(5)(H)
600(c)(6) “While States, local educational agencies and educational services agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.”	601(c)(6) “While States, local educational agencies and educational services agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.”	601(c)(5) Same as S. 1248—601(c)(6)
600(7)-(10) “...(B) America's racial profile is rapidly changing. Between 1980 and 1990, the rate of increase in the population for white Americans was 6 percent, while the rate of increase for racial and ethnic minorities was much higher: 53 percent for Hispanics, 13.2 percent for African-Americans, and 107.8 percent for Asians...”	601(8)-(11) Changes “racial” to “ethnic” and makes a number of changes to the findings with regard to race and ethnicity , some of which are intended to reflect current statistical data.	601(8)-(11) Almost exactly the same as S. 1248 (minor differences)
600(d) Purposes “(d) Purposes The purposes of this chapter are -... (2) to assist States in the implementation of a statewide, comprehensive , coordinated, multidisciplinary, interagency system of early	601(d) Purposes Same as current law except that in 601(d)(2) “... to assist states in the implementation of a Statewide coordinated, multidisciplinary interagency system of early intervention services for infants and toddlers with disabilities and their families;”	601(d) Purposes Same as current law

intervention services for infants and toddlers with disabilities and their families...”	[The word “comprehensive” has been removed.]	
Definitions		
<p>601 (Definitions)</p> <p>“...(3) CHILD WITH A DISABILITY-</p> <p>(A) IN GENERAL- The term 'child with a disability' means a child -- ...</p> <p>(B) CHILD AGED 3 THROUGH 9- The term 'child with a disability' for a child aged 3 through 9 may, at the discretion of the State and the local educational agency, include a child – ...”</p>	<p>602 (Definitions)</p> <p>“...(3) Child with a disability._</p> <p>“(A) In general._The term `child with a disability' means a child ...</p> <p>“(B) Child aged 3 through 9._The term `child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child...”</p>	<p>602 (Definitions)</p> <p>Same as S. 1248</p>
<p>601 (Definitions)</p> <p>N/A</p>	<p>602 (Definitions)</p> <p>“...(4) Core academic subject. The term `core academic subject' has the meaning given the term in section 9101(11) of the Elementary and Secondary Education Act of 1965.”</p>	<p>602 (Definitions)</p> <p>Same as current law (ie there is no definition of this term included)</p>
<p>601</p> <p>“(8) Free appropriate public education The term “free appropriate public education” means special education and related services that -... (C) include an appropriate preschool, elementary, or secondary school education in the State involved..”</p>	<p>602(9)</p> <p>Same as current law</p>	<p>602</p> <p>“(8) FREE APPROPRIATE PUBLIC EDUCATION- The term `free appropriate public education' means special education and related services that--... (C) include an appropriate preschool, elementary, or secondary school education in the State involved that is reasonably calculated to provide educational benefit to enable the child with a disability to access the general curriculum...</p>

<p>601 (Definitions)</p> <p>N/A</p>	<p>602 (Definitions) (Changed in the mark up)</p> <p>“(10) HIGHLY QUALIFIED; CONSULTATIVE SERVICES-</p> <p>`(A) HIGHLY QUALIFIED- The term `highly qualified', when used with respect to any special education teacher teaching in a State, means a teacher who--</p> <p>`(i)(I) meets the definition of that term in section 9101(23) of the Elementary and Secondary Education Act of 1965, including full State certification as a special education teacher through a State approved special education teacher preparation program (including certification obtained through State or local educational agency approved alternative routes); or</p> <p>`(II) has passed a State special education licensing examination and holds a license to teach special education in such State,</p> <p>except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's statute on public charter schools; and</p> <p>`(ii) does not have certification or licensure requirements waived on an emergency, temporary, or provisional basis;</p> <p>`(iii) if the teacher provides only consultative services to a regular education teacher with respect to a core academic subject, the special education teacher shall meet the standards for subject knowledge and teaching skills described in section 9101(23) of the Elementary and Secondary Education Act of 1965 that apply to elementary school teachers; and</p> <p>`(iv) if the teacher provides instruction in a core academic subject to middle or secondary students who are performing at the elementary level, the teacher shall meet the standards for subject knowledge and teaching skills described in section</p>	<p>602 (Definitions)</p> <p>“...(9) Highly qualified—the term “highly qualified” has the same meaning as that term in section 9101 of the Elementary and Secondary Education Act of 1965.”</p>
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	<p>9101(23) of the Elementary and Secondary Education Act of 1965 that apply to elementary school teachers.</p> <p>`(B) CONSULTATIVE SERVICES- As used in subparagraph (A)(iii), the term `consultative services' means--</p> <p>`(i) consultation on adapting curricula, using positive behavioral supports and interventions, and selecting appropriate accommodations, and does not include direct instruction of students; or</p> <p>`(ii) teaching in collaboration with a regular education teacher or teachers who is or are highly qualified in the core academic subjects being taught.”</p>	
601(17) N/A	602(17) <p>“Limited English Proficient—The term “limited English proficient’ has the meaning given the term in section 9101(25) of the Elementary and Secondary Education Act of 1965.”</p>	602 (Definitions) Same as current law (i.e. there is no definition of this term included)
601 (Definitions) <p>“(16) NATIVE LANGUAGE- The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.”</p>	602 (Definitions) <p>“(19) Native language._The term ‘native language’, when used with respect to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.”</p>	602 (Definitions) (17) Same as current law.
601 (Definitions) <p>“(30) TRANSITION SERVICES- The term 'transition services' means a coordinated set of activities for a student with a disability that --</p> <p>(A) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment</p>	602 (Definitions) <p>“(33) Transition services._The term `transition services' means a coordinated set of activities for a child with a disability (as defined in paragraph (3)(A)) that_</p> <p>(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability</p>	602 (Definitions) <p>“(31) TRANSITION SERVICES- The term 'transition services' means a coordinated set of activities for a child with a disability that –</p> <p>(A) is designed within an results-oriented process, that is focused on improving the academic and developmental achievement of the child with a disability to facilitate</p>

<p>(including supported employment), continuing and adult education, adult services, independent living, or community participation;</p> <p>(B) is based upon the individual student's needs, taking into account the student's preferences and interests; and</p> <p>(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.”</p>	<p>to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;</p> <p>(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and</p> <p>(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.”</p>	<p>the move from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;</p> <p>(B) is based upon the individual student's needs, taking into account the student's skills, preferences and interests; and</p> <p>(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.”</p>
<p>SEC. 603. ABROGATION OF STATE SOVEREIGN IMMUNITY.</p> <p>“(a) IN GENERAL- A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.</p> <p>(b) REMEDIES- In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.</p> <p>(c) EFFECTIVE DATE- Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of the enactment of the Education of the</p>	<p>SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.</p> <p>It is included in the Senate bill – worded the same as in current law.</p>	<p>SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.</p> <p><i>Section removed entirely</i></p>

Handicapped Act Amendments of 1990.		
<p>SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.</p> <p>(a) PUBLIC COMMENT PERIOD- The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.</p> <p>(b) PROTECTIONS PROVIDED TO CHILDREN- The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.</p> <p><i>See above</i></p>	<p>SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.</p> <p>“(a) In General. In carrying out the provisions of this Act, the Secretary shall issue regulations only to the extent that such regulations are necessary to ensure that there is compliance with specific requirements of this Act.</p> <p>(b) Protections Provided to Children. The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that _</p> <p>(1) violates or contradicts any provision of this Act; and</p> <p>(2) procedurally or substantively lessens the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.</p> <p>(c) Public Comment Period. The Secretary shall provide a public comment period of not more than 90</p>	<p>SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.</p> <p>“(a) In General. The Secretary may issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with specific requirements of this Act.</p> <p>(b) Protections Provided to Children. The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would _</p> <p>(1) violate or contradicts any provision of this Act; and</p> <p>(2) procedurally or substantively lessen the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.</p> <p>(c) Public Comment Period. The Secretary shall provide a public comment period of at</p>

<p>(c) POLICY LETTERS AND STATEMENTS- The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this part without following the requirements of section 553 of title 5, United States Code.</p> <p>(d) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART-</p> <p>(1) IN GENERAL- The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of</p>	<p>days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.</p> <p>(d) Policy Letters and Statements._The Secretary may not issue policy letters or other statements (including letters or statements regarding issues of national significance) that_</p> <p>(1) violate or contradict any provision of this Act; or</p> <p>(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.</p>	<p>least 60 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.</p> <p>(d) Policy Letters and Statements._The Secretary may not issue policy letters or other statements (including letters or statements regarding issues of national significance) that_</p> <p>(1) violate or contradict any provision of this Act; or</p> <p>(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.</p> <p>(e) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART-</p> <p>(1) IN GENERAL- The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the</p>
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<p>Education of this Act or the regulations implemented pursuant to this Act.</p> <p>(2) ADDITIONAL INFORMATION- For each item of correspondence published in a list under paragraph (1), the Secretary shall identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate.</p> <p>(e) ISSUES OF NATIONAL SIGNIFICANCE- If the Secretary receives a written request regarding a policy, question, or interpretation under part B of this Act, and determines that it raises an issue of general interest or applicability of national significance to the implementation of part B, the Secretary shall --</p> <p>(1) include a statement to that effect in any written response;</p> <p>(2) widely disseminate that response to State educational agencies, local educational agencies, parent and advocacy organizations, and other interested organizations, subject to applicable laws relating to confidentiality of information; and</p> <p>(3) not later than one year after the date on which the Secretary responds to the written request, issue written guidance on such policy, question, or interpretation through such means as the Secretary determines to be appropriate and consistent with law, such as a policy memorandum, notice of interpretation, or notice of proposed rulemaking.</p> <p>(f) EXPLANATION- Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under part B of this Act shall include an explanation that the written response -</p>	<p><i>Removes Issues of National Significance</i></p> <p>(e) Explanation and Assurances. Any written response by the Secretary under subsection (d) regarding a policy, question, or interpretation under part B of this Act shall include an explanation in the written response that_</p> <p>(1) such response is provided as informal guidance and is not legally binding;</p> <p>(2) when required, such response is issued in compliance with the requirements of section 553 of title 5, United States Code; and</p>	<p>previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.</p> <p>(2) Additional information. -- For each item of correspondence published in a list under paragraph (1), the Secretary shall_</p> <p>(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and</p> <p>(B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5, United States Code.</p> <p><i>Removes Issues of National Significance</i></p> <p>(f) Explanation and Assurances. Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under part B of this Act shall include an explanation in the written response that_</p> <p>(1) when required, such response is issued in compliance with the requirements of section 553 of title 5, United States Code; and</p> <p>(2) such response is provided as informal guidance and represents only the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented in the original</p>
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<p>-</p> <p>(1) is provided as informal guidance and is not legally binding; and</p> <p>(2) represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented. “</p>	<p>(3) such response represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.</p> <p>(f) Correspondence From Department of Education Describing Interpretations of This Act._</p> <p>(1) In general._The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.</p> <p>(2) Additional information._For each item of correspondence published in a list under paragraph (1), the Secretary shall_</p> <p>(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and</p> <p>(B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5, United States Code.”</p>	<p>question.”</p> <p><i>See above</i></p>
<p>SEC. 608</p>	<p>SEC. 608. STATE ADMINISTRATION.</p> <p>“(a) Rulemaking._Each State that receives funds under this Act shall_</p>	<p>SEC. 608. STATE ADMINISTRATION.</p> <p>“(a) Rulemaking._Each State that receives funds under this Act shall_</p>

<p>N/A</p>	<p>(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and</p> <p>(2) identify in writing to its local educational agencies and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this Act and Federal regulations.</p> <p>(b) Support and Facilitation._ State rules, regulations, and policies under this Act shall support and facilitate local educational agency and school-level systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.”</p>	<p>(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and</p> <p>(2) Minimize the number of rules, regulations, and policies to which the State’s LEA’s and schools are subject to under this Act</p> <p>(b) Support and Facilitation._ State rules, regulations, and policies under this Act shall support and facilitate local educational agency and school-level systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.”</p>
<p>SEC. 609</p> <p>N/A</p>	<p>SEC. 609. REPORT TO CONGRESS.</p> <p>“The Comptroller General shall conduct a review of Federal, State, and local requirements relating to the education of children with disabilities to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators, and shall report to Congress not later than 18 months after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003 regarding such review along with strategic proposals for reducing the paperwork burdens on teachers.”</p>	<p>609 GAO REVIEW; REPORT (Included on Thomas as section 104)</p> <p>SEC. 104. GAO REPORTS. “(a) PAPERWORK STUDY-</p> <p>(1) REVIEW- The Comptroller General shall conduct a review of all Federal requirements under the Individuals with Disabilities Education Act, and the requirements of a reasonable sample of State and local educational agencies relating to such Act, to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators. As part of such review, the Comptroller General shall include recommendations to reduce or eliminate the excessive paperwork burdens</p>

		<p>described in the preceding sentence.</p> <p>(2) REPORT- Not later than 2 years after the date of the enactment of this Act, and once every 2 years thereafter, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).</p> <p>(b) DISABILITY DEFINITIONS-</p> <p>(1) REVIEW- The Comptroller General of the United States shall conduct a review of--</p> <p>(A) variation among States in definitions, and evaluation processes, relating to the provision of services under the Individuals with Disabilities Education Act to children having conditions described in section 602(a)(3) of such Act using the terms 'emotional disturbance', 'other health impairments', and 'specific learning disability'; and</p> <p>(B) the degree to which these definitions and evaluation processes conform to scientific, peer-reviewed research.</p> <p>(2) REPORT- Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall prepare and submit to the appropriate congressional committees a report that contains the results of the review under paragraph (1).</p> <p>(c) DISTANCE LEARNING PROFESSIONAL DEVELOPMENT PROGRAMS-</p> <p>(1) STUDY- The Comptroller General shall conduct a study on existing or</p>
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		<p>developing professional development programs for special education personnel delivered through the use of technology and distance learning.</p> <p>(2) REPORT- Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.</p> <p>(d) LIMITED ENGLISH PROFICIENT CHILDREN WITH DISABILITIES-</p> <p>(1) STUDY- The Comptroller General shall conduct a study on how limited English proficient students are being served under the Individuals with Disabilities Education Act.</p> <p>(2) REPORT- Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under paragraph (1) to the appropriate congressional committees.</p> <p>(e) DEFINITION- In this section, the term ‘appropriate congressional committees’ means the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.”</p>
Sec. 611		
Section 611(a)	Section 611(a)	Section 611(a)

<p>“(2) MAXIMUM AMOUNTS- The maximum amount of the grant a State may receive under this section for any fiscal year is --</p> <p>(A) the number of children with disabilities in the State who are receiving special education and related services --</p> <p>(i) aged 3 through 5 if the State is eligible for a grant under section 619; and</p> <p>(ii) aged 6 through 21; multiplied by</p> <p>(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.</p>	<p>“(2) Maximum amount._The maximum amount available for awarding grants under this part for any fiscal year is_</p> <p>(A) the total number of children with disabilities in the 2002 -2003 school year in the States who received special education and related services and who were_</p> <p>(i) aged 3 through 5, if the State was eligible for a grant under section 619; and</p> <p>(ii) aged 6 through 21; multiplied by</p> <p>(B) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by;</p> <p>(C) the rate of change in the sum of_</p> <p>(i) 85 percent of the change in the nationwide total of the population described in (d)(3)(A)(i)(II); and</p> <p>(ii) 15 percent of the change in the nationwide total of the population described in (d)(3)(A)(i)(III)...”</p>	<p><i>Sec. 611(a)(3) adds a limitation on grants to states: the number of children with disabilities ages 3-17 may not exceed 12% number of all children of that age in the state.</i></p> <p><i>Currently some states serve substantially more than 12% so this cap is hurtful to them.</i></p> <p><i>Also appears to remove funding for the “freely associated states” formerly in 611(b) (e.g. Guam, American Samoa) See below.</i></p>
<p>611</p> <p>“...(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES-</p> <p>(1) FUNDS RESERVED- From the amount appropriated for any fiscal year under subsection (j), the Secretary shall reserve not more than one percent, which shall be used --</p> <p>(A) to provide assistance to the outlying areas in</p>	<p>611</p> <p>“(b) Outlying Areas and Freely Associated States._</p> <p>(1) Funds reserved._From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used_</p> <p>(A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and</p>	<p>611</p> <p>(b) OUTLYING AREAS-</p> <p>(1) FUNDS RESERVED- From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than one percent, which shall be used to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21.</p> <p>(2) SPECIAL RULE- The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying</p>

<p>accordance with their respective populations of individuals aged 3 through 21; and</p> <p>(B) for fiscal years 1998 through 2001, to carry out the competition described in paragraph (2), except that the amount reserved to carry out that competition shall not exceed the amount reserved for fiscal year 1996 for the competition under part B of this Act described under the heading 'SPECIAL EDUCATION' in Public Law 104-134.</p> <p>(2) LIMITATION FOR FREELY ASSOCIATED STATES-</p> <p>(A) COMPETITIVE GRANTS- The Secretary shall use funds described in paragraph (1)(B) to award grants, on a competitive basis, to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States to carry out the purposes of this part.</p> <p>(B) AWARD BASIS- The Secretary shall award grants under subparagraph (A) on a competitive basis, pursuant to the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii. Those recommendations shall be made by experts in the field of special education and related services...”</p>	<p>(B) to provide each of the freely associated States grants that do not exceed the level each such freely associated State received for fiscal year 2003 under this part, but only if the freely associated State meets the requirements of section 611(b)(2)(C) as such section was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003</p> <p>(C) ASSISTANCE REQUIREMENTS- Any freely associated State that wishes to receive funds under this part shall include, in its application for assistance --</p> <p>(i) information demonstrating that it will meet all conditions that apply to States under this part;</p> <p>(ii) an assurance that, notwithstanding any other provision of this part, it will use those funds only for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make a free appropriate public education available to all children with disabilities;</p> <p>(iii) the identity of the source and amount of funds, in addition to funds under this part, that it will make available to ensure that a free appropriate public education is available to all children with disabilities within its jurisdiction; and</p> <p>(iv) such other information and assurances as the Secretary may require...”</p>	<p>areas, shall not apply to funds provided to those areas under this section.’</p> <p><i>Freely associated states appear to be omitted.</i></p>
611	611 “(d) Allocations to States.”	611 “(d) ALLOCATIONS TO STATES-

<p>“(d) Allocations to States</p> <p>(1) In general</p> <p>After reserving funds for studies and evaluations under section 1474(e) of this title, and for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c) of this section, the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or subsection (e) of this section, as the case may be.</p> <p>(2) Interim formula</p> <p>Except as provided in subsection (e) of this section, the Secretary shall allocate the amount described in paragraph (1) among the States in accordance with section 611(a)(3), (4), and (5) and (b)(1), (2), and (3) of this Act, as in effect prior to June 4, 1997, except that the determination of the number of children with disabilities receiving special education and related services under such section 611(a)(3) may, at the State's discretion, be calculated as of the last Friday in October or as of December 1 of the fiscal year for which the funds are appropriated.”</p>	<p>(1) In general. After reserving funds for studies and evaluations under section 665, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.</p> <p>(2) Special rule for use of fiscal year 1999 amount. If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.”...</p>	<p>(1) IN GENERAL- After reserving funds for payments to the outlying areas and the Secretary of the Interior under subsections (b) and (c), the Secretary shall allocate the remaining amount among the States in accordance with this subsection.</p> <p>(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT- If a State does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in the subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.”</p>
<p>611</p> <p>“(f) STATE-LEVEL ACTIVITIES-</p> <p>(1) GENERAL- (A) Each State may retain not more than the amount described in <u>subparagraph (B)</u> for administration and other State-level activities in accordance with paragraphs <u>(2)</u> and <u>(3)</u>.</p> <p>(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year</p>	<p>611</p> <p><i>Note: This section is sufficiently different from current law that there is no simple or clearly understandable method for providing a side-by-side by paragraph or topic. The easiest way for a reader to understand it might be to read the entire topic of “state level activities” and then go back over it to determine the differences that are relevant to his or her specific interests. Some of the key differences are in bold italics and the entire current law section is bolded to indicate substantial change.</i></p> <p>“(e) State-Level Activities._</p>	<p>611</p> <p>“(e) STATE-LEVEL ACTIVITIES-</p> <p>(1) IN GENERAL-</p> <p>(A) Each State may retain not more than the amount described in subparagraph (B) for administration and other State-level activities in accordance with paragraphs (2), (3), and (4).</p> <p>(B) For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by</p>

<p>1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of --</p> <p>(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or</p> <p>(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(C) A State may use funds it retains under subparagraph (A) without regard to --</p> <p>(i) the prohibition on commingling of funds in section 612(a)(18)(B); and</p> <p>(ii) the prohibition on supplanting other funds in section 612(a)(18)(C).</p> <p>(2) STATE ADMINISTRATION-</p> <p>(A) For the purpose of <i>administering this part</i>, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) --</p> <p>(i) each State may use not more than <i>twenty percent</i> of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or \$500,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor),</p>	<p>(1) State administration._</p> <p>(A) In general._ For the purpose of administering this part, including paragraph (3), section 619, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities_</p> <p>(i) each State may reserve not more than the <i>maximum amount the State was eligible to reserve for State administration for fiscal year 2003 or \$800,000</i> (adjusted by the cumulative rate of inflation since fiscal year 2003 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and</p> <p>(ii) each outlying area may reserve not more than 5 percent of the amount the outlying area receives under subsection (b) for any fiscal year or \$35,000, whichever is greater.</p> <p>(B) Part C._ Funds reserved under subparagraph (A) may be used for the administration of part C, if the State educational agency is the lead agency for the State under that part.</p> <p>(C) Certification._ Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current.</p> <p>(2) Other state-level activities._ (A) State-level activities._</p>	<p>the Secretary for each succeeding fiscal year by the lesser of—</p> <p>(i) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or</p> <p>(ii) the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(C) A State may use funds it retains under subparagraph (A) without regard to-- (i) the prohibition on commingling of funds in section 612(a)(18)(B); and (ii) the prohibition on supplanting other funds in section 612(a)(18)(C).</p> <p>(2) STATE ADMINISTRATION-</p> <p>(A) For the purpose of administering this part, including section 619 (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities)-- (i) each State may use not more than 20 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year or \$750,000, whichever is greater; and (ii) each outlying area may use up to 5 percent of the amount it receives under this section for any fiscal year or \$35,000 (adjusted by the cumulative rate of inflation since fiscal year 1998, as measured by the percentage increase, if</p>
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<p>whichever is greater; and</p> <p>(ii) each outlying area may use up to five percent of the amount it receives under this section for any fiscal year or \$35,000, whichever is greater.</p> <p>(B) Funds described in subparagraph (A) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.</p> <p>(3) OTHER STATE-LEVEL ACTIVITIES- Each State shall use any funds it retains under paragraph (1) and does not use for administration under paragraph (2) for any of the following:</p> <p>(A) Support and direct services, including technical assistance and personnel development and training.</p> <p>(B) Administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985.</p> <p>(C) To establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel.</p> <p>(D) To assist local educational agencies in meeting</p>	<p>(i) In general. For the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2004 and 2005, <i>not more than 10 percent</i> of the amount that remains after subtracting the <i>amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for fiscal years 2004 and 2005, respectively.</i> For fiscal years 2006, 2007, 2008, and 2009, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2005 (adjusted by the cumulative rate of inflation since fiscal year 2005 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).</p> <p>(ii) Small State adjustment. Notwithstanding clause (i), in the case of a State for which the maximum amount reserved for State administration under paragraph (1) is not greater than \$800,000 (as adjusted pursuant to paragraph (1)(A)(i)), the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2004 and 2005, not more than 12 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for fiscal years 2004 and 2005, respectively. For each of the fiscal years 2006, 2007, 2008, and 2009, each such State may reserve for such purpose the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2005 (adjusted by the cumulative rate of inflation since fiscal year 2005 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).</p> <p>(B) <i>Required activities.</i> Funds reserved under</p>	<p>any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater.</p> <p>(B) Funds described in subparagraph (A) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.</p> <p>(3) HIGH COST SPECIAL EDUCATION AND RELATED SERVICES- Each State may use not more than 40 percent of the maximum amount it may retain under paragraph (1)(A) for any fiscal year to establish and implement cost or risk sharing funds, consortia, or cooperatives to assist local educational agencies in providing high cost special education and related services.</p> <p>(4) OTHER STATE-LEVEL ACTIVITIES- Each State shall use any funds it retains under paragraph (1) and does not use under paragraph (2) or (3) for any of the following:</p> <p>(A) Support and direct services, including technical assistance and personnel development and training.</p> <p>(B) Administrative costs of monitoring and complaint investigation.</p> <p>(C) To establish and implement the mediation and voluntary binding arbitration processes required by sections 612(a)(17) and 615(e), including providing for the costs of mediators, arbitrators, and support personnel.</p>
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<p>personnel shortages.</p> <p>(E) To develop a State Improvement Plan under subpart 1 of part D.</p> <p>(F) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State Improvement Plan undersubpart 1 of part D if the State receives funds under that subpart.</p> <p><i>(G) To supplement other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section. This system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under part C of this Act.</i></p> <p>(H) For subgrants to local educational agencies for the purposes described in paragraph (4)(A).</p>	<p>subparagraph (A) shall be used to carry out the following activities:</p> <p>(i) For monitoring, enforcement and complaint investigation.</p> <p>(ii) To establish and implement the mediation, processes required by section 615(e)(1), including providing for the costs of mediators and support personnel;</p> <p><i>(iii) To support the State protection and advocacy system to advise and assist parents in the areas of_</i></p> <p><i>(I) dispute resolution and due process;</i></p> <p><i>(II) voluntary mediation; and</i></p> <p><i>(III) the opportunity to resolve complaints.</i></p> <p>(C) Authorized activities. Funds reserved under subparagraph (A) may be used to carry out the following activities:</p> <p>(i) To provide technical assistance, personnel development and training.</p> <p><i>(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.</i></p> <p><i>(iii) To assist local educational agencies in providing positive behavioral interventions and supports and mental health services for children with disabilities.</i></p> <p><i>(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.</i></p>	<p>(D) To assist local educational agencies in meeting personnel shortages.</p> <p><i>State Improvement Plan is removed</i></p> <p>(E) Activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart.</p> <p>(F) To support paperwork reduction activities, including expanding the appropriate use of technology in the IEP process under this part.</p> <p>(G) To develop and maintain a comprehensive, coordinated, prereferral educational support system for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who are not enrolled in special education but who need additional academic and behavioral support to succeed in a general education environment.</p> <p>(H) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.</p> <p>(I) For subgrants to local educational agencies for the purposes described in paragraph (5)(A).</p>
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<p>(4) (A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR CAPACITY-BUILDING AND IMPROVEMENT- In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than \$100,000, to assist them in providing direct services and in making systemic change to improve results for children with disabilities through one or more of the following:</p> <p>(i) Direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.</p> <p>(ii) Addressing needs or carrying out improvement strategies identified in the State's Improvement Plan under subpart 1 of part D.</p> <p>(iii) Adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources.</p> <p>(iv) <i>Establishing, expanding, or implementing interagency agreements and arrangements between local educational agencies and other agencies or organizations concerning the provision of services to children with disabilities and their families.</i></p>	<p>(v) <i>To support the development and use of technology, including universally designed technologies and assistive technology devices, to maximize accessibility to the general curriculum for students with disabilities.</i></p> <p>(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to post-secondary activities.</p> <p>(vii) To assist local educational agencies in meeting personnel shortages.</p> <p>(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.</p> <p>(ix) Alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.</p> <p>(x) <i>To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.</i></p> <p>(3) <i>Local educational agency risk pool.</i>_</p> <p>(A) In general._For the purpose of assisting local</p>	<p>(5)(A) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES FOR ACCOUNTABILITY- In any fiscal year in which the percentage increase in the State's allocation under this section exceeds the rate of inflation (as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), each State shall reserve, from its allocation under this section, the amount described in subparagraph (B) to make subgrants to local educational agencies, unless that amount is less than \$100,000, to provide technical assistance and direct services to local educational agencies identified as being in need of improvement under section 1116 of the Elementary and Secondary Education Act of 1965 on the basis, in whole or in part, of the assessment results of the disaggregated subgroup of students with disabilities, including providing professional development to special and regular education teachers, based on scientifically based research to improve educational instruction.</p>
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<p><i>(v) Increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution.</i></p> <p>(B) MAXIMUM SUBGRANT- For each fiscal year, the amount referred to in subparagraph (A) is -</p> <p>(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by</p> <p>(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(5) REPORT ON USE OF FUNDS- As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe --</p> <p>(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;</p> <p>(B) how those amounts will be allocated among the activities described in paragraphs (2) and (3) to meet State priorities based on input from local educational agencies; and</p> <p>(C) the percentage of those amounts, if any, that will be distributed to local educational agencies by</p>	<p>educational agencies (and charter schools that are local educational agencies) in addressing the needs of high-need children and the unanticipated enrollment of other children eligible for service under this part, each State shall reserve for each of the fiscal years 2004 through 2009, 2 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for each of the fiscal years 2004 through 2009, respectively, to_</p> <p>(i) establish a high-cost fund; and</p> <p>(ii) make disbursements from the high-cost fund to local educational agencies in accordance with this paragraph.</p> <p>(B) Required disbursements from the fund._</p> <p>(i) In general._ Each State educational agency shall make disbursements from the fund established under subparagraph (A) to local educational agencies to pay the percentage, described in subparagraph (D), of the costs of providing a free appropriate public education to high-need children.</p> <p>(ii) Special rule._ If funds reserved for a fiscal year under subparagraph (A) are insufficient to pay the percentage described in subparagraph (D) to assist all the local educational agencies having applications approved under subparagraph (C), then the State educational agency shall ratably reduce the amount paid to each local educational agency that receives a disbursement for that fiscal year.</p> <p>(C) Application._ A local educational agency that desires a disbursement under this subsection shall</p>	<p>^(B) MAXIMUM SUBGRANT- For each fiscal year, the amount referred to in subparagraph (A) is--</p> <p>^(i) the maximum amount the State was allowed to retain under paragraph (1)(A) for the prior fiscal year, or for fiscal year 1998, 25 percent of the State's allocation for fiscal year 1997 under this section; multiplied by</p> <p>^(ii) the difference between the percentage increase in the State's allocation under this section and the rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.</p> <p><i>[For high-cost fund, see above at (3)]</i></p> <p>^(6) REPORT ON USE OF FUNDS- As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe--</p> <p>^(A) how amounts retained under paragraph (1) will be used to meet the requirements of this part;</p> <p>^(B) how those amounts will be allocated among the activities described in this subsection to meet State priorities based on input from local educational agencies; and</p> <p>^(C) the percentage of those amounts, if any,</p>
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<p>formula...”</p>	<p>submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Such application shall include assurances that funds provided under this paragraph shall not be used to pay costs that otherwise would be reimbursable as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.</p> <p>(D) Disbursements.</p> <p>(i) In general. A State educational agency shall make a disbursement to a local educational agency that submits an application under subparagraph (C) in an amount that is equal to 75 percent of the costs that are in excess of 4 times the average per-pupil expenditure in the United States or in the State where the child resides (whichever average per-pupil expenditure is lower) associated with educating each high need child served by such local educational agency in a fiscal year for whom such agency desires a disbursement.</p> <p>(ii) Appropriate costs. The costs associated with educating a high need child under clause (i) are only those costs associated with providing direct special education and related services to such child that are identified in such child's appropriately developed IEP.</p> <p>(E) Legal fees. The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of such child to ensure a free appropriate public education for such child.</p> <p>(F) Permissible disbursements from remaining</p>	<p>that will be distributed to local educational agencies by formula.”</p>
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	<p>funds. A State educational agency may make disbursements to local educational agencies from any funds that are remaining in the high cost fund after making the required disbursements under subparagraph (D) for a fiscal year for the following purposes:</p> <p>(i) To pay the costs associated with serving children with disabilities who moved into the areas served by such local agencies after the budget for the following school year had been finalized to assist the local educational agencies in providing a free appropriate public education for such children in such year.</p> <p>(ii) To compensate local educational agencies for extraordinary costs, as determined by the State, of any children eligible for services under this part due to _</p> <p>(I) unexpected enrollment or placement of children eligible for services under this part; or</p> <p>(II) a significant underestimate of the average cost of providing services to children eligible for services under this part.</p> <p>(G) Remaining funds. Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) or subparagraph (F) shall _</p> <p>(i) be allocated to local educational agencies pursuant to subparagraphs (D) or (F) for the next fiscal year; or</p> <p>(ii) be allocated to local educational agencies in the same manner as funds are allocated to local</p>	
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	<p>educational agencies under subsection (f).</p> <p>(H) Assurance of a free appropriate public education. Nothing in this section shall be construed_</p> <p>(i) to limit or condition the right of a child with a disability who is assisted under this part to receive a free appropriate public education pursuant to section 612(a)(1) in a least restrictive environment pursuant to section 612(a)(5); or</p> <p>(ii) to authorize a State educational agency or local educational agency to indicate a limit on what is expected to be spent on the education of a child with a disability.</p> <p>(I) Medicaid services not affected. Disbursements provided under this subsection shall not be used to pay costs that otherwise would be reimbursable as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.</p> <p>(J) Definitions. In this paragraph:</p> <p>(i) Average per-pupil expenditure. The term 'average per-pupil expenditure' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.</p> <p>(ii) High-need child. The term 'high-need', when used with respect to a child with a disability, means a child with a disability for whom a free appropriate public education in a fiscal year costs more than 4 times the average per-pupil expenditure for such fiscal year.</p>	
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	<p>(K) Special rule for risk pool and high-need assistance programs in effect as of January 1, 2003. <u>Notwithstanding the provisions of subparagraphs (A) through (J), a State may use funds reserved pursuant to this paragraph for administering and implementing a placement neutral cost-sharing and reimbursement program of high-need, low-incidence, emergency, catastrophic, or extraordinary aid to local educational agencies that provides services to students eligible under this part based on eligibility criteria for such programs that were operative on January 1, 2003.</u></p> <p>(4) Inapplicability of certain prohibitions. <u>A State may use funds the State reserves under paragraphs (1), (2), and (3) without regard to</u></p> <p>(A) the prohibition on commingling of funds in section 612(a)(17)(B); and</p> <p>(B) the prohibition on supplanting other funds in section 612(a)(17)(C).</p> <p>(5) Report on use of funds. <u>As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe how amounts under this section</u></p> <p>(A) will be used to meet the requirements of this Act; and</p> <p>(B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies,</p> <p>(6) Flexibility in using funds for part C. <u>Any State eligible to receive a grant under section 619 may use funds made available under paragraph (1)(A),</u></p>	
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	<p>subsection (f)(3), or section 619(f)(5) to develop and implement a State policy jointly with the lead agency under part C and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under section 619 and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten.”</p>	
<p>611</p> <p>SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES</p> <p>“(g) Subgrants to local educational agencies</p> <p>(1) Subgrants required</p> <p>Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (f) of this section (at least 75 percent of the grant funds) to local educational agencies in the State that have established their eligibility under section 1413 of this title, and to State agencies that received funds under section 614A(a) of this Act for fiscal year 1997, as then in effect, and have established their eligibility under section 1413 of this title, for use in accordance with this subchapter.</p> <p>(2) Allocations to local educational agencies</p> <p>(A) Interim procedure</p> <p>For each fiscal year for which funds are allocated to States under subsection (d)(2) of this section, each State shall allocate funds under paragraph (1) in</p>	<p>611</p> <p>Subgrants to Local Educational Agencies._</p> <p>“(f) Subgrants to Local Educational Agencies._</p> <p>(1) Subgrants required._ Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part.</p> <p>(2) Procedure for allocations to local educational agencies._</p> <p>(A) Procedure._ For each fiscal year for which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows:</p>	<p>611</p> <p>Subgrants to Local Educational Agencies._</p> <p>“(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES- (1) SUBGRANTS REQUIRED- Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (e) to local educational agencies, including public charter schools that operate as local educational agencies, in the State that have established their eligibility under section 613, for use in accordance with this part.</p> <p>(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES- For each fiscal year for which funds are allocated to States under subsection (e), each State shall allocate funds under paragraph (1) as follows:</p>

<p>accordance with section 611(d) of this Act, as in effect prior to June 4, 1997.</p> <p>(B) Permanent procedure</p> <p>For each fiscal year for which funds are allocated to States under subsection (e) of this section, each State shall allocate funds under paragraph (1) as follows</p> <p>(i) Base payments</p> <p>The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for the base year, as defined in subsection (e)(2)(A) of this section, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.</p> <p>(ii) Allocation of remaining funds</p> <p>After making allocations under clause (i), the State shall--</p> <p>(I) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and</p> <p>(II) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.</p> <p>(3) Former chapter 1 state agencies</p> <p>(A) To the extent necessary, the State--</p> <p>(i) shall use funds that are available under subsection (f)(1)(A) of this section to ensure that each State agency that received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary</p>	<p>Removed</p> <p>`(i) Base payments. _The State shall first award each local educational agency described in paragraph (1) the amount the local educational agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d) as section 611(d) was then in effect.</p> <p>(ii) Allocation of remaining funds. _After making allocations under clause (i), the State shall _</p> <p>(I) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and</p> <p>(II) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.</p> <p>FORMER CHAPTER 1 STATE AGENCIES Removed</p>	<p>Removed</p> <p>(A) BASE PAYMENTS- The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d), as then in effect.</p> <p>(B) ALLOCATION OF REMAINING FUNDS- After making allocations under subparagraph (A), the State shall—</p> <p>`(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and</p> <p>(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.</p> <p>FORMER CHAPTER 1 STATE AGENCIES Removed</p>
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<p>Education Act of 1965 receives, from the combination of funds under subsection (f)(1)(A) of this section and funds provided under paragraph (1) of this subsection, an amount equal to--</p> <p>(I) the number of children with disabilities, aged 6 through 21, to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, subject to the limitation in subparagraph (B); multiplied by</p> <p>(II) the per-child amount provided under such subpart for fiscal year 1994; and</p> <p>(ii) may use those funds to ensure that each local educational agency that received fiscal year 1994 funds under that subpart for children who had transferred from a State-operated or State-supported school or program assisted under that subpart receives, from the combination of funds available under subsection (f)(1)(A) of this section and funds provided under paragraph (1) of this subsection, an amount for each such child, aged 3 through 21 to whom the agency was providing special education and related services on December 1 of the fiscal year for which the funds were appropriated, equal to the per-child amount the agency received under that subpart for fiscal year 1994.</p> <p>(B) The number of children counted under subparagraph (A)(i)(I) shall not exceed the number of children aged 3 through 21 for whom the agency received fiscal year 1994 funds under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.</p>		
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<p>(4) Reallocation of funds</p> <p>If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this subchapter that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.”</p>	<p>(3) Reallocation of funds. _If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.”</p>	<p>(3) REALLOCATION OF FUNDS- If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas they serve.”</p>
<p>Sec. 612</p>		
<p>612</p> <p>“(a) IN GENERAL- A State is eligible for assistance under this part for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:...”</p>	<p>612</p> <p>“(a) In General. _ SEC. 612. STATE ELIGIBILITY.</p> <p>“(a) In General. _A State is eligible for assistance under this part for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:...”</p>	<p>612</p> <p>“(a)IN GENERAL- (1) Section 612(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)) is amended in the matter preceding paragraph (1) by striking ‘demonstrates to the satisfaction of’ and inserting ‘reasonably demonstrates to’”</p>
<p>612(a)</p> <p><i>No such provision in current law.</i></p>	<p>612(a)(1)</p> <p><i>“(C) State flexibility. _A State that provides early intervention services in accordance with part C to a child who is eligible for services under section 619, is not required to provide such child with a free appropriate public education.”</i></p>	<p>612(a)</p> <p><i>No such provision in the House bill.</i></p>

<p>612(a)</p> <p>“(5) LEAST RESTRICTIVE ENVIRONMENT- ...</p> <p>(B) ADDITIONAL REQUIREMENT-</p> <p>(i) IN GENERAL- If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism <i>does not</i> result in placements that violate the requirements of subparagraph (A) [The LRE requirement] ...</p> <p>(ii) Assurance</p> <p>If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.”</p>		<p>612(a)</p> <p>(5) LEAST RESTRICTIVE ENVIRONMENT- ...</p> <p>(B) ADDITIONAL REQUIREMENT-</p> <p>(i) IN GENERAL- If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).</p> <p>(ii) ASSURANCE- If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.”</p>
<p>612(a) (10) CHILDREN IN PRIVATE SCHOOLS-</p> <p>(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS-</p> <p>“(i) IN GENERAL- To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children</p>	<p><i>Note: Again, this is a section so substantially different from current law that it is not effective to match individual topics or paragraphs side-by-side. There is simply far less text devoted to this concept under current law. However, some changes are italicized for emphasis.</i></p> <p>612(a) (10) Children in private schools._</p> <p>(A) Children enrolled in private schools by their parents.</p> <p>“(i) In general._To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those</p>	<p>612(a) (10)</p> <p>(10) CHILDREN IN PRIVATE SCHOOLS-</p> <p>(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS-</p> <p>(i) IN GENERAL- To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the area served by such agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):</p>

<p>under subsection (f):</p> <p>(I) Amounts expended for the provision of those services by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.</p> <p>N/A</p> <p>(II) Such services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law.</p> <p>N/A</p>	<p>children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):</p> <p>(I) Amounts to be expended for the provision of those services (including direct services to parentally placed children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.</p> <p>N/A</p> <p>(II) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.</p> <p>N/A</p> <p>(III) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this</p>	<p>(I) Amounts to be expended for the provision of those services (including direct services to parentally-placed children) by a local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.</p> <p>(II) In calculating the proportionate share of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of children with disabilities parentally-placed in private schools as described in clause (iii), shall conduct a thorough and complete child-find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.</p> <p>(III) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.</p> <p>(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this paragraph.</p> <p>(V) Each local educational agency maintains in its records and provides to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under</p>
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<p>(ii) CHILD-FIND REQUIREMENT- The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including parochial, elementary and secondary schools.”</p> <p>N/A</p>	<p>paragraph, the number of children determined to be a child with a disability, and the number of children served under this subsection.</p> <p>(ii) Child-find requirement._</p> <p>(I) In general. The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary schools and secondary schools. Such child find process shall be conducted in a comparable time period as for other students attending public schools in the local educational agency.</p> <p>(II) Equitable participation. The child find process shall be designed to ensure the equitable participation of parentally placed private school children and an accurate count of such children.</p> <p>(III) Activities. In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.</p> <p>(IV) Cost. The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local education agency has met its obligations under clause (i).</p> <p>(V) Completion period. Such child find process</p>	<p>this subsection.</p> <p>(ii) CHILD-FIND REQUIREMENT- (I) IN GENERAL- The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary and secondary schools.</p> <p>II) EQUITABLE PARTICIPATION- The child-find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of such children.</p> <p>(III) ACTIVITIES- In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.</p> <p>(IV) COST- The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local education agency has met its obligations under clause (i).</p> <p>(V) COMPLETION PERIOD- Such child-find process shall be completed in a time period comparable to that for other</p>
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	<p>shall be completed in a time period comparable to that for other students attending public schools served by the local educational agency.</p> <p>(iii) Consultation. To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult, with representatives of children with disabilities parentally placed in private schools, during the design and development of special education and related services for these children, including consultation regarding_</p> <p>(I) the child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;</p> <p>(II) the determination of the proportionate share of Federal funds available to serve parentally placed private school children with disabilities under this paragraph, including the determination of how the proportionate share of those funds were calculated;</p> <p>(III) the consultation process among the school district, private school officials, and parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;</p> <p>(IV) how, where, and by whom special education and related services will be provided for parentally placed private school children, including a</p>	<p>students attending public schools in the local educational agency.</p> <p>(iii) CONSULTATION- To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a state educational agency, shall consult with representatives of children with disabilities parentally-placed in private schools during the design and development of special education and related services for these children including--</p> <p>(I) the child-find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;</p> <p>(II) the determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under this paragraph, including the determination of how those funds were calculated;</p> <p>(III) the consultation process among the district, private school officials, and parents of parentally-placed private school children with disabilities including how such process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services; and</p> <p>(IV) how, where, and by whom special education and related services will be provided for parentally-placed private school children, including a discussion of alternate service delivery mechanisms,</p>
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	<p>discussion of alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and</p> <p>(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why such the local educational agency chose not to use a contractor.</p> <p>(iv) Written affirmation. When timely and meaningful consultation as required by this section has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such officials do not provide such affirmations within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.</p> <p>(v) Compliance.</p> <p>(I) In general. A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.</p> <p>(II) Procedure. If the private school official wishes to complain, 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</p>	<p>how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made.</p> <p>N/A</p> <p>N/A</p> <p>(iv) COMPLIANCE- (I) IN GENERAL- A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official. (II) PROCEDURE- If the private school official wishes to complain, 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</p>
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	<p>appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.</p> <p>(vi) Provision of equitable services. _</p> <p>(I) Direct services. _To the extent practicable, the local educational agency shall provide direct services to children with disabilities parentally placed in private schools.</p> <p>(II) Directly or through contracts. _A public agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.</p> <p>(III) Secular, neutral, nonideological. _Special education and related services provided to children with disabilities attending private schools, including materials and equipment, shall be secular, neutral, and non-ideological.</p> <p>(vii) Public control of funds. _The control of funds used to provide special education and related 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.”</p>	<p>appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.</p> <p>(v) PROVISION OF SERVICES- (I) DIRECTLY OR THROUGH CONTRACTS- An agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.</p> <p>(II) SECULAR, NEUTRAL, NONIDEOLOGICAL- Special education and related services, including materials and equipment, shall be secular, neutral, and nonideological.</p> <p>(vi) PUBLIC CONTROL OF FUNDS- (I) IN GENERAL- The control of funds used to provide special education and related 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. (II) PROVISION OF SERVICES- The</p>
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		<p>provision of services under this Act shall be provided--</p> <p>(aa) by employees of a public agency; or</p> <p>(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.”</p>
<p>612(a) (10)</p> <p>“(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY- ...</p> <p>(iv) EXCEPTION- Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement may not be reduced or denied for failure to provide such notice if --</p> <p>(I) the parent is illiterate and cannot write in English;</p> <p>(II) compliance with clause (iii)(I) would likely result in physical or serious emotional harm to the child;</p> <p>(III) the school prevented the parent from providing such notice; or</p> <p>(IV) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I). “</p>	<p>612(a) (10)</p> <p>“(C) Payment for education of children enrolled in private schools without consent of or referral by the public agency. ...</p> <p>(iv) Exception. Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement_</p> <p>(I) shall not be reduced or denied for failure to provide such notice if_</p> <p>(aa) the school prevented the parent from providing such notice; or</p> <p>(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); and</p> <p>(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if_</p> <p>(aa) the parent is illiterate and cannot write in English; or</p> <p>(bb) compliance with clause (iii)(I) would likely have</p>	<p>612(a) (10)</p> <p>“(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY- ...</p> <p>“(iv) EXCEPTION- Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement--</p> <p>“(I) shall not be reduced or denied for failure to provide such notice if--</p> <p>“(aa) the school prevented the parent from providing such notice;</p> <p>“(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); or</p> <p>“(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and</p> <p>“(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if--</p>

	resulted in physical or serious emotional harm to the child. ”	<p>“(aa) the parent is illiterate or cannot write in English; or</p> <p>“(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.</p>
SEC. 612. STATE ELIGIBILITY (cont.)		
612(a) “(14) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT- The State has in effect, consistent with the purposes of this Act and with section 635(a)(8) , a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel that meets the requirements for a State improvement plan relating to personnel development in subsections (b)(2)(B) and (c)(3)(D) of section 653 .”	612(a)(14) This requirement is removed	612(a)(14) This requirement is removed
612(a) “(15) PERSONNEL STANDARDS- (A) IN GENERAL- The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained. B) STANDARDS DESCRIBED- Such standards shall	612(a) “(14) Personnel standards._ (A) In general._ The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. (B) Related services personnel and paraprofessionals. The standards under subparagraph	612(a) “(14) PERSONNEL STANDARDS- (A) IN GENERAL- The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained. (B) STANDARDS DESCRIBED- Such standards shall--

<p>-- (i) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;</p> <p>(ii) to the extent the standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is taking steps to require retraining or hiring of personnel that meet appropriate professional requirements in the State; and</p> <p>N/A</p> <p>(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.</p> <p>N/A</p>	<p>(A) include standards for related services personnel and paraprofessionals that_</p> <p>(i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;</p> <p>N/A</p> <p>(ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and</p> <p>(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.</p> <p>(C) Standards for special education teachers._</p> <p>(i) In general._ The standards described in subparagraph (A) shall ensure that each person employed as a special education teacher in the State</p>	<p>(i) ensure that special education teachers who teach in core academic subjects are highly qualified in those subjects;</p> <p>(ii) be consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services in order to ensure that such individuals are qualified to provide such services; and</p> <p>N/A</p> <p>N/A</p> <p>(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under this part.</p> <p>(C) INNOVATIVE STRATEGIES FOR PROFESSIONAL DEVELOPMENT- The State educational agency encourages the development and use of research-based innovative strategies, such as strategies</p>
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<p>N/A</p> <p>(C) POLICY- In implementing this paragraph, a State may adopt a policy that includes a requirement that local educational agencies in the State make an ongoing good-faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subparagraph (B)(i), consistent with State law, and the steps described in subparagraph (B)(ii) within three years.”</p> <p>N/A</p>	<p>who teaches in an elementary, middle, or secondary school is highly qualified not later than the end of the 2006-2007 school year.</p> <p>(ii) Compliance._Compliance with clause (i) by the deadline established in such clause shall be deemed to be compliance with section 1119(a)(2) of the Elementary and Secondary Education Act of 1965 with respect to such teachers.</p> <p>(D) Policy._In implementing this section, a State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.</p> <p>(E) Rule of construction._Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this subsection shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency as provided for under this part.”</p>	<p>using technology, peer networks, and distance learning, to deliver intensive professional development programs for special and regular education teachers, administrators, principals, and related services personnel that--</p> <p>(i) improve educational results for students with disabilities; and</p> <p>(ii) are both cost-effective and easily accessible.”</p> <p>N/A</p> <p>N/A</p>
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<p>612(a)</p> <p>“(16) PERFORMANCE GOALS AND INDICATORS- The State --</p> <p>(A) has established goals for the performance of children with disabilities in the State that --</p> <p>(i) will promote the purposes of this Act, as stated in section 601(d); and</p> <p>N/A</p> <p>N/A</p> <p>(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;</p> <p>(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;</p> <p>(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and</p>	<p>612(a)</p> <p>“(15) Performance goals and indicators. _The State_</p> <p>(A) has established goals for the performance of children with disabilities in the State that_</p> <p>(i) promote the purposes of this Act, as stated in section 601(d);</p> <p>(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;</p> <p>(iii) address graduation rates and drop out rates, as well as such other factors as the State may determine; and</p> <p>(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;</p> <p>(B) has established performance indicators the State will use to assess progress toward achieving the goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the Elementary and Secondary Education Act of 1965; and</p> <p>(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A).”</p>	<p>612(a)</p> <p>“(15) PERFORMANCE GOALS AND INDICATORS- The State--</p> <p>(A) has established goals for the performance of children with disabilities in the State that--</p> <p>(i) promote the purposes of this Act, as stated in section 601(d);</p> <p>(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;</p> <p>(iii) address dropout rates, as well as such other factors as the State may determine; and</p> <p>(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;</p> <p>(B) has established performance indicators the State will use to assess progress toward achieving those goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965; and</p> <p>(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include</p>
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<p>(D) based on its assessment of that progress, will revise its State improvement plan under subpart 1 of part D as may be needed to improve its performance, if the State receives assistance under that subpart.”</p>	<p>Removed</p>	<p>elements of the reports required under section 1111(h) of the Elementary and Secondary Education Act of 1965.”</p> <p>Removed</p>
<p>612(a)</p> <p>“(17) PARTICIPATION IN ASSESSMENTS-</p> <p>(A) IN GENERAL- Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local educational agency --</p> <p>(i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and</p> <p>(ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments.</p> <p>N/A</p>	<p>612(a)</p> <p>“(16) Participation in assessments._</p> <p>(A) In general._ All children with disabilities are included in all general State and districtwide assessment programs and accountability systems, including assessments and accountability systems described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, alternate assessments where necessary, and as indicated in their respective individualized education programs.</p> <p>(B) Accommodation guidelines._The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations.</p> <p>(C) Alternate assessments._</p> <p>(i) In general._The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in</p>	<p>612(a)</p> <p>“(16) PARTICIPATION IN ASSESSMENTS-</p> <p>^(A) IN GENERAL- (i) All children with disabilities are included in all general State and district-wide assessment programs, including assessments described under title I of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, where necessary and as indicated in their respective individualized education programs.</p> <p>^(ii) The State (or, in the case of a district-wide assessment, the local educational agency) has developed and implemented guidelines for the provision of accommodations described in clause (i).</p> <p>^(iii) The State (or, in the case of a district-wide assessment the local educational agency)--</p> <p>^(I) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in</p>

<p>N/A</p> <p>(B) REPORTS- The State educational agency makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:</p> <p>(i) The number of children with disabilities participating in regular assessments.</p> <p>(i) The number of those children participating in alternate assessments.</p>	<p>alternate assessments for those children who cannot participate in regular assessments under subparagraph (B) as indicated in their respective individualized education programs.</p> <p>(ii) Requirements for alternate assessments. The guidelines under clause (i) shall provide for alternate assessments that _</p> <p>(I) are aligned with the State's challenging academic content and academic achievement standards; or</p> <p>(II) measure the achievement of students against alternate academic achievement standards that are aligned with the State's academic content standards.</p> <p>(iii) Conduct of alternative assessments. The State conducts the alternate assessments described in this subparagraph.</p> <p>(D) Reports. The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:</p> <p>(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.</p> <p>(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).</p>	<p>regular assessments under clause (i); and (II) conducts those alternate assessments.</p> <p>N/A</p> <p>(B) REPORTS- The State educational agency (or, in the case of a district-wide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:</p> <p>(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.</p> <p>(ii) The number of children with disabilities participating in alternate assessments.</p>
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<p>(iii) (I) The performance of those children on regular assessments (beginning not later than July 1, 1998) and on alternate assessments (not later than July 1, 2000), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.</p> <p>(II) Data relating to the performance of children described under subclause (I) shall be disaggregated -- (aa) for assessments conducted after July 1, 1998; and</p> <p>(bb) for assessments conducted before July 1, 1998, if the State is required to disaggregate such data prior to July 1, 1998.”</p> <p>N/A</p>	<p>(iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).</p> <p>(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.</p> <p>(E) Universal design._The State educational agency (or, in the case of a districtwide assessment, the local educational agency) shall, to the extent possible, use universal design principles in developing and administering any assessments under this paragraph.”</p>	<p>(iii) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information would not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.”</p> <p>N/A</p>
<p>612(a)(17)</p> <p>N/A</p>	<p>612(a)(17)</p> <p>This provision only occurs in the House bill.</p>	<p>612(a)</p> <p>“(17) DISPUTE RESOLUTION- The State has in effect systems of mediation and voluntary binding arbitration pursuant to section 615(e).”</p>

<p>612(a)(19) (Waivers of State Maintenance of Effort Requirements)</p> <p>“(E) Regulations (i) The Secretary shall, by regulation, establish procedures (including objective criteria and consideration of the results of compliance reviews of the State conducted by the Secretary) for determining whether to grant a waiver under subparagraph (C)(ii).</p> <p>(ii) The Secretary shall publish proposed regulations under clause (i) not later than 6 months after June 4, 1997, and shall issue final regulations under clause (i) not later than 1 year after June 4, 1997.”</p>	<p>612(a)(18) (Waivers of State Maintenance of Effort Requirements)</p> <p><i>[Provision (E) (Regulations) is removed]</i></p>	<p>612(a)(19) (Waivers of State Maintenance of Effort Requirements)</p> <p><i>Removed as in Senate bill.</i></p>
<p>612(a)(21) (State Advisory Panel)</p> <p>“(C) Special rule</p> <p>A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.”</p>	<p>612(a)(20) (State Advisory Panel)</p> <p>“(C) Special rule. A majority of the members of the panel shall be individuals with disabilities ages birth through 26 or parents of such individuals.”</p>	<p>612(a)(21)</p> <p>“(C) SPECIAL RULE- A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities ages birth through 26.”</p>
<p>612(a)</p> <p>N/A</p>	<p>612(a)</p> <p>“(22) Instructional materials.</p> <p>(A) In general. The State adopts the national instructional materials accessibility standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard by the Secretary in the Federal Register.</p> <p>(B) Purchase requirement. Not later than 2 years after the date of the enactment of the <i>Individuals</i></p>	<p>612(a)</p> <p>[Same as Senate bill except for title of reauthorized act --<i>Improving Education Results for Children With Disabilities Act of 2003.</i>]</p>

	<p><i>with Disabilities Education Improvement Act of 2003, the State educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the State, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard.</i></p> <p>(C) Definition. For purposes of this paragraph, the term 'instructional materials' means printed textbooks and related core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by pupils in the classroom."</p>	
612(a) N/A	612(a) N/A	612(a) '(24) OVERIDENTIFICATION AND DISPROPORTIONALITY- The State has in effect, consistent with the purposes of this Act and with section 618, policies and procedures designed to prevent the overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3).'
612(a) N/A	612(a) N/A	612(a) '(25) PROHIBITION ON

		PSYCHOTROPIC MEDICATION- The State educational agency develops and implements policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.'
612 “(f) BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS- (1) IN GENERAL- If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(10)(A) , the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection. ...”	612 “(f) By-Pass for Children in Private Schools._ (1) In general._If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by subsection (a)(10)(A), or if the Secretary determines that a State educational agency, local educational agency, or other entity has substantially failed or is unwilling to provide for such equitable participation, then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection. ...”	612 N/A <i>This entire provision, including the due process provisions in (2) with respect to States that have had funds withheld, has been removed.</i>
Sec. 613		
613(a)(2) “...(C) TREATMENT OF FEDERAL FUNDS IN	613(a)(2) “...(C) Treatment of federal funds in certain fiscal years._	613(a)(2) “(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS-

<p>CERTAIN FISCAL YEARS-</p> <p>(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds \$4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.</p> <p>(ii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is not meeting the requirements of this part, the State educational agency may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, only if it is authorized to do so by the State constitution or a State statute.</p> <p>N/A</p>	<p>(i) 8 percent rule. Notwithstanding clauses (ii) and (iii) of subparagraph (A), a local educational agency may treat as local funds, for the purposes of such clauses, not more than 8 percent of the amount of funds the local educational agency receives under this part.</p> <p><i>[Current law allows an amount of funds above the current funding level (20%) to be “treated as local funds”(meaning used for other purposes than those required in this Act), while this provision allows 8% of <u>current</u> funds to be treated as local funds. Clauses ii and iii above referred to above pertain to supplanting local funds and local maintenance of effort – so the 8% of current funds would be exempt from these requirements]</i></p> <p>(ii) 40 percent rule. Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which States are allocated the maximum amount of grants pursuant to section 611(a)(2), a local educational agency may treat as local funds, for the purposes of such clauses, not more than 40 percent of the amount of funds the local educational agency receives under this part, subject to clause (iv).</p> <p><i>[This provision would allow an additional 40% of new funds to be used as local funds once full funding is achieved]</i></p> <p>(iii) Early intervening prereferral services.</p> <p>(I) 8 percent rule. If a local educational agency exercises authority pursuant to clause (i), the 8 percent funds shall be counted toward the percentage and amount of funds that may be used to provide early intervening prereferral services</p>	<p>(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds \$4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.</p> <p>(ii) If a local educational agency chooses to use the authority under clause (i), then the agency shall use those local funds to provide additional funding for programs under the Elementary and Secondary Education Act of 1965, including, but not limited to, programs that address student achievement, comprehensive school reform, literacy, teacher quality and professional development, school safety, before- and after- school learning opportunities.</p> <p>(iii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a), the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for that fiscal year, but only if it is authorized to do so by the State constitution or a State statute.</p>
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	<p>pursuant to subsection (f).</p> <p><i>[Thus, it would be 8% of the 15% the LEA is allowed to use for this purpose]</i></p> <p>(II) 40 percent rule. If a local educational agency exercises authority pursuant to clause (ii), the local educational agency shall use an amount of the 40 percent funds from clause (ii) that represents 15 percent of the total amount of funds the local educational agency receives under this part, to provide early intervening prereferral services pursuant to subsection (f).</p> <p>(iv) Special Rule. Funds treated as local funds pursuant to clause (i) or (ii) may be considered non-Federal or local funds for the purposes of</p> <p>(I) clauses (ii) and (iii) of subparagraph (A); and</p> <p>(II) the provision of the local share of costs for title XIX of the Social Security Act.</p> <p><i>[So, this money could be applied toward the matching funds required under Part B or Medicaid]</i></p> <p>(v) Prohibition. If a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of this subsection, then the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under clause (i) or (ii) for that fiscal year, but only if the State educational agency is authorized to do so by the State constitution or a State statute.</p> <p>(vi) Report. For each fiscal year in which a local</p>	
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	<p>educational agency exercises its authority pursuant to this paragraph and treats Federal funds as local funds, the local educational agency shall report to the State educational agency the amount of funds so treated and the activities that were funded with such funds.”</p>	
<p>613(a)</p> <p>“... (3) PERSONNEL DEVELOPMENT- The local educational agency --</p> <p>(A) shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 653(c)(3)(D); and</p> <p>(B) to the extent such agency determines appropriate, shall contribute to and use the comprehensive system of personnel development of the State established under section 612(a)(14). “</p>	<p>613(a)</p> <p>“... (3) Personnel development. The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612(a)(14) of this Act and section 2122 of the Elementary and Secondary Education Act of 1965.”</p> <p>(B) is removed</p>	<p>613(a)</p> <p>“(3) PERSONNEL DEVELOPMENT- The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612 of this Act and section 1119 of the Elementary and Secondary Education Act of 1965.</p> <p>(B) is removed</p>
<p>613(a)</p> <p>“... (4) PERMISSIVE USE OF FUNDS- Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:</p> <p>(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN- For the costs of special education and related services and</p>	<p>613(a)</p> <p>“(4) Permissive use of funds. _</p> <p>(A) Uses. Notwithstanding paragraph (2)(A) or section 612(a)(17)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:</p> <p>(i) Services and aids that also benefit nondisabled children. For the costs of special education and related services, and supplementary aids and services,</p>	<p>613(a)</p> <p>“(4) PERMISSIVE USE OF FUNDS- Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:</p> <p>“(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN- For the costs of special education and related</p>

<p>supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.</p> <p>(B) INTEGRATED AND COORDINATED SERVICES SYSTEM- To develop and implement a fully integrated and coordinated services system in accordance with subsection (f).</p> <p>N/A</p>	<p>provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if 1 or more nondisabled children benefit from such services.</p> <p><i>Integrated and Coordinated Services System-Removed</i></p> <p>(ii) Early intervening services. To develop and implement comprehensive, coordinated, early intervening educational services in accordance with subsection (f).</p> <p>(B) Case management and administration. A local educational agency may use funds received under this part to purchase appropriate technology, for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that is necessary to the implementation of such case management activities.</p>	<p>services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.</p> <p><i>Integrated and Coordinated Services System-Removed</i></p> <p>(B) PREREFERRAL SERVICES- To develop and implement a system of comprehensive coordinated prereferral education support services in accordance with subsection (f).</p> <p>(C) HIGH COST EDUCATION AND RELATED SERVICES- To establish and implement cost or risk sharing funds, consortia, or cooperatives for the agency itself, or for local educational agencies working in consortium of which the local educational agency is a part, to pay for high cost special education and related services.</p> <p>(D) CASE MANAGEMENT AND ADMINISTRATION- To purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel who are providing services described in the individualized education program of children with disabilities necessary to the implementation of those case management activities.</p>
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		<p>“(E) SUPPLEMENTAL EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES IN SCHOOLS DESIGNATED FOR IMPROVEMENT- For the reasonable additional expenses (as determined by the local educational agency) of any necessary accommodations to allow children with disabilities who are being educated in a school identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) to be provided supplemental educational services under section 1116(e) of such Act on an equitable basis “</p>
<p>613(f)</p> <p><i>Note: This section is out of order intentionally to make it easier to compare. 613(a) continues below.</i></p> <p>“(f) COORDINATED SERVICES SYSTEM-</p> <p>(1) IN GENERAL- A local educational agency may not use more than 5 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families.</p> <p>(2) ACTIVITIES- In implementing a coordinated</p>	<p>613(f)</p> <p>“(f) Early Intervening Services._</p> <p>(1) In general._A local educational agency may not use more than 15 percent of the amount such agency receives under this part for any fiscal year, less any amount treated as local funds pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive, coordinated, early intervening educational services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who do not meet the definition of a child with a disability under section 602(3) but who need additional academic and behavioral support to succeed in a general education environment.</p>	<p>613(f)</p> <p>“(f) PREREFERRAL SERVICES- “(1) IN GENERAL- A local educational agency may use not more than 15 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which may include amounts other than education funds), to develop and implement comprehensive coordinated prereferral educational support services for students in kindergarten through grade 12 (with a particular emphasis on students in grades kindergarten through 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.</p>

<p>services system under this subsection, a local educational agency may carry out activities that include --</p> <p>(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;</p> <p>(B) service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C with individualized service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation), title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income);</p> <p>(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this Act; and</p> <p>(D) interagency personnel development for individuals working on coordinated services.</p> <p>N/A</p>	<p>(2) Activities. In implementing comprehensive, coordinated, early intervening educational services under this subsection, a local educational agency may carry out activities that include_</p> <p>(A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software;</p> <p>(B) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction; and</p> <p>(C) developing and implementing interagency financing structures for the provision of such services and supports.</p> <p>(3) Construction. Nothing in this subsection shall be construed to either limit or create a right to a free appropriate public education under this part.</p> <p>(4) Reporting. Each local educational agency that develops and maintains comprehensive, coordinated, early intervening educational services with funds made available for this subsection, shall annually report to the State educational agency on_</p>	<p>(2) ACTIVITIES- In implementing comprehensive coordinated prereferral educational services under this subsection, a local educational agency may carry out the following activities:</p> <p>(A) Professional development (which may be provided by entities other than local educational agencies) for teachers to enable them to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction.</p> <p>(B) Providing educational evaluations, services, and supports, including scientifically based literacy instruction and speech therapy.</p> <p>(C) Providing behavioral evaluations and services and supports, including positive behavioral interventions and supports.</p> <p>(3) EXCLUSION- Nothing in this subsection shall be construed to either limit or create a right to a free appropriate public education under this part.</p> <p>(4) REPORTING- Each local educational agency that develops and maintains comprehensive coordinated prereferral educational support services under this subsection shall annually report to the</p>
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<p>(3) COORDINATION WITH CERTAIN PROJECTS UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965- If a local educational agency is carrying out a coordinated services project under title XI of the Elementary and Secondary Education Act of 1965 and a coordinated services project under this part in the same schools, such agency shall use amounts under this subsection in accordance with the requirements of that title.</p>	<p>(A) the number of children served under this subsection; and</p> <p>(B) the number of children served under this subsection who are subsequently referred to special education.</p> <p>(5) Coordination with certain projects under elementary and secondary education act of 1965. Funds made available to carry out this subsection may be used to carry out comprehensive, coordinated, early intervening educational services aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965 if such funds are used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965 for the activities and services assisted under this subsection.”</p> <p><i>[This new program does not indicate by what process children will leave this system to enter special ed. if and when that is appropriate, and how long they will stay in that system before an evaluation for IDEA eligibility is initiated. Students have no due process rights, at least under federal law, while within this system.]</i></p>	<p>State educational agency on--</p> <p>(A) the number of students served under this subsection; and</p> <p>(B) the number of students served under this subsection who subsequently receive special education and related services under this Act during the preceding 2-year period.</p> <p>(5) COORDINATION WITH THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965-</p> <p>(A) IN GENERAL- Comprehensive coordinated prereferral educational support services provided under this subsection may be aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965, such as the Reading First program under subpart 1 of part B of title I of such Act, the Early Reading First program under subpart 2 of part B of title I of such Act, reading and math supports under part A of title I of such Act, and behavior intervention supports, that improve results for children with disabilities.</p>
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<p>613(a)</p> <p>“(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS- In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency --</p> <p>(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools; and</p> <p>(B) provides funds under this part to those schools in the same manner as it provides those funds to its other schools.</p> <p>N/A</p>	<p>613(a)</p> <p>“(5) Treatment of charter schools and their students. In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency_</p> <p>(A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and</p> <p>(B) provides funds under this part to those charter schools on the same basis, including proportional distribution based on relative enrollment of children with disabilities, and at the same time, as the local educational agency distributes State, local, or a combination of State and local, funds to those charter schools under the State's charter school law.</p> <p>(6) Purchase of instructional materials. Not later than 2 years after the date of the enactment of the Individuals with Disabilities Education Improvement Act of 2003, the local educational agency, when purchasing instructional materials for use in public elementary schools or secondary schools served by the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials using the national instructional materials accessibility standard</p>	<p>613(a)</p> <p>“(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS- In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency--</p> <p>(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools, including providing supplemental and related services on site at the charter school when the local educational agency has a policy or practice of providing those services on site to its other schools; and</p> <p>(B) provides funds under this part to those schools on the same basis as it provides those funds to its other public schools (including, at the option of such agency, proportional distribution based on relative enrollment of children with disabilities at such charter schools), and at the same time as such agency distributes other Federal funds to those schools, consistent with the State's charter law.</p> <p>(6) PURCHASE OF INSTRUCTIONAL MATERIALS- Not later than 2 years after the date of the enactment of the Improving Education Results for Children With Disabilities Act of 2003, the local educational agency, when purchasing instructional materials for use in public elementary and secondary schools within the local educational agency, requires the publisher of the instructional materials, as a part of any purchase agreement that is made, renewed, or revised, to prepare and supply electronic files containing the contents of the instructional materials</p>
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<p>(6) INFORMATION FOR STATE EDUCATIONAL AGENCY- The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (16) and (17) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.</p> <p>(7) PUBLIC INFORMATION- The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part. “</p> <p>N/A</p>	<p>described in section 612(a)(22).</p> <p>(7) Information for state educational agency. The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.</p> <p>(8) Public information. The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.”</p>	<p>using the national instructional materials accessibility standard described in section 612(a)(23).</p> <p>(7) INFORMATION FOR STATE EDUCATIONAL AGENCY- The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.</p> <p>(8) PUBLIC INFORMATION- The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.</p> <p>(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES- The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.</p>
<p>613(g)</p> <p>“(g) SCHOOL-BASED IMPROVEMENT PLAN-</p>	<p>613(g) SCHOOL-BASED IMPROVEMENT PLAN-</p> <p>Removed</p>	<p>613(g) SCHOOL-BASED IMPROVEMENT PLAN-</p> <p>Removed</p>

<p>(1) IN GENERAL- Each local educational agency may, in accordance with paragraph (2), use funds made available under this part to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in section 651(b) and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) in that public school.</p> <p>(2) AUTHORITY-</p> <p>(A) IN GENERAL- A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school-based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years.</p> <p>(B) RESPONSIBILITY OF LOCAL EDUCATIONAL AGENCY- If a State educational agency grants the authority described in subparagraph (A), a local educational agency that is granted such authority shall have the sole responsibility of oversight of all activities relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this subsection.</p> <p>(3) PLAN REQUIREMENTS- A school-based improvement plan described in paragraph (1) shall --</p> <p>(A) be designed to be consistent with the purposes described in section 651(b) and to improve educational and transitional results for all children with disabilities</p>		
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<p>and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4), who attend the school for which the plan is designed and implemented;</p> <p>(B) be designed, evaluated, and, as appropriate, implemented by a school-based standing panel established in accordance with paragraph (4)(B);</p> <p>(C) include goals and measurable indicators to assess the progress of the public school in meeting such goals; and</p> <p>(D) ensure that all children with disabilities receive the services described in the individualized education programs of such children.</p> <p>(4) RESPONSIBILITIES OF THE LOCAL EDUCATIONAL AGENCY- A local educational agency that is granted authority under paragraph (2) to permit a public school to design, implement, and evaluate a school-based improvement plan shall --</p> <p>(A) select each school under the jurisdiction of such agency that is eligible to design, implement, and evaluate such a plan;</p> <p>(B) require each school selected under subparagraph (A), in accordance with criteria established by such local educational agency under subparagraph (C), to establish a school-based standing panel to carry out the duties described in paragraph (3)(B);</p> <p>(C) establish --</p> <p>(i) criteria that shall be used by such local educational agency in the selection of an eligible school under</p>		
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<p>subparagraph (A);</p> <p>(ii) criteria that shall be used by a public school selected under subparagraph (A) in the establishment of a school-based standing panel to carry out the duties described in paragraph (3)(B) and that shall ensure that the membership of such panel reflects the diversity of the community in which the public school is located and includes, at a minimum --</p> <p>(I) parents of children with disabilities who attend such public school, including parents of children with disabilities from unserved and underserved populations, as appropriate;</p> <p>(II) special education and general education teachers of such public school;</p> <p>(III) special education and general education administrators, or the designee of such administrators, of such public school; and</p> <p>(IV) related services providers who are responsible for providing services to the children with disabilities who attend such public school; and</p> <p>(iii) criteria that shall be used by such local educational agency with respect to the distribution of funds under this part to carry out this subsection;</p> <p>(D) disseminate the criteria established under subparagraph (C) to local school district personnel and local parent organizations within the jurisdiction of such local educational agency;</p> <p>(E) require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at such time, in such</p>		
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<p>manner, and accompanied by such information as such local educational agency shall reasonably require; and</p> <p>(F) establish procedures for approval by such local educational agency of a school-based improvement plan designed under this subsection.</p> <p>(5) LIMITATION- A school-based improvement plan described in paragraph (1) may be submitted to a local educational agency for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of such plan is reached by the school-based standing panel that designed such plan.</p> <p>(6) ADDITIONAL REQUIREMENTS-</p> <p>(A) PARENTAL INVOLVEMENT- In carrying out the requirements of this subsection, a local educational agency shall ensure that the parents of children with disabilities are involved in the design, evaluation, and, where appropriate, implementation of school-based improvement plans in accordance with this subsection.</p> <p>(B) PLAN APPROVAL- A local educational agency may approve a school-based improvement plan of a public school within the jurisdiction of such agency for a period of 3 years, if --</p> <p>(i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and</p> <p>(ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that</p>		
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<p>designed such plan agree in writing to such plan.</p> <p>(7) EXTENSION OF PLAN- If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period."</p>		
<p>613(j)</p> <p>This provision is not in current law</p>	<p>613(j)</p> <p>“(j) State Agency Flexibility._</p> <p>“(1) Treatment of federal funds in certain fiscal years._If a State educational agency pays or reimburses local educational agencies within the State for not less than 80 percent of the non-Federal share of the costs of special education and related services, or the State is the sole provider of free appropriate public education or direct services pursuant to section 612(b), then the State educational agency, notwithstanding sections 612(a) (17) and (18) and 612(b), may treat funds allocated pursuant to section 611 as general funds available to support the educational purposes described in paragraph (2) (A) and (B).</p> <p>“(2) Conditions._A State educational agency may use funds in accordance with paragraph (1) subject to the following conditions:</p> <p>“(A) 8 percent rule._A State educational agency may treat not more than 8 percent of the funds the State educational agency receives under this part as general funds to support any educational purpose described in the Elementary and Secondary Education Act of 1965, needs-based student or teacher higher education programs, or the non-Federal share of costs of title XIX of the Social Security Act.</p>	<p>613(j)</p> <p>This provision is not in the House bill.</p>

	<p>“(B) 40 percent rule. For any fiscal year for which States are allocated the maximum amount of grants pursuant to section 611(a)(2), a State educational agency may treat not more than 40 percent of the amount of funds the State educational agency receives under this part as general funds to support any educational purpose described in the Elementary and Secondary Education Act of 1965, needs-based student or teacher higher education programs, or the non-Federal share of costs of title XIX of the Social Security Act, subject to subparagraph (C).</p> <p>“(C) Requirement. A State educational agency may exercise its authority pursuant to subparagraph (B) only if the State educational agency uses an amount of the 40 percent funds from subparagraph (B) that represents 15 percent of the total amount of funds the State educational agency receives under this part, to provide, or to pay or reimburse local educational agencies for providing, early intervening prereferral services pursuant to subsection (f).</p> <p>“(2) Prohibition. Notwithstanding subsection (a), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this part, then the Secretary shall prohibit the State educational agency from treating funds allocated under this part as general funds pursuant to paragraph (1).</p> <p>“(3) Report. For each fiscal year for which a State educational agency exercises its authority pursuant to paragraph (1) and treats Federal funds as general funds, the State educational agency shall report to the Secretary the amount of funds so treated and the activities that were funded with</p>	
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	<p>such funds.”</p> <p><i>[Creates flexible spending for state agencies similar to that for LEAs as provided per 613(a)]</i></p>	
Sec. 614		
<p>614(a)</p> <p>“...(1) INITIAL EVALUATIONS-</p> <p>(A) IN GENERAL- A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.</p> <p>N/A</p> <p>(B) PROCEDURES- Such initial evaluation shall consist of procedures --</p> <p>(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and</p>	<p>614</p> <p>“(a) Evaluations and Reevaluations._</p> <p>(1) Initial evaluations._</p> <p>(A) In general._A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.</p> <p>B) Request for initial evaluation._ Consistent with subparagraph (D), either a parent of a child, or a State educational agency, other State agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.</p> <p>(C) PROCEDURES._Such initial evaluation shall consist of procedures_</p> <p>(i) to determine whether a child is a child with a disability (as defined in section 602(3)) within 60 days of receiving parental consent for the evaluation, or, if the State has established a timeframe within which the evaluation must be conducted, within such timeframe; and</p>	<p>614</p> <p>“(a) EVALUATIONS, PARENTAL CONSENT, AND REEVALUATIONS-</p> <p>(1) INITIAL EVALUATIONS-</p> <p>(A) IN GENERAL- A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation, in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.</p> <p>(B) REQUEST FOR INITIAL EVALUATION- Consistent with subparagraph (D), either a parent of a child, a State educational agency, other State agency as appropriate, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.</p> <p>(C) PROCEDURES- Such initial evaluation shall consist of procedures--</p> <p>(i) to determine whether a child is a child with a disability (as defined in section 602(3)); and</p> <p>(ii) to determine the educational needs of such child.”</p>

<p>(ii) to determine the educational needs of such child.</p>	<p>(ii) to determine the educational needs of such child.”</p>	
<p>614(a)(1)</p> <p>“(C) PARENTAL CONSENT-</p> <p>(i) IN GENERAL- The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3)(A) or 602(3)(B) shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.</p> <p>N/A</p> <p>(ii) REFUSAL- If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the extent inconsistent with State law relating to parental consent.</p> <p>N/A</p>	<p>614(a)(1)</p> <p>“(D) Parental consent._</p> <p>(i) In general._The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3) (A) or (B) shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.</p> <p>(ii) Refusal._If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the extent inconsistent with State law relating to parental consent.</p>	<p>614(a)(1)</p> <p>(D) PARENTAL CONSENT-</p> <p>(i) IN GENERAL-</p> <p>(I) CONSENT FOR INITIAL EVALUATION- The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3) shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.</p> <p>(II) CONSENT FOR SERVICES- An agency that is responsible for making a free appropriate public education available to a child with a disability under this part shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.</p> <p>(ii) ABSENCE OF CONSENT-</p> <p>(I) FOR INITIAL EVALUATION- If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child through the procedures described in section 615, except to the extent inconsistent with State law relating to such parental consent.</p>

<p>N/A</p>	<p>(iii) Refusal or failure to consent. If the parent of a child does not provide informed consent to the receipt of special education and related services, or the parent fails to respond to a request to provide the consent, the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child.</p>	<p>(II) FOR SERVICES- If the parent of such child does not provide consent for services under clause (i)(II), or the parent fails to respond to a request to provide the consent, the local educational agency shall not provide special education and related services to the child through the procedures described in section 615.</p> <p>(III) EFFECT ON AGENCY OBLIGATIONS- In any case for which there is an absence of consent for an initial evaluation under subclause (I), or for which there is an absence of consent for services under subclause (II)--</p> <p>(aa) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child; and</p> <p>(bb) the local educational agency shall not be considered to be in violation of any requirement under this part (including the requirement to make available a free appropriate public education to the child) with respect to the lack of an initial evaluation of the child, an IEP meeting with respect to the child, or the development of an IEP under this section for the child.</p> <p>(E) RULE OF CONSTRUCTION- The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.</p>
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<p>(2) REEVALUATIONS- A local educational agency shall ensure that a reevaluation of each child with a disability is conducted --</p> <p>(A) if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years; and</p> <p>(B) in accordance with subsections (b) and (c).”</p>	<p>(2) Reevaluations._</p> <p>(A) In general._A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)_</p> <p>(i) if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or</p> <p>(ii) if the child's parents or teacher requests a reevaluation.</p> <p>(B) Limitation._A reevaluation conducted under subparagraph (A) shall occur_</p> <p>(i) not more than once a year, unless the parent and the local educational agency agree otherwise; and</p> <p>(ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.”</p>	<p>(2) REEVALUATIONS-</p> <p>(A) IN GENERAL- A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)--</p> <p>(i) if the local educational agency determines that the educational needs, including improved academic achievement, of the child warrant a reevaluation; or</p> <p>(ii) if the child's parent or teacher requests a reevaluation.</p> <p>(B) LIMITATION- A reevaluation conducted under subparagraph (A) shall occur--</p> <p>(i) no more than once a year, unless the parent and the local educational agency agree otherwise; and</p> <p>(ii) at least once every three years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.”</p>
<p>614</p> <p>“(b) EVALUATION PROCEDURES- ...</p> <p>(2) CONDUCT OF EVALUATION- In conducting the evaluation, the local educational agency shall—</p> <p>(A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining</p>	<p>614</p> <p>“(b) Evaluation Procedures....</p> <p>(2) Conduct of evaluation. In conducting the evaluation, the local educational agency shall_</p> <p>(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining_</p>	<p>614</p> <p>“(b) EVALUATION PROCEDURES-</p> <p>(2) CONDUCT OF EVALUATION- In conducting the evaluation, the local educational agency shall—</p> <p>(A) use multiple up-to-date measures and assessments to gather relevant functional, developmental, and academic information, including information provided by the parent, to assist in determining—</p>

<p>whether the child is a child with a disability and the content of the child’s individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;</p> <p>(B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and</p> <p>(C)use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.”</p>	<p>(i) whether the child is a child with a disability; and</p> <p>(ii) the content of the child’s individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum, or for preschool children, to participate in appropriate activities;</p> <p>(B) not use any single procedure, measure, or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and</p> <p>(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.”</p>	<p>(i) whether the child is a child with a disability; and</p> <p>(ii) the content of the child’s individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum or, for preschool children, to participate in appropriate activities;</p> <p>(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and</p> <p>(C)use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.”</p>
<p>614(b)</p> <p>“(3) ADDITIONAL REQUIREMENTS- Each local educational agency shall ensure that –</p> <p>(A) tests and other evaluation materials used to assess a child under this section --</p> <p>(i) are selected and administered so as not to be discriminatory on a racial or cultural basis; and</p> <p>(ii) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and</p>	<p>614(b)</p> <p>“(3) Additional requirements. _Each local educational agency shall ensure that_</p> <p>(A) tests and other evaluation materials used to assess a child under this section</p> <p>(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;</p> <p>(ii) are provided and administered, <i>to the extent practicable, in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and</i></p>	<p>614(b)</p> <p>“(3) ADDITIONAL REQUIREMENTS- Each local educational agency shall ensure that—</p> <p>(A) assessments and other evaluation measures used to assess a child under this section--</p> <p>(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;</p> <p>(ii) are provided and administered in the language and form most likely to yield accurate academic and developmental data, unless it is clearly not feasible to do so;</p>

<p>(B) any standardized tests that are given to the child -- (i) have been validated for the specific purpose for which they are used;</p> <p>(ii) are administered by trained and knowledgeable personnel; and</p> <p>(iii) are administered in accordance with any instructions provided by the producer of such tests;</p> <p>(C) the child is assessed in all areas of suspected disability; and</p> <p>(D) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided. “</p>	<p>functionally;</p> <p>(iii) are used for purposes for which the assessments or measures are valid and reliable;</p> <p>(iv) are administered by trained and knowledgeable personnel; and</p> <p>(v) are administered in accordance with any instructions provided by the producer of such tests;</p> <p>(B) the child is assessed in all areas of suspected disability; and</p> <p>(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.”</p>	<p>(iii) are used for the purposes for which the assessments or measures are valid and reliable;</p> <p>(iv) are administered by trained and knowledgeable personnel; and</p> <p>(v) are administered in accordance with any instructions provided by the producer of such tests;</p> <p>(B) the child is assessed in all areas of suspected disability; and</p> <p>(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.”</p>
<p>614(b)</p> <p>“(4) Determination of eligibility Upon completion of administration of tests and other evaluation materials - (A) the determination of whether the child is a child with a disability as defined in section 1401(3) of this title shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and</p> <p>(B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.”</p>	<p>614(b)</p> <p>“(4) DETERMINATION OF ELIGIBILITY- Upon completion of administration of tests and other evaluation materials-- (A) the determination of whether the child is a child with a disability as defined in section 602(3) shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and</p> <p>(B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.”</p>	<p>614(b)</p> <p>“(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED- Upon completion of the administration of assessments and other evaluation measures-- (A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and (B) a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.”</p>
<p>614(b)</p> <p>“(5) SPECIAL RULE FOR ELIGIBILITY</p>	<p>614(b)</p> <p>“(5) Special rule for eligibility determination. In</p>	<p>614(b)</p> <p>“(5) SPECIAL RULEFOR ELIGIBILITY</p>

<p>DETERMINATION- In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency. “</p>	<p>making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is_</p> <p>(A) lack of scientifically based instruction in reading;</p> <p>(B) lack of instruction in mathematics; or</p> <p>(C) limited English proficiency.”</p>	<p>DETERMINATION- In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is--</p> <p>(A) lack of scientifically based instruction practices and programs that contain the essential components of reading instruction (as that term is defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);</p> <p>(B) lack of instruction in math; or</p> <p>(C) limited English proficiency.”</p>
<p>614(b)</p> <p>N/A</p>	<p>614(b)</p> <p>“(6) Specific learning disabilities._</p> <p>(A) In general. <u>Notwithstanding section 607, when determining whether a child has a specific learning disability as defined in section 602, a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.</u></p> <p>(B) Additional authority. <u>In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention.”</u></p>	<p>614(b)</p> <p>Same as Senate bill 1248</p>
<p>614(c)</p> <p>“(5) EVALUATIONS BEFORE CHANGE IN</p>	<p>614(c)</p> <p>“(5) Evaluations before change in eligibility._</p>	<p>614(c)</p> <p>“(5) EVALUATIONS BEFORE CHANGE</p>

<p>ELIGIBILITY- A local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.”</p> <p>N/A</p>	<p>(A) In general. Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.</p> <p>(B) Exception.</p> <p>(i) In general. The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or to exceeding the age eligibility for a free appropriate public education under State law.</p> <p>(ii) Summary of performance. For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include any further recommendations on how to assist the child in meeting the child's postsecondary goals.”</p>	<p>IN ELIGIBILITY-</p> <p>(A) IN GENERAL- Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.</p> <p>(B) EXCEPTION-</p> <p>(i) IN GENERAL- The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or to exceeding the age eligibility for a free appropriate public education under State law.</p> <p>(ii) SUMMARY OF PERFORMANCE- For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include any further recommendations on how to assist the child in meeting the child's postsecondary goals.”</p>
<p>614(d)</p> <p>"INDIVIDUALIZED EDUCATION PROGRAMS - (1) DEFINITIONS- As used in this title:</p> <p>(A) INDIVIDUALIZED EDUCATION PROGRAM- The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that</p>	<p>614(d)</p> <p>“...Individualized Education Programs.</p> <p>(1) Definitions. As used in this title:</p> <p>(A) Individualized education program.</p> <p>(i) In general. The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and</p>	<p>614(d)</p> <p>.. INDIVIDUALIZED EDUCATION PROGRAMS-</p> <p>(1) DEFINITIONS- As used in this title:</p> <p>(A) INDIVIDUALIZED EDUCATION PROGRAM-</p> <p>(i) IN GENERAL- The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that</p>

<p>includes –</p> <p>(i) a statement of the child's present levels of educational performance, including --</p> <p>(I) how the child's disability affects the child's involvement and progress in the general curriculum; or</p> <p>(II) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;</p> <p>(ii) a statement of measurable annual goals, including benchmarks or short-term objectives, related to --</p> <p>(I) meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and</p> <p>(II) meeting each of the child's other educational needs that result from the child's disability;</p> <p><i>[See below]</i></p> <p>(iii) a statement of the special education and related</p>	<p>revised in accordance with this section and that includes_</p> <p>(I) a statement of the child's present levels of academic achievement and functional performance, including_</p> <p>(aa) how the child's disability affects the child's involvement and progress in the general curriculum; or</p> <p>(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;</p> <p>(II) a statement of measurable annual goals, including academic and functional goals, designed to_(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum; and</p> <p>(bb) meet each of the child's other educational needs that result from the child's disability;</p> <p>(III) a statement of the progress the child is making toward meeting the annual goals described in subclause (II) and a description how that progress is being measured, including through the use of quarterly or other periodic reports, concurrent with the issuance of report cards;</p> <p>(IV) a statement of the special education and related services, and supplementary aids and services, to be</p>	<p>is developed, reviewed, and revised in accordance with this section and that includes--</p> <p>`(I) a statement of the child's present levels of academic achievement and functional performance, including--</p> <p>(aa) how the child's disability affects the child's involvement and progress in the general curriculum; or</p> <p>(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;</p> <p>(II) a statement of measurable annual goals, including academic and functional goals, designed to--(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum; and</p> <p>(bb) meet each of the child's other educational needs that result from the child's disability;</p> <p>(III) a statement of how the child's progress toward the annual goals described in subclause (II) will be measured, including through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, that delineate the progress the child is making toward meeting the annual goals; <i>Replaces short term objectives]</i></p> <p>`(IV) a statement of the special education and related services, and supplementary aids and services, to be provided to the child, or on</p>
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<p>services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child --</p> <p>(I) to advance appropriately toward attaining the annual goals;</p> <p>(II) to be involved and progress in the general curriculum in accordance with clause (i) and to participate in extracurricular and other nonacademic activities; and</p> <p>(III) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;</p> <p>(iv) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);</p> <p>(v) (I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and</p> <p>(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of --</p> <p>(aa) why that assessment is not appropriate for the</p>	<p>provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child_</p> <p>(aa) to advance appropriately toward attaining the annual goals;</p> <p>(bb) to be involved in and make progress in the general curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and</p> <p>(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;</p> <p>(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);</p> <p>(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)(A); and</p> <p>[Note the use of "<i>measure</i>" rather than "<i>participate</i>".]</p> <p>(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why_</p> <p>(AA) the child cannot participate in the regular</p>	<p>behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child--</p> <p>(aa) to advance appropriately toward attaining the annual goals;</p> <p>`(bb) to be involved in and make progress in the general curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and</p> <p>`(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;</p> <p>`(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);</p> <p>`(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)(A); and</p> <p>`(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why--</p> <p>`(AA) the child cannot participate in the</p>
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<p>child; and</p> <p>(bb) how the child will be assessed;</p> <p>(vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;</p> <p>(vii) (I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);</p> <p><i>[The language re: advanced placement course/voc. ed is removed in the Senate bill.]</i></p> <p>(II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and</p> <p><i>[See below re: transition requirements]</i></p> <p>(III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m); and</p> <p>(viii) a statement of --</p>	<p>assessment; and</p> <p>(BB) the particular alternate assessment selected is appropriate for the child;</p> <p>(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and</p> <p>(VIII) beginning not later than the first IEP to be in effect when the child is 14, and updated annually thereafter_</p> <p>N/A</p> <p>(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;</p> <p>(bb) the transition services (including courses of study) needed by the child to reach those goals, including services to be provided by other agencies when needed; and</p> <p><i>[Softens requirement- is currently "a statement of the interagency responsibilities or any needed linkages"]</i></p> <p>(cc) beginning at least 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).</p>	<p>regular assessment; and</p> <p>`(BB) the particular alternate assessment selected is appropriate for the child;</p> <p>`(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and</p> <p>`(VIII) beginning not later than the first IEP to be in effect when the child is 14, and updated annually thereafter--</p> <p>N/A</p> <p>`(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;</p> <p>`(bb) the transition services (including courses of study) needed by the child to reach those goals, including services to be provided by other agencies when needed; and</p> <p>`(cc) beginning at least 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section</p>
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<p>(I) how the child's progress toward the annual goals described in clause (ii) will be measured; and</p> <p>(II) how the child's parents will be regularly informed (by such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of --</p> <p>(aa) their child's progress toward the annual goals described in clause (ii); and</p> <p>(bb) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year. ...</p> <p>N/A</p> <p>See 614(e)</p>	<p>Removed</p> <p>(ii) Rule of construction. Nothing in this section shall be construed to require_</p> <p>(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and</p> <p>(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP. ...</p>	<p>615(m).</p> <p>Removed</p> <p>(ii) RULE OF CONSTRUCTION- Nothing in this section shall be construed to require--</p> <p>(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and</p> <p>(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.”</p>
<p>614(d)(1)(A)</p> <p>“(3) Development of IEP (A) In general In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider -</p>	<p>614(d)(1)(A)</p> <p>“(3) Development of iep._</p> <p>(A) In general. In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider_</p>	<p>614(d)(1)(A)</p> <p>(3) DEVELOPMENT OF IEP- (A) IN GENERAL- In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider-- (i) the results of the initial evaluation or most</p>

<p>(i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and</p> <p>(ii) the results of the initial evaluation or most recent evaluation of the child.”</p>	<p>(i) the strengths of the child;</p> <p>(ii) the concerns of the parents for enhancing the education of their child;</p> <p>(iii) the results of the initial evaluation or most recent evaluation of the child; and</p> <p>(iv) the academic, developmental, and functional needs of the child.”</p>	<p>recent evaluation of the child;</p> <p>(ii) the academic and developmental needs of the child;</p> <p>(iii) the strengths of the child; and</p> <p>(iv) the concerns of the parents for enhancing the education of their child.”</p>
<p>614(d)(1)(C)</p> <p>N/A</p>	<p>614(d)(1)</p> <p>“(C) IEP team attendance._</p> <p>(i) Attendance not necessary._A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because no modification to the member's area of the curriculum or related services is being modified or discussed in the meeting.</p> <p>(ii) Excusal._A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if_</p> <p>(I) that member, the parent and the local educational agency consent to the excusal; and</p> <p>(II) the member submits input into the development of the IEP prior to the meeting. “</p>	<p>614(d)(3)</p> <p>“(D) IEP TEAM ATTENDANCE- The parent of a child with a disability and the local educational agency may jointly excuse any member of the IEP Team from attending all or part of an IEP meeting if they agree that the member's attendance is not necessary. The IEP Team shall obtain the member's input prior to an IEP meeting from which the member is excused.”</p>
<p>614(d)(3)(B)</p> <p>“(B) CONSIDERATION OF SPECIAL FACTORS-</p>	<p>614(d)(3)(B)</p> <p>“(B) Consideration of special factors._The IEP Team shall_</p>	<p>614(d)(3)(B)</p> <p>“(B) CONSIDERATION OF SPECIAL FACTORS- The IEP Team shall--</p>

<p>The IEP Team shall --</p> <p>(i) in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;</p> <p>(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;</p> <p>(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;</p> <p>N/A</p> <p>(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and</p>	<p>(i) in the case of a child whose behavior impedes the child's learning or that of others, provide for positive behavioral interventions and supports, and other strategies to address that behavior;</p> <p>(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;</p> <p>(iii) in the case of a child who is blind or visually impaired_ (I) provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; and</p> <p>(II) consider, when appropriate, instructional services related to functional performance skills, orientation and mobility, and skills in the use of assistive technology devices, including low vision devices;</p> <p>(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (v) consider whether the child requires assistive technology devices and services.”</p>	<p>^(i) in the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;</p> <p>^(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;</p> <p>^(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;</p> <p>N/A</p> <p>^(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and</p> <p>(v) consider whether the child needs assistive</p>
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<p>(v) consider whether the child requires assistive technology devices and services.</p> <p>614(d)(3)(C)</p> <p>“(C) Requirement with respect to regular education teacher The regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(iii).”</p> <p>N/A</p> <p>N/A</p>	<p>614(d)(3)(C)</p> <p>“(C) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).”</p> <p>(D) Agreement. In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the remainder of the school year, and instead develop a written document to amend or modify the child's current IEP.</p> <p>(E) Consolidation of iep team meetings. To the extent possible, the local educational agency shall encourage the consolidation of reevaluations of a child with IEP Team meetings for the child.</p>	<p>technology devices and services.</p> <p>614(d)(3)(C)</p> <p>“(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER- The regular education teacher of the child, if a member of the IEP Team pursuant to paragraph (1)(B)(ii), shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(III).</p> <p>(E) AGREEMENT ON MEETING- In making changes to a child's IEP after the annual IEP meeting, the parent of a child with a disability and the local educational agency may agree not to reconvene the IEP team and instead develop a written document to amend or modify the child's current IEP.</p> <p>(F) CONSOLIDATION OF IEP TEAM MEETINGS- To the extent possible, the local educational agency shall encourage the consolidation of IEP Team meetings for a child.</p> <p>(G) AMENDMENTS- Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph</p>
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<p>N/A</p> <p>614(d)(5)</p> <p>(5) FAILURE TO MEET TRANSITION OBJECTIVES- If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.</p> <p>614(d)(5)</p> <p>This provision does not exist in current law.</p>	<p>614(d)(6)</p> <p>Moved to (d)(6)</p> <p>614(d)(5)</p> <p>(5) Three-year iep._</p> <p>(A) Development of 3-year iep._The local educational agency may offer a child with a disability who has reached the age of 18, the option of developing a comprehensive 3-year IEP. With the consent of the parent, when appropriate, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the final 3-year transition period, which includes a statement of_</p> <p>(i) measurable goals that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's transitional and postsecondary needs that result from the child's disability; and</p>	<p>(E), by amending the IEP rather than by redrafting the entire IEP.</p> <p>614(d)(6)</p> <p>Moved to (d)(6)</p> <p>614(d)(5)</p> <p>(5) MULTI-YEAR IEP-</p> <p>(A) DEVELOPMENT- The local educational agency may offer to the parent of a child with a disability the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to cover the natural transition points for the child. With the consent of the parent, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the appropriate multi-year period, which includes a statement of--</p> <p>(i) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and</p>
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	<p>(ii) measurable annual goals for measuring progress toward meeting the postsecondary goals described in clause (i).</p> <p>(B) Review and revision of 3-year iep._</p> <p>N/A</p> <p>(i) Requirement. <i>Each year</i> the local educational agency shall ensure that the IEP Team_</p> <p>(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and</p> <p>(II) revises the IEP, as appropriate, to enable the child to continue to meet the measurable transition goals set out in the IEP.</p> <p>(ii) Comprehensive review. <i>If</i> the review under clause (i) determines that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team provides a review, within 30 calendar days, of the IEP under paragraph (4).</p> <p>(iii) Preference. <i>At</i> the request of the child, or when appropriate, the parent, the IEP Team shall conduct a review of the child's 3-year IEP under paragraph (4) rather than an annual review under subparagraph (B)(i).</p> <p>(6) Failure to meet transition objectives. <i>If</i> a</p>	<p>(ii) measurable annual goals for determining progress toward meeting the goals described in clause (i).</p> <p>(B) REVIEW AND REVISION OF MULTI-YEAR IEP-</p> <p>(i) REQUIREMENT- The IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP at each of the child's <i>natural transition points</i>.</p> <p>(ii) STREAMLINED ANNUAL REVIEW PROCESS- <i>In years other than a child's natural transition points</i>, the local educational agency shall ensure that the IEP Team--</p> <p>(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and` (II) amends the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP.</p> <p>(iii) COMPREHENSIVE REVIEW PROCESS- <i>If</i> the IEP Team determines, on the basis of the review under clause (i), that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team reviews the IEP under paragraph (4), within 30 calendar days.</p> <p>(iv) PARENTAL PREFERENCE- <i>At</i> the request of the parent, the IEP Team shall conduct a review under paragraph (4) of the child's multi-year IEP rather than a streamlined annual review under clause (ii).</p>
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<p>614(e)</p> <p>(e) CONSTRUCTION- Nothing in this section shall be construed to require the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.</p> <p>N/A</p>	<p>participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.</p> <p>N/A</p> <p>614(d)(1)(A)(ii)</p> <p>“(ii) Rule of construction. Nothing in this section shall be construed to require_</p> <p>(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and</p> <p>(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP. “</p>	<p>N/A</p> <p>(C) DEFINITION- As used in this paragraph, the term `natural transition points' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to high school grades, and from high school grades to post-secondary activities, but in no case longer than 3 years.</p> <p>Moved to 614(d)(1)(B)</p> <p>“(ii) RULE OF CONSTRUCTION- Nothing in this subparagraph shall be construed to require--</p> <p>(I) that additional information be included in a child's IEP beyond what is required in this subsection; and</p> <p>(II) the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.”</p>
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<p>614(f)</p> <p><i>This provision is not included in current law. (Educational placements is included at 614(f) which is included in the Senate and House bills as 514(e)</i></p>	<p>614(f)</p> <p>“(f) Alternative Means of Meeting Participation. When conducting IEP Team meetings and placement meetings pursuant to this section, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.”</p>	<p>614(f)</p> <p>“(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION- When conducting IEP team meetings and placement meetings pursuant to this section and 615, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.”</p>
<p><i>This provision is not included in current law.</i></p>	<p><i>This provision is not included in the Senate bill.</i></p>	<p>614(b) Floor Amendment – Added to end of 614</p> <p>(b) FINDINGS; SENSE OF CONGRESS-</p> <p>(1) FINDINGS- Congress finds the following:</p> <p>(A) Certain of the categories of disability that allow students to qualify for benefits under the Individuals with Disabilities Education Act have not been scientifically established and, as a result, some children who do not have actual learning disabilities are classified as having disabilities under that Act.</p> <p>(B) Nearly one in eight students is now labeled as disabled.</p> <p>(C) Over one-half of those students are classified as having learning and behavioral challenges.</p> <p>(D) Current definitions of disabilities in the Code of Federal Regulations, particularly the definition of ‘emotional disturbance’, are vague and ambiguous.</p> <p>(E) The absence of reliable methods for</p>

		<p>distinguishing children with a special learning disability from children who have lower than expected achievement leads to over-identification and misidentification of non-disabled students as students with disabilities.</p> <p>(F) The lack of consistently applied diagnostic criteria for specific learning disabilities makes it possible to diagnose almost any low or underachieving child as a student with a disability.</p> <p>(G) The President's Commission on Excellence in Special Education (PCESE) found in its July 1, 2002, report, 'A New Era: Revitalizing Special Education for Children and their Families', that many of the current methods of identifying children with disabilities lack validity and, as a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.</p> <p>(H) The President's Commission also found that emotional and behavioral difficulties could be prevented through classroom-based approaches involving positive discipline and classroom management.</p> <p>(I) According to testimony from a March 13, 2003, hearing before the Subcommittee on Education Reform of the Committee on Education and the Workforce of the House of Representatives, students are frequently referred to special education because they are not succeeding in the general education setting, and not because they are actually disabled.</p> <p>(J) Students with controllable behavioral problems are often classified as having</p>
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		<p>learning disabilities and therefore are not held responsible for their own behavior. (K) According to testimony by Secretary of Education Rod Paige on October 4, 2001, before the Committee on Education and the Workforce of the House of Representatives, our educational system fails to teach many children fundamental skills like reading, then inappropriately identifies some of them as having disabilities, thus harming the educational future of those children who are misidentified and reducing the resources available to serve children with disabilities.</p> <p>(2) SENSE OF CONGRESS- It is the sense of Congress that--</p> <p>(A) students who have not been diagnosed by a physician or other person certified by a State health board as having a disability (as defined under the Individuals with Disabilities Education Act) should not be classified as children with disabilities for purposes of receiving services under that Act; and</p> <p>(B) students with behavioral problems who have not been diagnosed by a physician or other person certified by a State health board as having a disability should be subject to the regular school disciplinary code.”</p>
<p>Section 615</p>		
<p>615(b)</p> <p>“(7) procedures that require the parent of a child with a disability, or the attorney representing the child,</p>	<p>615(b)</p> <p>“(7)(A) procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with</p>	<p>615(b)</p> <p>“(7)(A) procedures that require the parent of a child with a disability, or the attorney representing the child, to provide notice</p>

<p>to provide notice (which shall remain confidential) --</p> <p>(A) to the State educational agency or local educational agency, as the case may be, in the complaint filed under paragraph (6); and</p> <p>(B) that shall include --</p> <p>(i) the name of the child, the address of the residence of the child, and the name of the school the child is attending;</p> <p>(ii) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and</p> <p>(iii) a proposed resolution of the problem to the extent known and available to the parents at the time; and</p> <p>N/A</p> <p>N/A</p>	<p>subsection (c)(2) (which shall remain confidential)_</p> <p>(i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and</p> <p>(ii) that shall include_</p> <p>(I) the name of the child, the address of the residence of the child, and the name of the school the child is attending;</p> <p>(II) in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;</p> <p>``(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and</p> <p>``(IV) a proposed resolution of the problem to the extent known and available to the party at the time; and</p> <p>``(B) a requirement that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii);</p> <p>``(8) a requirement that the local educational agency shall send a prior written notice pursuant to subsection (c)(1) in response to a parent's due process complaint notice under paragraph (7) if the local educational agency has not sent such a</p>	<p>(which shall remain confidential)--</p> <p>``(i) to the local educational agency or State educational agency (if the State educational agency is the direct provider of services pursuant to section 613(g)), in the complaint filed under paragraph (6); and</p> <p>``(ii) that shall include--</p> <p>``(I) the name of the child, the address of the residence of the child (or, in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child), and the name of the school the child is attending;</p> <p>``(II) a description of the specific issues regarding the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and</p> <p>``(III) a proposed resolution of the problem to the extent known and available to the parents at the time;</p> <p>``(B) a requirement that a parent of a child with a disability may not have a due process hearing until the parent, or the attorney representing the child, files a notice that meets the requirements of this paragraph; and</p> <p>N/A</p>
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<p>(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7). “</p>	<p>prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice; and</p> <p>“(9) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with paragraphs (6) and (7), respectively.</p> <p><i>[The inability of parties to raise issues at a due process hearing that were not raised in the initial notice would result in a substantial change in the law. See below for additional details about this requirement.]</i></p>	<p>“(8) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint in accordance with paragraph (7).”.</p>
<p>615(b)</p> <p>“(6) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.”</p>	<p>615(b)</p> <p>“(6) an opportunity for either party to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.”</p>	<p>615(b)</p> <p>“(6) an opportunity to present complaints-- (A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and “(B) which set forth a violation that occurred not more than one year before the complaint is filed;”</p>
<p>615</p> <p>“(c) CONTENT OF PRIOR WRITTEN NOTICE- The notice required by subsection (b)(3) shall include –</p> <p>(1) a description of the action proposed or refused by the agency;</p>	<p>615</p> <p>“(c) Notification Requirements._</p> <p>(1) Content of prior written notice._The prior written notice of the local educational agency required by subsection (b)(3) shall include_</p> <p>(A) a description of the action proposed or refused by the agency;</p>	<p>615</p> <p>“(c) CONTENT OF PRIOR WRITTEN NOTICE- The notice required by subsection (b)(3) shall include—</p> <p>(1) a description of the action proposed or refused by the agency;</p>

<p>(2) an explanation of why the agency proposes or refuses to take the action;</p> <p>(3) a description of any other options that the agency considered and the reasons why those options were rejected;</p> <p>(4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;</p> <p>(5) a description of any other factors that are relevant to the agency's proposal or refusal;</p> <p>(6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and</p> <p>(7) sources for parents to contact to obtain assistance in understanding the provisions of this part.”</p>	<p>(B) an explanation of why the agency proposes or refuses to take the action;</p> <p>(C) a description of any other options that the agency considered and the reasons why those options were rejected;</p> <p>(D) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;</p> <p>(E) a description of any other factors that are relevant to the agency's proposal or refusal;</p> <p>(F) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and</p> <p>(G) sources for parents to contact to obtain assistance in understanding the provisions of this part.</p>	<p>(2) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;</p> <p>(3) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and</p> <p>(4) sources for parents to contact to obtain assistance in understanding the provisions of this part.'.</p> <p>N/A</p> <p>N/A</p>
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<p><i>Does not exist in current law</i></p>	<p>(2) Due process complaint notice._</p> <p>(A) In general._ The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer in writing that the party believes the notice has not met the requirements of that subsection.</p> <p>(B) Timing._ The party sending a hearing officer notification under subparagraph (A) shall send the notification within 20 days of receiving the complaint.</p> <p>(C) Determination._ Within 5 days of receipt of the notification provided under subparagraph (B), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A).”</p>	<p>N/A</p>
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<p>615</p> <p>“(d) PROCEDURAL SAFEGUARDS NOTICE-</p> <p>(1) IN GENERAL- A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum --</p> <p>(A) upon initial referral for evaluation;</p> <p>N/A</p> <p>N/A</p> <p>(B) upon each notification of an individualized education program meeting and upon reevaluation of the child; and</p> <p>(C) upon registration of a complaint under subsection (b)(6).</p> <p>(2) CONTENTS-</p> <p>The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the</p>	<p>615</p> <p>“(d) Procedural Safeguards Notice._</p> <p>(1) In general. A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a year, except that a copy also shall be given to the parents_</p> <p>(A) upon initial referral or parental request for evaluation;</p> <p>N/A</p> <p>(B) upon registration of a complaint under subsection (b)(6);</p> <p>(C) at any individualized education program meeting required in accordance with subsection (k)(1); and</p> <p>(D) upon request by a parent.</p> <p>(2) CONTENTS- The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations</p>	<p>615</p> <p>“(d) PROCEDURAL SAFEGUARDS NOTICE-</p> <p>(1) IN GENERAL- A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum--</p> <p>(A) upon initial referral or parental request for evaluation;</p> <p>(B) annually, at the beginning of the school year; and</p> <p>(C) upon written request by a parent.</p> <p>N/A</p> <p>N/A</p> <p>(2) CONTENTS- The procedural safeguards notice shall include a description of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—</p>
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<p>Secretary relating to</p> <p>(A) independent educational evaluation;</p> <p>(B) prior written notice;</p> <p>(C) parental consent;</p> <p>(D) access to educational records;</p> <p>(E) opportunity to present complaints;</p> <p>(F) the child's placement during pendency of due process proceedings;</p> <p>(G) procedures for students who are subject to placement in an interim alternative educational setting;</p> <p>(H) requirements for unilateral placement by parents of children in private schools at public expense;</p> <p>(I) mediation;</p> <p>(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;</p> <p>(K) State-level appeals (if applicable in that State);</p> <p>(L) civil actions; and</p> <p>(M) attorneys' fees.</p>	<p>promulgated by the Secretary relating to</p> <p>(A) independent educational evaluation;</p> <p>(B) prior written notice;</p> <p>(C) parental consent;</p> <p>(D) access to educational records;</p> <p>(E) opportunity to present complaints, including the time period in which to make those complaints;</p> <p>(F) the child's placement during pendency of due process proceedings;</p> <p>(G) procedures for students who are subject to placement in an interim alternative educational setting;</p> <p>(H) requirements for unilateral placement by parents of children in private schools at public expense;</p> <p>(I) mediation;</p> <p>(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;</p> <p>(K) State-level appeals (if applicable in that State);</p> <p>(L) civil actions, including the time period in which to file such actions; and</p> <p>(M) attorney's fees”</p>	<p>(A) independent educational evaluation;</p> <p>(B) prior written notice;</p> <p>(C) parental consent;</p> <p>(D) access to educational records;</p> <p>(E) opportunity to present complaints;</p> <p>(F) the child's placement during pendency of due process proceedings;</p> <p>(G) procedures for students who are subject to placement in an interim alternative educational setting;</p> <p>(H) requirements for unilateral placement by parents of children in private schools at public expense;</p> <p>(I) mediation, early dispute resolution, and voluntary binding arbitration;</p> <p>(J) due process hearings, including requirements for disclosure of evaluation results and recommendations;</p> <p>N/A</p> <p>(K) civil actions; and</p> <p>(L) attorneys' fees.!</p>
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<p>615(e) MEDIATION-</p> <p>“(1) IN GENERAL- Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through a mediation process which, at a minimum, shall be available whenever a hearing is requested under subsection (f) or (k).</p> <p>Such procedures shall meet the following requirements:</p> <p>(A) The procedures shall ensure that the mediation process--</p> <p>(i) is voluntary on the part of the parties;</p> <p>(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f) of this section, or to deny any other rights afforded under this subchapter; and</p> <p>(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.</p> <p>(B) A local educational agency or a State agency may establish procedures to require parents who choose not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with--</p> <p>(i) a parent training and information center or community parent resource center in the State established under section 1482 or 1483 of this title;</p>	<p>615</p> <p>“(e) Mediation._</p> <p>(1) In general._ Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.</p> <p>(2) Requirements._ Such procedures shall meet the following requirements:</p> <p>“(A) The procedures shall ensure that the mediation process_</p> <p>“(i) is voluntary on the part of the parties;</p> <p>“(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and</p> <p>“(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.</p> <p>“(B) Opportunity to meet with a disinterested party._ A local educational agency or a State agency may establish procedures to offer to parents and schools who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with_</p> <p>“(i) a parent training and information center or community parent resource center in the State established under section 671 or 672; or</p>	<p>615</p> <p>(e) MEDIATION AND VOLUNTARY BINDING ARBITRATION-</p> <p>(1) MEDIATION-</p> <p>(A) IN GENERAL- Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process`</p> <p>(B) REQUIREMENTS- Such procedures shall meet the following requirements:</p> <p>(i) The procedures shall ensure that the mediation process--</p> <p>(I) is voluntary on the part of the parties;</p> <p>(II) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and</p> <p>(III) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.</p> <p>(ii) A local educational agency or a State agency may establish procedures to offer to parents who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with--</p> <p>(I) a parent training and information center in the State established under section 672; or</p>
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<p>or</p> <p>(ii) an appropriate alternative dispute resolution entity;</p> <p>to encourage the use, and explain the benefits, of the mediation process to the parents.</p> <p>(C) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.</p> <p>(D) The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).</p> <p>(E) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.</p> <p>(F) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.</p> <p>(G) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.”</p>	<p>“(ii) an appropriate alternative dispute resolution entity,</p> <p>to encourage the use, and explain the benefits, of the mediation process to the parents.</p> <p>“(C) List of qualified mediators. The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.</p> <p>“(D) Costs. The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).</p> <p>“(E) Scheduling and location. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.</p> <p>“(F) Written mediation agreement. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement that is enforceable in any State court of competent jurisdiction or in a district court of the United States.</p> <p>“(G) Mediation discussions. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.”</p>	<p>“(II) an appropriate alternative dispute resolution entity;</p> <p>to encourage the use, and explain the benefits, of the mediation process to the parents.</p> <p>“(iii) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.</p> <p>“(iv) The State shall bear the cost of the mediation process, including the costs of meetings described in clause (ii).</p> <p>“(v) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.</p> <p>“(vi) An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.</p> <p>“(vii) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.</p>
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<p><i>There is no such provision in current law</i></p>	<p><i>There is no such provision in the Senate bill</i></p>	<p>(2) VOLUNTARY BINDING ARBITRATION- (A) IN GENERAL- A State educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in subsection (b)(6) to resolve such disputes through voluntary binding arbitration, which shall be available when a hearing is requested under subsection (f) or (j). (B) REQUIREMENTS- Such procedures shall meet the following requirements: ` (i) The procedures shall ensure that the voluntary binding arbitration process-- ` (I) is voluntarily and knowingly agreed to in writing by the parties; and ` (II) is conducted by a qualified and impartial arbitrator. ` (ii) A local educational agency or a State agency shall ensure that parents who choose to use voluntary binding arbitration understand that the process is in lieu of a due process hearing under subsection (f) or (j) and that the decision made by the arbitrator is final, unless there is fraud by a party or the arbitrator or misconduct on the part of the arbitrator. ` (iii) The parties shall jointly agree to use an arbitrator from a list that the State shall maintain of individuals who are qualified arbitrators and knowledgeable in laws and regulations relating to the provision of special education and related services. ` (iv) The arbitration shall be conducted according to State law on arbitration or, if there is no such applicable State law, in a</p>
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		<p>manner consistent with the Revised Uniform Arbitration Act.</p> <p>“(v) The voluntary binding arbitration shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.”</p>
<p>615</p> <p>“(f) IMPARTIAL DUE PROCESS HEARING-</p> <p>(1) IN GENERAL- Whenever a complaint has been received under subsection (b)(6) or (k) of this section, the parents involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.”</p>	<p>615</p> <p>“(f) Impartial Due Process Hearing._</p> <p>(1) In general._</p> <p>(A) Hearing._Whenever a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.”</p>	<p>615</p> <p>“(f) IMPARTIAL DUE PROCESS HEARING- “(1) IN GENERAL-</p> <p>“(A) ACCESS TO HEARING- Whenever a complaint has been received under subsection (b)(6) or (j) of this section, the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency.”</p> <p><i>[Option for hearing by LEA is removed in House bill.]</i></p>
<p>615(f)(1)(B)</p> <p><i>No such provision exists under current law.</i></p>	<p>615(f)(1)(B)</p> <p><i>This new proposed requirement signifies a noteworthy departure from current law. The due process hearing must be delayed at least 15 days while the parties meet to attempt to resolve the problem, unless both parties agree to waive the meeting.</i></p> <p><i>The relationship of this requirement to disputes over discipline (e.g. when the child is placed in an interim alternative setting) is unclear.</i></p>	<p>615(f)(1)(B)</p> <p><i>[As attorney fees are not available for this session if the parent is later determined to be a prevailing party as they are for other due process procedures (see “Def. Of Meeting”), parents/students will often not be represented for the session.]</i></p>

	<p>“(B) Opportunity to resolve complaint._</p> <p>(i) Preliminary meeting._ Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the IEP Team_</p> <p>`(I) within 15 days of receiving notice of the parents' complaint;</p> <p>`(II) which shall include a representative of the public agency who has decisionmaking authority on behalf of such agency;</p> <p>(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and</p> <p>(IV) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint,</p> <p>unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).</p> <p>(ii) Hearing._ If the local educational agency has not resolved the complaint to the satisfaction of the parents within 15 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this part shall commence.</p> <p>`(iii) Written settlement agreement._ In the case that an agreement is reached to resolve the complaint at such meeting, the agreement shall</p>	<p>“(B) RESOLUTION SESSION-</p> <p>(i) IN GENERAL- Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents--</p> <p>(I) within 15 days of receiving notice of the parents' complaint; and</p> <p>(II) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint; unless the parents and the local educational agency agree in writing to waive such meeting.</p> <p>`(ii) DUE PROCESS HEARING- If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing shall occur in accordance with subparagraph (A).</p>
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	<p>be set forth in a written settlement agreement that is_</p> <p>`(I) signed by both the parent and a representative of the public agency who has decisionmaking authority on behalf of such agency; and</p> <p>`(II) enforceable in any State court of competent jurisdiction or in a district court of the United States”.</p> <p>N/A</p>	<p>N/A</p> <p>`(iii) DEFINITION OF MEETING- A meeting conducted pursuant to clause (i) shall not be considered--</p> <p>`(I) a meeting convened as a result of an administrative hearing or judicial action; or</p> <p>`(II) an administrative hearing or judicial action for purposes of subsection (h)(3).</p>
<p>615(f)</p> <p>“(3) LIMITATION ON CONDUCT OF HEARING- A hearing conducted pursuant to paragraph (1) may not be conducted by an employee of the State educational agency or the local educational agency involved in the education or care of the child.”</p> <p><i>[New proposed requirements for hearing officers.]</i></p>	<p>`615(f)</p> <p>`(3) Limitations on hearing._</p> <p>(A) Person conducting hearing._A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum_</p> <p>(i) not be_</p> <p>(I) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or</p> <p>(II) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;</p>	<p>`615(f)</p> <p>(3) LIMITATION ON HEARING-</p> <p>`(A) HEARING OFFICER- A hearing conducted pursuant to paragraph (1)(A) may not be conducted by—</p> <p>`(i) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or</p> <p>`(ii) any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.</p>

<p><i>[The following proposed limitations on decisions of hearing officers and provisions re: enforceability are also new. The complaint provision is a clarification of current law.]</i></p>	<p>(E) Exception to the statute of limitations. The statute of limitations described in subparagraph (D) shall not apply if the parent was prevented from requesting the hearing due to_</p> <p>(i) failure of the local educational agency to provide prior written or procedural safeguards notices;</p> <p>(ii) false representations that the local educational agency was attempting to resolve the problem forming the basis of the complaint; or</p> <p>(iii) the local educational agency's withholding of information from parents.</p> <p>(F) Decision of hearing officer._</p> <p>(i) In general. Subject to clause (ii), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.</p> <p>(ii) Procedural issues. In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies_</p> <p>(I) compromised the child's right to an appropriate public education;</p> <p>(II) seriously hampered the parents' opportunity to participate in the process; or</p> <p>(III) caused a deprivation of educational benefits.</p>	<p><i>There was originally an analogous provision in the House bill at 615(f)(3)(C) but it appears to be absent from the current version.</i></p>
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	<p>(iii) Rule of construction. Nothing in this paragraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section.</p> <p>(G) Rule of construction. Nothing in this section shall be construed to affect the right of a parent to file a complaint with the State educational agency.</p>	
<p>615(g) Appeal</p> <p>If the hearing required by subsection (f) of this section is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.</p>	<p>615</p> <p>“(g) Appeal. If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such State educational agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.”</p>	<p>615(g) Appeal</p> <p>Removed</p>
<p>615(g)</p> <p>“(h) Safeguards</p> <p>Any party to a hearing conducted pursuant to subsection (f) or (k) of this section, or an appeal conducted pursuant to subsection (g) of this section, shall be accorded--</p> <p>(1) the right to be accompanied and advised by counsel and by individuals with special knowledge</p>	<p>615(g)</p> <p>“(h) Safeguards. Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded_</p> <p>“(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems</p>	<p>615(g)</p> <p><i>The ability of parents to be represented by non-attorney advocates at a due process hearing is a significant issue, esp. as the ability of parents to find attorneys becomes more restricted.</i></p> <p>“(g) SAFEGUARDS- Any party to a hearing conducted pursuant to subsection (f) or (j) shall be accorded--</p> <p>“(1) the right to be represented by counsel and by non-attorney advocates and to be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities;</p>

<p>or training with respect to the problems of children with disabilities;</p> <p>(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;</p> <p>(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and</p> <p>(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 1417(c) of this title (relating to the confidentiality of data, information, and records) and shall also be transmitted to the advisory panel established pursuant to section 1412(a)(21) of this title.”</p>	<p>of children with disabilities;</p> <p>“(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;</p> <p>“(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and</p> <p>“(4) the right to a written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions_</p> <p>“(A) shall be made available to the public consistent with the requirements of section 617(b) (relating to the confidentiality of data, information, and records); and</p> <p>“(B) shall be transmitted to the advisory panel established pursuant to section 612(a)(20).”</p>	<p>“(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;</p> <p>“(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and</p> <p>“(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(d)) (relating to the confidentiality of data, information, and records).!”</p> <p>N/A</p>
<p>615(i)(2)(B)</p> <p>No such provision</p>	<p>615(i)(2)(B)</p> <p>“(B) Limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this part, in such time as the State law allows.”</p>	<p>615(i)(2)(B)</p> <p>No such provision</p>
<p>615(k) [DISCIPLINE]</p>	<p>615(k) [DISCIPLINE]</p> <p>[Note: Portions of this section are out of order in an effort to make the section more easily understandable when compared against current law.]</p>	<p>615(j) [DISCIPLINE]</p>

<p>“(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING-</p> <p>(1) AUTHORITY OF SCHOOL PERSONNEL-</p> <p>(A) School personnel under this section may order a change in the placement of a child with a disability -- (i) to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and</p> <p><i>[No such provision exists under current law. Allows for immediate, unilateral removal of students violations normally resulting in a removal of over 10 days]</i></p>	<p>“(k)(1) Authority of school personnel._</p> <p>“(A) In general._School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).</p> <p>Placement in Alternative Educational Setting._</p> <p>“(B) Additional authority._If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined <i>not to be a manifestation of the child's disability</i> pursuant to subparagraph (C), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which the procedures would be applied to children without disabilities, except as provided in section 612(a)(1).</p>	<p>“(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING-</p> <p>“(1) AUTHORITY OF SCHOOL PERSONNEL-</p> <p>“(A) IN GENERAL- School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities).</p> <p>“(B) ADDITIONAL AUTHORITY- Subject to subparagraph (C), and notwithstanding any other provision of this Act, school personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct policy to an appropriate interim alternative educational setting selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, for not more than 45 school days (to the extent such alternative and such duration would be applied to children without disabilities, and which may include consideration of unique circumstances on a</p>
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<p>ii) to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if --</p> <p>(I) the child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or</p> <p>(II) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency.</p> <p>(B) Either before or not later than 10 days after taking a disciplinary action described in subparagraph (A) --</p>	<p>“(D) Special circumstances. In cases where a child_</p> <p>“(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency; or</p> <p>“(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school or a school function under the jurisdiction of a State or local educational agency; or</p> <p>“(iii) has committed serious bodily injury upon another person while at school or at a school function under the jurisdiction of a State or local educational agency,</p> <p>school personnel may remove a student to an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the child's disability.</p> <p><i>Removed</i></p> <p><i>[Compare B to 615(k)(1) (F)(ii) below]</i></p>	<p>case-by-case basis), except that the change in placement may last beyond 45 school days if required by State law or regulation for the violation in question, to ensure the safety and appropriate educational atmosphere in the schools under the jurisdiction of the local educational agency.</p> <p><i>[Removed- not necessary b/c no longer violation specific. House bill does not require a manifestation determination review.]</i></p> <p><i>Removed</i></p>
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<p>(i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or</p> <p>(ii) if the child already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.</p> <p>(2) AUTHORITY OF HEARING OFFICER- A hearing officer under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer --</p> <p>(A) determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others;</p> <p>(B) considers the appropriateness of the child's current placement;</p> <p>(C) considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and</p> <p>(D) determines that the interim alternative educational setting meets the requirements of paragraph (3)(B).</p> <p>(3) DETERMINATION OF SETTING-</p> <p>(A) IN GENERAL- The alternative educational setting described in paragraph (1)(A)(ii) shall be determined</p>	<p><i>See below</i></p> <p>“(F) Services. A child with a disability who is removed from the child's current placement under subparagraph (B) or (D) shall _</p>	
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<p>by the IEP Team.</p> <p>(B) ADDITIONAL REQUIREMENTS- Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall --</p> <p>(i) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and</p> <p>(ii) include services and modifications designed to address the behavior described in paragraph (1) or paragraph (2) so that it does not recur.</p> <p>(4) MANIFESTATION DETERMINATION REVIEW-</p> <p>(A) IN GENERAL- If a disciplinary action is contemplated as described in paragraph (1) or paragraph (2) for a behavior of a child with a disability described in either of those paragraphs, or if a disciplinary action involving a change of placement for more than 10 days is contemplated for a child with a disability who has engaged in other behavior that</p>	<p>“(i) continue to receive educational services pursuant to section 612(a)(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and</p> <p>“(ii) receive behavioral intervention services as described in section 614(d)(3)(B)(i), and a <i>behavioral assessment</i> (but only if the local educational agency did not conduct such an assessment before the violation occurred), designed to address the behavior violation so that the violation does not recur.</p> <p>“(2) Determination of setting. The alternative educational setting shall be determined by the IEP Team. [See (A) above]</p> <p>“(C) Manifestation determination. _</p> <p>“(i) In general. Except as provided in subparagraphs (A) and (D), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the IEP Team shall review all relevant information in the student's file, any information provided by the parents, and teacher observations, to determine _</p> <p>“(I) if the conduct in question was the result of the</p>	<p>“(C) SERVICES- A child with a disability who is removed from the child's current placement under subparagraph (B) shall--</p> <p>“(i) continue to receive educational services selected so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to <i>progress toward</i> meeting the goals set out in the child's IEP; and</p> <p>“(ii) continue to receive behavioral intervention services designed to address the behavior violation so that it does not recur.</p> <p>“(2) DETERMINATION OF SETTING- The alternative educational setting described in paragraph (1)(B) shall be determined by the IEP Team.</p> <p><i>House bill does not require Manifestation Determination review or parental notice per (A)(i)]</i></p>
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<p>violated any rule or code of conduct of the local educational agency that applies to all children --</p> <p>(i) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and</p> <p>(ii) immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review shall be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.</p> <p>(B) INDIVIDUALS TO CARRY OUT REVIEW- A review described in subparagraph (A) shall be conducted by the IEP Team and other qualified personnel.</p> <p>(C) CONDUCT OF REVIEW- In carrying out a review described in subparagraph (A), the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team --</p> <p>(i) first considers, in terms of the behavior subject to disciplinary action, all relevant information, including --</p> <p>(I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the child;</p> <p>(II) observations of the child; and</p> <p>(III) the child's IEP and placement; and</p>	<p>child's disability; or</p> <p>“(II) if the conduct in question resulted from the failure to implement the IEP or to implement behavioral interventions as required by section 614(d)(3)(B)(i).</p> <p>“(ii) Manifestation. If the IEP Team determines that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.</p> <p>“(E) Notification. Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.</p> <p><i>[See (C)(i) above]</i></p>	<p><i>Removed</i></p>
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<p>(ii) then determines that --</p> <p>(I) in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;</p> <p>(II) the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and</p> <p>(III) the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.</p> <p>(5) DETERMINATION THAT BEHAVIOR WAS NOT MANIFESTATION OF DISABILITY-</p> <p>(A) IN GENERAL- If the result of the review described in paragraph (4) is a determination, consistent with paragraph (4)(C), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in section 612(a)(1).</p> <p>(B) ADDITIONAL REQUIREMENT- If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.</p>		
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<p>(6) PARENT APPEAL-</p> <p>(A) IN GENERAL-</p> <p>(i) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing.</p> <p>(ii) The State or local educational agency shall arrange for an expedited hearing in any case described in this subsection when requested by a parent.</p> <p>(B) REVIEW OF DECISION-</p> <p>(i) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of such child's disability consistent with the requirements of paragraph (4)(C).</p> <p>(ii) In reviewing a decision under paragraph (1)(A)(ii) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards set out in paragraph (2).</p> <p>(7) PLACEMENT DURING APPEALS-</p> <p>(A) IN GENERAL- When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(A)(ii) or paragraph (2) to challenge the interim alternative educational setting or the manifestation determination, the child shall remain</p>	<p>“(3) Appeal._</p> <p>“(A) In general._The parent of a child with a disability who disagrees with any decision regarding disciplinary action, placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.</p> <p>“(B) Authority of hearing officer._</p> <p>“(i) In general._If a parent of a child with a disability disagrees with a decision as described in subparagraph (A), the hearing officer may determine whether the decision regarding such action was appropriate.</p> <p>“(ii) Change of placement order._A hearing officer under this section may order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child <i>is substantially likely to result in injury</i> to the child or to others.</p> <p>[See(k)(2) above]</p> <p>“(4) Placement during appeals._When a parent requests a hearing regarding a disciplinary procedure described in paragraph (1)(B) or challenges the interim alternative educational</p>	<p>“(3) PARENT APPEAL-</p> <p>“(A) IN GENERAL- If the parent of a child with a disability disagrees with any decision regarding placement or punishment under this section, the parent may request a hearing.</p> <p>“(B) AUTHORITY OF HEARING OFFICER- If a parent of a child with a disability disagrees with a decision regarding placement of the child or punishment of the child under this section, including duration of the punishment, the hearing officer may determine whether the decision regarding such action was appropriate.</p> <p>“(4) PLACEMENT DURING APPEALS- When a parent requests a hearing regarding a disciplinary action described in paragraph (1)(B) to challenge the interim alternative educational setting or the</p>
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<p>in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(A)(ii) or paragraph (2), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.</p> <p>(B) CURRENT PLACEMENT- If a child is placed in an interim alternative educational setting pursuant to paragraph (1)(A)(ii) or paragraph (2) and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child shall remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in subparagraph (C).</p> <p>(C) EXPEDITED HEARING-</p> <p>(i) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the local educational agency may request an expedited hearing.</p> <p>(ii) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards set out in paragraph (2).</p> <p>615(k)(8)</p>	<p>setting or manifestation determination_</p> <p>“(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and</p> <p>“(B) the State or local educational agency shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested.</p> <p><i>Not necessary for district b/c child is not in “stay put” placement</i></p>	<p>violation of the code of student conduct policy, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise.</p> <p><i>Same as Senate bill</i></p>
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<p>(8) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES-</p> <p>(A) IN GENERAL- A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in paragraph (1), may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.</p> <p>(B) BASIS OF KNOWLEDGE- A local educational agency shall be deemed to have knowledge that a child is a child with a disability if --</p> <p>(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;</p> <p>(ii) the behavior or performance of the child demonstrates the need for such services;</p> <p>(iii) the parent of the child has requested an evaluation of the child pursuant to section 614; or</p> <p>(iv) the teacher of the child, or other personnel of the</p>	<p>615(k)(5)</p> <p>(5) Protections for children not yet eligible for special education and related services._</p> <p>(A) In general._A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.</p> <p>(B) Basis of knowledge._A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred_</p> <p>``(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;</p> <p><i>[Order reversed in Senate bill for ease of comparison]</i></p> <p>(iv) the child has engaged in a pattern of behavior</p>	<p>615(k)(5)</p> <p>^(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES-</p> <p>(A) IN GENERAL- A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct policy, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.</p> <p>^(B) BASIS OF KNOWLEDGE- A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—</p> <p>^(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;</p> <p>^(ii) the parent of the child has requested an evaluation of the child pursuant to section 614; or</p>
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<p>local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.</p> <p>(C) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE-</p> <p>(i) IN GENERAL- If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).</p> <p>(ii) LIMITATIONS- If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, except that, pending the results of the evaluation, the child shall remain in the educational placement</p>	<p>that should have alerted personnel of the local educational agency that the child may be in need of special education and related services.</p> <p>(ii) the parent of the child has requested an evaluation of the child pursuant to section 614;</p> <p>(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern about a pattern of behavior demonstrated by the child, to the director of special education of such agency or to other administrative personnel of the agency; or</p> <p>(C) Exception. A local educational agency shall not be deemed to have knowledge that the child has a disability if the parent of the child has not agreed to allow an evaluation of the child pursuant to section 614.</p> <p>(C) Conditions that apply if no basis of knowledge.</p> <p>(i) In general. If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).</p> <p>(ii) Limitations. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration</p>	<p>(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern in writing about the behavior or performance of the child to the director of special education of such agency or to other personnel of the agency.</p> <p>(B) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE-</p> <p>(i) IN GENERAL- If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).</p> <p>(ii) LIMITATIONS- If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1) or (2), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration</p>
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<p>determined by school authorities.</p> <p>(9) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES-</p> <p>(A) Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.</p> <p>(B) An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.</p> <p>615(k)(10)</p> <p>(10) DEFINITIONS- For purposes of this subsection,</p>	<p>information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.</p> <p>(6) Referral to and action by law enforcement and judicial authorities._</p> <p>(A) Construction._Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.</p> <p>(B) Transmittal of records._An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.</p>	<p>information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.</p> <p>^(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES-</p> <p>^(A) IN GENERAL- Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.</p> <p>^(B) TRANSMISSION OF RECORDS- An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.!</p> <p>(l) RULE OF CONSTRUCTION- Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by redesignating subsection (l) as subsection (k).</p>
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<p>the following definitions apply: ...</p> <p>(C) SUBSTANTIAL EVIDENCE- The term 'substantial evidence' means beyond a preponderance of the evidence..</p> <p>(l) Rule of construction</p> <p>Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C.A. § 12101 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C.A. § 791 et seq.], or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (f) and (g) of this section shall be exhausted to the same extent as would be required had the action been brought under this subchapter.</p> <p>(m) Transfer of parental rights at age of majority</p> <p>(1) In general A State that receives amounts from a grant under this subchapter may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)--</p> <p>(A) the public agency shall provide any notice required by this section to both the individual and the parents;</p>	<p>615(k)(7)</p> <p><i>[Same as current law except for def. of serious bodily injury and removal of "substantial evidence"]</i></p> <p>``(D) Serious bodily injury._ The term `serious bodily injury' has the meaning given the term `serious bodily injury' under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.</p> <p>(l) Rule of Construction._ Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.</p> <p>``(m) Transfer of Parental Rights at Age of Majority._</p> <p>``(1) In general._ A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability</p>	<p>Definitions Removed</p> <p>``(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY-</p> <p>``(1) IN GENERAL- A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—</p>
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<p>(B) all other rights accorded to parents under this subchapter transfer to the child;</p> <p>(C) the agency shall notify the individual and the parents of the transfer of rights; and</p> <p>(D) all rights accorded to parents under this subchapter transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.</p> <p>(2) Special rule</p> <p>If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this subchapter.</p> <p>Not in current law</p>	<p>who has been determined to be incompetent under State law)_</p> <p>“(A) the public agency shall provide any notice required by this section to both the individual and the parents;</p> <p>“(B) all other rights accorded to parents under this part transfer to the child;</p> <p>“(C) the agency shall notify the individual and the parents of the transfer of rights; and</p> <p>“(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.</p> <p>“(2) Special rule. If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.</p> <p>“(n) E-mail. A parent of a child with a disability may elect to receive notices required under this section by e-mail communication, if the public agency makes such option available.”</p>	<p>“(A) the public agency shall provide any notice required by this section to both the individual and the parents;</p> <p>“(B) all other rights accorded to parents under this part transfer to the child;</p> <p>“(C) the agency shall notify the individual and the parents of the transfer of rights; and</p> <p>“(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.</p> <p>“(2) SPECIAL RULE- If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.’.</p> <p>Not in House bill</p>
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Sec 616

SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.

(a) WITHHOLDING OF PAYMENTS-

(1) IN GENERAL- Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or State agency affected by any failure described in [subparagraph \(B\)](#)), finds --

(A) that there has been a failure by the State to comply substantially with any provision of this part; or

(B) that there is a failure to comply with any condition of a local educational agency's or State agency's eligibility under this part, including the terms of any agreement to achieve compliance with this part within the timelines specified in the agreement; the Secretary shall, after notifying the State educational agency, withhold, in whole or in part, any further payments to the State under this part, or refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(2) NATURE OF WITHHOLDING- If the Secretary withholds further payments under [paragraph \(1\)](#), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in subparagraph [\(A\)](#) or [\(B\)](#) of [paragraph \(1\)](#), payments to

SEC. 616. MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT.

“(a) Federal and State Monitoring._

“(1) In general._The Secretary shall_

“(A) monitor implementation of this Act through_

“(i) oversight of the States' exercise of general supervision, as required in section 612(a)(11); and

“(ii) the system of indicators, described in subsection (b)(2); and

“(B) enforce this Act in accordance with subsection (c); and

“(C) require States to monitor implementation of this Act by local educational agencies and enforce this Act in accordance with paragraph (3) of this subsection and subsection (c).

“(2) Focused monitoring._The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on improving educational results and functional outcomes for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

“(3) Monitoring priorities._The Secretary shall monitor, and shall require States to monitor, the

SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING, AND JUDICIAL REVIEW.;

“(a) FEDERAL MONITORING-

“(1) IN GENERAL- The Secretary shall monitor implementation of this Act.

“(2) FOCUSED MONITORING- The primary focus of Federal monitoring activities shall be to improve educational results for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

See 616(b)(2) below

<p>the State under this part shall be withheld in whole or in part, or payments by the State educational agency under this part shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (1) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.</p> <p>(b) JUDICIAL REVIEW-</p> <p>(1) IN GENERAL- If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.</p> <p>(2) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT- Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. 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.</p> <p>(3) STANDARD OF REVIEW- The findings of fact by the Secretary, if supported by substantial evidence,</p>	<p>following priority areas:</p> <p>“(A) Provision of a free appropriate public education in the least restrictive environment.</p> <p>“(B) Provision of transition services, as defined in section 602(33).</p> <p>“(C) State exercise of general supervisory authority, including the effective use of complaint resolution and mediation.</p> <p>“(D) Overrepresentation of racial and ethnic groups in special education and related services, to the extent the overrepresentation is the result of inappropriate policies, procedures, and practices.</p> <p>“(4) Permissive areas of review._The Secretary may examine other relevant information and data, including data provided by States under section 618, and data from the State's compliance plan under subsection (b)(2)(C).</p> <p>“(b) Indicators._</p> <p>“(1) System._The Secretary shall implement and administer a system of required indicators as described in paragraph (2) that measures the progress of States in improving their performance under this Act.</p> <p>“(2) Indicators._</p> <p>“(A) In general._Using the performance indicators established by States under section 612(a)(15), the Secretary shall review_</p> <p>“(i) the performance of children with disabilities in the State on assessments, including alternate assessments, dropout rates, and graduation rates,</p>	<p>(b) INDICATORS-</p> <p>(1) REQUIRED INDICATORS- The Secretary shall examine relevant information and data related to States' progress on improving educational results for children with disabilities by reviewing-</p> <p>-</p> <p>(A) achievement results of children with disabilities on State or district assessments, including children with disabilities taking State or district assessments with appropriate accommodations;</p> <p>(B) achievement results of children with disabilities on State or district alternate assessments;</p>
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<p>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 thereupon 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. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.</p> <p>(c) DIVIDED STATE AGENCY RESPONSIBILITY- For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except --</p> <p>(1) any reduction or withholding of payments to the State is proportionate to the total funds allotted under section 611 to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and</p> <p>(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this part.</p> <p>N/A</p>	<p>which for purposes of this paragraph means the number and percentage of students with disabilities who graduate with a regular diploma within the number of years specified in a student's IEP; and</p> <p>“(ii) the performance of children with disabilities in the State on assessments, including alternate assessments, dropout rates, and graduation rates, as compared to the performance and rates for all children.</p> <p>“(B) Secretary's assessment. Based on that review and a review of the State's compliance plan under subparagraph (C), the Secretary shall assess the State's progress in improving educational results for children with disabilities.</p> <p>“(C) State compliance plan. Not later than 1 year after the date of the enactment of the Individuals with Disabilities Education Improvement Act of 2003, each State shall have in place a compliance plan developed in collaboration with the Secretary. Each State's compliance plan shall _</p> <p>“(i) include benchmarks to measure continuous progress on the priority areas described in subsection (a)(3);</p> <p>“(ii) describe strategies the State will use to achieve the benchmarks; and</p> <p>“(iii) be approved by the Secretary.</p>	<p>(C) graduation rates of children with disabilities and graduation rates of children with disabilities as compared to graduation rates of nondisabled children; and</p> <p>(D) dropout rates for children with disabilities and dropout rates of children with disabilities as compared to dropout rates of nondisabled children.</p> <p>(2) PERMISSIVE INDICATORS- The Secretary also may establish other priorities for review of relevant information and data, including data provided by States under section 618, and also including the following:</p>
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		<p>`(A) PRIORITIES FOR THIS PART- The Secretary may give priority to monitoring on the following areas under this part:</p> <p>`(i) Provision of educational services in the least restrictive environment, including--</p> <p>(I) education of children with disabilities with nondisabled peers to the maximum extent appropriate;</p> <p>(II) provision of appropriate special education and related services;</p> <p>(III) access to the general curriculum with appropriate accommodations;</p> <p>(IV) provision of appropriate services to students whose behavior impedes learning; and</p> <p>`(V) participation and performance of children with disabilities on State and local assessments, including alternate assessments.</p> <p>(ii) Secondary transition, including the extent to which youth exiting special education are prepared for post-secondary education, employment, and adult life, and are participants in appropriate transition planning while in school.</p> <p>(iii) State exercise of general supervisory authority, including effective monitoring and use of complaint resolution, mediation, and voluntary binding arbitration.</p> <p>`(B) PRIORITIES FOR PART C- The Secretary may give priority to monitoring on the following areas under part C:</p> <p>`(i) Child find and public awareness to support the identification, evaluation and assessment of all eligible infants and toddlers, including the provision of culturally relevant materials to inform and promote referral.</p> <p>(ii) Provision of early intervention services</p>
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<p>N/A</p>	<p>(3) Data collection and analysis. The Secretary shall</p> <p>(A) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this subsection is collected, analyzed, and accurately reported to the Secretary; and</p> <p>(B) provide technical assistance to improve the capacity of States to meet these data collection requirements.</p> <p>N/A</p>	<p>in natural environments, evaluation and assessment to identify child needs and family needs related to enhancing the development of the child, and provision of appropriate early intervention services in natural environments to meet the needs of individual children.</p> <p>(iii) Effective early childhood transition to services under this part.</p> <p>(iv) State exercise of general supervisory authority, including--</p> <p>(I) effective monitoring and use of other mechanisms such as complaint resolution;</p> <p>(II) implementation of mediation and voluntary binding arbitration; and</p> <p>(III) coordination of parent and child protections.</p> <p>(3) DATA COLLECTION AND ANALYSIS- The Secretary shall review the data collection and analysis capacity of States to ensure that data and information is collected, analyzed, and accurately reported to the Secretary. The Secretary may provide technical assistance to improve the capacity of States to meet data requirements.</p> <p>(c) ADDITIONAL PRIORITIES-</p> <p>(1) IN GENERAL- The Secretary may develop additional priorities for monitoring the effective implementation of this Act.</p> <p>(2) PUBLIC COMMENT- The Secretary shall provide a public comment period of at least 30 days on any additional priority proposed under this part or part C.</p> <p>(3) DATE OF ENFORCEMENT- The Secretary may not begin to enforce a new</p>
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	<p>“(c) Compliance and Enforcement._</p> <p>“(1) In general._The Secretary shall examine relevant State information and data annually, to determine whether the State is making satisfactory progress toward improving educational results for children with disabilities using the indicators described in subsection (b)(2)(A) and the benchmarks established in the State compliance plan under subsection (b)(2)(C), and is in compliance with the provisions of this Act.</p> <p>“(2) Lack of satisfactory progress by a state._</p> <p>“(A) In general._If after examining data, as provided in subsection (b)(2) (A) and (C), the Secretary determines that a State failed to make satisfactory progress in meeting the indicators described in subsection (b)(2)(A) or has failed to meet the benchmarks described in subsection (b)(2)(C) for 2 consecutive years after the State has developed its compliance plan, the Secretary shall notify the State that the State has failed to make satisfactory progress, and shall take 1 or more of the following actions:</p> <p>“(i) Direct the use of State level funds for technical assistance, services, or other expenditures to ensure that the State resolves the area or areas of unsatisfactory progress.</p> <p>“(ii) Withhold not less than 20, but not more than 50, percent of the State's funds for State administration and activities for the fiscal year under section 611(e), after providing the State the opportunity to show cause why the withholding</p>	<p>priority until one year from the date of publication of the priority in the Federal Register as a final rule.</p> <p>(d) COMPLIANCE-</p> <p>(1) IN GENERAL- The Secretary shall review State data to determine whether the State is in compliance with the provisions of this Act.</p> <p>(2) LACK OF PROGRESS- If after examining data, as provided in section (b) or (c), the Secretary determines that a State is not making satisfactory progress in improving educational results for children with disabilities, the Secretary shall take one or more of the following actions:</p> <p>(A) Advise the State of available sources of technical assistance that may help the State address the lack of progress, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies. Such technical assistance may include--</p> <p>(i) the provision of advice by experts to address the areas of noncompliance, including explicit plans for ensuring compliance within a specified period of time;</p> <p>(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of</p>
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	<p>should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.</p> <p>“(B) Additional secretarial action. If, at the end of the 5th year after the Secretary has approved the compliance plan that the State has developed under subsection (b)(2)(C), the Secretary determines that a State failed to meet the benchmarks in the State compliance plan and make satisfactory progress in improving educational results for children with disabilities pursuant to the indicators described in subsection (b)(2)(A), the Secretary shall take 1 or more of the following actions:</p> <p>“(i) Seek to recover funds under section 452 of the General Education Provisions Act.</p> <p>“(ii) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, withhold, in whole or in part, any further payments to the State under this part pursuant to subsection (c)(5).</p> <p>“(iii) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.</p> <p>“(iv) Pending the outcome of any hearing to withhold payments under clause (ii), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.</p>	<p>instruction that are based on scientifically based research;</p> <p>“(iii) designating and using distinguished superintendents, principals, special education administrators, regular education teachers, and special education teachers to provide advice, technical assistance, and support; and</p> <p>(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under part D, and private providers of scientifically based technical assistance.</p> <p>(B) Direct the use of State level funds for technical assistance on the area or areas of unsatisfactory performance.</p> <p>(C) Each year withhold at least 20 but no more than 50 percent of the State's funds under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.</p>
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	<p>“(C) Substantial noncompliance. Notwithstanding subparagraph (B), at any time that the Secretary determines that a State is not in substantial compliance with any provision of this part or that there is a substantial failure to comply with any condition of a local agency's or State agency's eligibility under this part, the Secretary shall take 1 or more of the following actions:</p> <p>“(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within 1 year.</p> <p>“(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant under this part.</p> <p>“(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within 1 year.</p> <p>“(iv) Recovery of funds under section 452 of the General Education Provisions Act.</p> <p>“(v) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, withhold, in whole or in part, any further payments to the State under this part.</p> <p>“(vi) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.</p> <p>“(vii) Pending the outcome of any hearing to</p>	<p>(3) SUBSTANTIAL NON-COMPLIANCE-</p> <p>“(A) INITIAL DETERMINATION- When the Secretary determines that a State is not in substantial compliance with any provision of this part, the Secretary shall take one or more of the following actions</p> <p>“(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.</p> <p>“(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant.</p> <p>“(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within one year.</p> <p>“(iv) Recovery of funds under section 452 of the General Education Provisions Act.</p> <p>“(v)(I) Withholding of payments under subsection (e).</p> <p>(II) Pending the outcome of any hearing to withhold payments under subsection (e), the Secretary may suspend payments to a recipient, suspend the authority of he recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.</p>
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	<p>withhold payments under clause (v), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.</p> <p>“(3) Egregious noncompliance. At any time that the Secretary determines that a State is in egregious noncompliance or is willfully disregarding the provisions of this Act, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in paragraph (2)(C), and, additionally, may impose 1 or more of the following sanctions upon that State:</p> <p>“(A) Institute a cease and desist action under section 456 of the General Education Provisions Act.</p> <p>“(B) Refer the case to the Office of the Inspector General.</p> <p>“(4) Report to congress. The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to paragraph (2) (B) or (C), or (3), on the specific action taken and the reasons why enforcement action was taken.</p> <p>“(5) Nature of withholding. If the Secretary withholds further payments under paragraphs (2)(B)(ii) and (2)(C)(v), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State</p>	<p>“(B) CONTINUED NON-COMPLIANCE-</p> <p>“(i) SECRETARIAL ACTION- If the Secretary has imposed special conditions on a grant under subparagraph (A)(ii) for substantially the same compliance problems for three consecutive years, and at the end of the third year the State has not demonstrated that the violation has been corrected to the satisfaction of the Secretary, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in clauses (iii) through (v) of subparagraph (A).</p> <p>“(ii) REPORT TO CONGRESS- The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to this paragraph on the specific action taken and the reasons why enforcement action was taken.’.</p> <p><i>N/A</i></p>
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	<p>agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to make satisfactory progress as specified in paragraph (2)(B), or to comply with the provisions of this part, as specified in paragraph (2)(C), payments to the State under this part shall be withheld in whole or in part, or payments by the State educational agency under this part shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (2)(B) or (2)(C) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.</p> <p>“(6) Judicial review._</p> <p>“(A) In general._If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.</p> <p>“(B) Jurisdiction; review by united states supreme court._Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by</p>	<p><i>N/A</i></p> <p><i>N/A</i></p>
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	<p>the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.</p> <p>“(C) Standard of review._ 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 thereupon 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. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.</p> <p>“(d) Divided State Agency Responsibility._ For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except that_</p> <p>“(1) any reduction or withholding of payments to the State shall be proportionate to the total funds allotted under section 611 to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and</p> <p>“(2) any withholding of funds under paragraph</p>	<p><i>N/A</i></p> <p><i>N/A</i></p>
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	<p>(1) shall be limited to the specific agency responsible for the failure to comply with this part.</p> <p>“(e) State and Local Monitoring._</p> <p>“(1) In general._ The State educational agency shall monitor and enforce implementation of this Act, implement a system of monitoring the benchmarks in the State's compliance plan under subsection (b)(2)(C), and require local educational agencies to monitor and enforce implementation of this Act.</p> <p>“(2) Additional enforcement options._ If a State educational agency determines that a local educational agency is not meeting the requirements of this part, including the benchmarks in the State's compliance plan, the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under section 613(a)(2)(C) for any fiscal year.</p>	<p><i>N/A</i></p>
<p>Sec. 617</p>		
<p>617</p> <p>(a) Responsibilities of Secretary</p> <p>In carrying out this subchapter, the Secretary shall--</p> <p>(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, the State in matters relating to--</p> <p>(A) the education of children with disabilities; and</p>	<p>SEC. 617. ADMINISTRATION.</p> <p>“(a) Responsibilities of Secretary._ The Secretary shall_</p> <p>“(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, a State in matters relating to_</p> <p>“(A) the education of children with disabilities; and</p> <p>“(B) carrying out this part; and</p>	<p>SEC. 617. ADMINISTRATION.</p> <p>(a) RESPONSIBILITIES OF SECRETARY--</p> <p>In carrying out this part, the Secretary shall--</p> <p>(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, the State in matters relating to--</p> <p>(A) the education of children with disabilities; and</p> <p>(B) carrying out this part; and</p>

<p>(B) carrying out this subchapter; and</p> <p>(2) provide short-term training programs and institutes.</p> <p>(b) Rules and regulations</p> <p>In carrying out the provisions of this subchapter, the Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this chapter.</p> <p><i>N/A</i></p> <p>(c) Confidentiality</p> <p>The Secretary shall take appropriate action, in accordance with the provisions of section 1232g of this title, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this subchapter.</p> <p>(d) Personnel</p>	<p>(2) provide short-term training programs and institutes.</p> <p><i>[See Sec. 607]</i></p> <p><i>N/A</i></p> <p>(b) Confidentiality._The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.</p> <p>(c) Personnel._The Secretary is authorized to hire</p>	<p>(2) provide short-term training programs and institutes.</p> <p>(b) PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL- Nothing in this Act may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.</p> <p>(c) CONFIDENTIALITY- The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.</p> <p>(d) PERSONNEL- The Secretary is</p>
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<p>The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) of this section and under sections 1418, 1461, and 1473 of this title (or their predecessor authorities through October 1, 1997) without regard to the provisions of Title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.</p> <p>N/A</p> <p>N/A</p>	<p>qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618, 661, and 664, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that not more than 20 such personnel shall be employed at any 1 time.</p> <p>N/A</p> <p>N/A</p>	<p>authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618 and 661 without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than twenty such personnel shall be employed at any time.</p> <p>`(e) PILOT PROGRAM- The Secretary is authorized to grant waivers of paperwork requirements under this part for a period of time not to exceed 4 years with respect to not more than 10 States based on proposals submitted by States for addressing reduction of paperwork and non-instructional time spent fulfilling statutory and regulatory requirements.</p> <p>`(f) REPORT- The Secretary shall include in the annual report to Congress under section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under subsection (e)--</p> <p>`(1) in reducing the paperwork burden on teachers, administrators, and related services providers and non-instructional time spent by teachers in complying with this part, including any specific recommendations for broader implementation; and</p> <p>`(2) in enhancing longer-term educational planning, improving positive outcomes for children with disabilities, promoting</p>
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<p>N/A</p>	<p>“(d) Model Forms. Not later than the date that the Secretary publishes final regulations under this Act, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2003, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers_</p> <p>“(1) a model IEP form;</p> <p>“(2) a model form of the notice of procedural safeguards described in section 615(d); and</p> <p>“(3) a model form of the prior written notice described in section 615 (b)(3) and (c)(1) that is consistent with the requirements of this part and is sufficient to meet such requirements..</p>	<p>collaboration between IEP Team members, and ensuring satisfaction of family members, including any specific recommendations for broader implementation.</p> <p>(g) MODEL FORMS- Not later than the date on which the Secretary publishes final regulations to implement this part (as amended by the Improving Education Results for Children With Disabilities Act of 2003), the Secretary shall publish and disseminate widely to States, local educational agencies, and parent training and information centers--</p> <p>“(1) a model individualized education program form;</p> <p>“(2) a model form for the procedural safeguards notice described in section 615(d); and</p> <p>(3) a model form for the prior written notice described in section 615(b)(3); that would be consistent with the requirements of this part and be deemed to be sufficient to meet such requirements.’.</p>
<p>Sec 618</p>		
<p>SEC. 618. PROGRAM INFORMATION.</p> <p>(a) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary --</p> <p>(1) (A) on --</p> <p>(i) the number of children with disabilities, by race, ethnicity, and disability category, who are receiving a</p>	<p>SEC. 618. PROGRAM INFORMATION.</p> <p>“(a) In General. Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on_</p> <p>“(1)(A)_ the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, and disability category, who are receiving a free appropriate public education;</p>	<p>SEC. 618. PROGRAM INFORMATION.</p> <p>“(a) IN GENERAL- Each State and local educational agency that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary--</p> <p>“(1)(A) on--</p> <p>“(i) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;</p>

<p>free appropriate public education;</p> <p>(ii) the number of children with disabilities, by race and ethnicity, who are receiving early intervention services;</p> <p>(iii) the number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;</p> <p>(iv) the number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;</p> <p>(v) the number of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;</p> <p>(vi) the number of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; and</p>	<p>``(B) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;</p> <p>``(C) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, and disability category, who are participating in regular education;</p> <p>``(D) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;</p> <p>``(E) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, and disability category, who, for each year of age from age 14 through 21, stopped receiving special education and related services because of program completion or other reasons, and the reasons why those children stopped receiving special education and related services;</p> <p>``(F) the number and percentage of children with disabilities, by race, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;</p>	<p>^(ii) the number and percentage of children with disabilities, by race and ethnicity, who are receiving early intervention services;</p> <p>^(iii) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;</p> <p>^(iv) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;</p> <p>^(v) the number and percentage of children with disabilities, by race and ethnicity, and disability category who begin secondary school and graduate with a regular high school diploma, through the age of 21;</p> <p>^(vi) the number and percentage of children with disabilities, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;</p> <p>^(vii) the number and percentage of children with disabilities, by race and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;</p> <p>^(viii)(I) the number and percentage of</p>
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<p>(vii) (I) the number of children with disabilities, by race, ethnicity, and disability category, who under subparagraphs (A)(ii) and (B) of section 615(k)(1), are removed to an interim alternative educational setting;</p> <p>(II) the acts or items precipitating those removals; and</p> <p>(III) the number of children with disabilities who are subject to long-term suspensions or expulsions; and</p> <p><i>N/A</i></p> <p><i>N/A</i></p> <p><i>N/A</i></p> <p><i>N/A</i></p> <p><i>N/A</i></p> <p><i>N/A</i></p> <p>(B) on the number of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as described in section 632),</p>	<p>“(G)(i) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, and disability category, who are removed to an interim alternative educational setting under section 615(k)(1);</p> <p>“(ii) the acts or items precipitating those removals; and</p> <p>“(iii) the number of children with disabilities who are subject to long-term suspensions or expulsions;</p> <p>“(H) the incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, and disability category, of children with disabilities, including suspensions of 1 day or more;</p> <p>“(I) the number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled;</p> <p>“(J) the number of due process complaints filed under section 615 and the number of hearings conducted;</p> <p>“(K) the number of hearings requested under section 615(k) and the number of changes in placements ordered as a result of those hearings;</p> <p>“(L) the number of hearings requested under section 615(k)(3)(B)(ii) and the number of changes in placements ordered as a result of those hearings; and</p> <p>“(M) the number of mediations held and the number of settlement agreements reached through such mediations;</p> <p>“(2) the number and percentage of infants and</p>	<p>children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A) or (B) of section 615(j)(1), are removed to an interim alternative educational setting;</p> <p>(II) the acts or items precipitating those removals;</p> <p>“(III) the number of children with disabilities, by race, ethnicity, and disability category, who are subject to long-term suspensions or expulsions; and</p> <p>“(IV) the incidence, duration, and type of disciplinary actions, by race and ethnicity, including suspension and expulsions;</p> <p>“(ix) the number of complaints resolved through voluntary binding arbitration; and</p> <p>“(x) the number of mediations held and the number of settlement agreements reached through mediation;</p> <p>“(B) on the number and percentage of</p>
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<p>and who are receiving early intervention services under part C; and</p> <p>(2) on any other information that may be required by the Secretary.</p> <p><i>N/A</i></p> <p>(b) SAMPLING- The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.</p> <p>(c) DISPROPORTIONALITY-</p> <p>(1) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to --</p> <p>(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3); and</p> <p>(B) the placement in particular educational settings of such children.</p> <p><i>N/A</i></p>	<p>toddlers, by race, and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and</p> <p>(3) any other information that may be required by the Secretary.</p> <p>(b) Technical Assistance. The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this Act.</p> <p><i>N/A</i></p> <p>(c) Disproportionality.</p> <p>(1) In general. Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to --</p> <p>(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);</p> <p>(B) the placement in particular educational settings of such children; and</p> <p>(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.</p>	<p>infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and</p> <p>(C) on the number of children served with funds under section 613(f); and</p> <p>(2) on any other information that may be required by the Secretary.</p> <p><i>N/A</i></p> <p>(b) SAMPLING- The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.</p> <p>(c) DISPROPORTIONALITY-</p> <p>(1) IN GENERAL- Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to--</p> <p>(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);</p> <p>(B) the placement in particular educational settings of such children; and</p> <p>(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.</p> <p>(2) REVIEW AND REVISION OF</p>
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<p>(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES- In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.</p>	<p>(2) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.</p>	<p>POLICIES, PRACTICES, AND PROCEDURES- In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be-- (A) shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act; (B) shall require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 613(f) to provide comprehensive coordinated prereferral support services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and (C) shall require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).'</p>
<p>Sec 619</p>		
<p>619 (a) In general</p>	<p>619 ... SEC. 619. PRESCHOOL GRANTS. (a) In General. The Secretary shall provide grants</p>	<p>SEC. 619. PRESCHOOL GRANTS. (a) IN GENERAL- The Secretary shall</p>

<p>The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this subchapter--</p> <p>(1) to children with disabilities aged 3 through 5, inclusive; and</p> <p>(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.</p> <p>(b) Eligibility</p> <p>A State shall be eligible for a grant under this section if such State--</p> <p>(1) is eligible under section 1412 of this title to receive a grant under this subchapter; and</p> <p>(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.</p> <p>(c) Allocations to States</p> <p>(1) In general</p> <p>After reserving funds for studies and evaluations under section 1474(e) of this title, the Secretary shall allocate the remaining amount among the States in accordance with paragraph (2) or (3), as the case may be.</p> <p>(2) Increase in funds</p> <p>If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be</p>	<p>under this section to assist States to provide special education and related services, in accordance with this part_</p> <p>((1) to children with disabilities aged 3 through 5, inclusive; and</p> <p>((2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.</p> <p>((b) Eligibility. A State shall be eligible for a grant under this section if such State_</p> <p>((1) is eligible under section 612 to receive a grant under this part; and</p> <p>((2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.</p> <p>((c) Allocations to States._</p> <p>((1) In general. The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.</p> <p>((2) Increase in funds. If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:</p> <p>((A) Allocation._</p>	<p>provide grants under this section to assist States to provide special education and related services, in accordance with this part--</p> <p>(1) to children with disabilities aged 3 through 5, inclusive; and</p> <p>(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.</p> <p>(b) ELIGIBILITY- A State shall be eligible for a grant under this section if such State--</p> <p>(1) is eligible under section 612 to receive a grant under this part; and</p> <p>(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.</p> <p>(c) ALLOCATIONS TO STATES-</p> <p>(1) IN GENERAL- The Secretary shall allocate funds among the States in accordance with paragraph (2) or (3), as appropriate.</p> <p>(2) INCREASE IN FUNDS- If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:(A)(i) Except as provided in subparagraph (B), the Secretary shall--</p> <p>(I) allocate to each State the amount it received for fiscal year 1997;</p>
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<p>calculated as follows:</p> <p>(A)(i) Except as provided in subparagraph (B), the Secretary shall--</p> <p>(I) allocate to each State the amount it received for fiscal year 1997;</p> <p>(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and</p> <p>(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.</p> <p>(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.</p> <p>(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:</p> <p>(i) No State's allocation shall be less than its allocation for the preceding fiscal year.</p> <p>(ii) No State's allocation shall be less than the greatest of--</p> <p>(I) the sum of--</p> <p>(aa) the amount it received for fiscal year 1997; and</p> <p>(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) of this section exceeds the amount appropriated under this section for fiscal year 1997;</p> <p>(II) the sum of--</p>	<p>(i) In general. Except as provided in subparagraph (B), the Secretary shall--</p> <p>(I) allocate to each State the amount the State received under this section for fiscal year 1997;</p> <p>(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and</p> <p>(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.</p> <p>(ii) Data. For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.</p> <p>(B) Limitations. Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:</p> <p>(i) Preceding years. No State's allocation shall be less than its allocation under this section for the preceding fiscal year.</p> <p>(ii) Minimum. No State's allocation shall be less than the greatest of--</p> <p>(I) the sum of--</p> <p>(aa) the amount the State received under this section for fiscal year 1997; and</p> <p>(bb) 1/3 of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;</p>	<p>(II) allocate 85 percent of any remaining funds to States on the basis of their relative populations of children aged 3 through 5; and</p> <p>(III) allocate 15 percent of those remaining funds to States on the basis of their relative populations of all children aged 3 through 5 who are living in poverty.</p> <p>(ii) For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.</p> <p>(B) Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:</p> <p>(i) No State's allocation shall be less than its allocation for the preceding fiscal year.</p> <p>(ii) No State's allocation shall be less than the greatest of--</p> <p>(I) the sum of--</p> <p>(aa) the amount it received for fiscal year 1997; and</p> <p>(bb) one third of one percent of the amount by which the amount appropriated under subsection (j) exceeds the amount appropriated under this section for fiscal year 1997;</p> <p>(II) the sum of--</p>
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<p>(3) Decrease in funds</p> <p>If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:</p> <p>(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of--</p> <p>(i) the amount it received for fiscal year 1997; and</p> <p>(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.</p> <p>(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.</p> <p>(4) Outlying areas</p> <p>The Secretary shall increase the fiscal year 1998 allotment of each outlying area under section 1411 of this title by at least the amount that that area</p>	<p>(3) Decrease in funds. If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:</p> <p>(A) Allocations. If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of--</p> <p>(i) the amount the State received under this section for fiscal year 1997; and</p> <p>(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.</p> <p>(B) If the amount available for allocations under this paragraph is equal to or less than the amount allocated under this section to the States for fiscal year 1997, each State shall be allocated the amount the State received for that year, ratably reduced, if necessary.</p> <p>Removed</p>	<p>(3) DECREASE IN FUNDS- If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:</p> <p>(A) If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of--</p> <p>(i) the amount it received for fiscal year 1997; and</p> <p>(ii) an amount that bears the same relation to any remaining funds as the increase the State received for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.</p> <p>(B) If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount it received for that year, ratably reduced, if necessary.</p> <p>Removed</p>
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<p>received under this section for fiscal year 1997.</p> <p>(d) Reservation for state activities</p> <p>(1) In general</p> <p>Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f) of this section.</p> <p>(2) Amount described</p> <p>For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of--</p> <p>(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or</p> <p>(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(e) State administration</p> <p>(1) In general</p> <p>For the purpose of administering this section (including the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children</p>	<p>((d) Reservation for State Activities._</p> <p>((1) In general._Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).</p> <p>((2) Amount described._For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of_</p> <p>((A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or</p> <p>((B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>((e) State Administration._</p> <p>((1) In general._For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount the State may reserve</p>	<p>(d) RESERVATION FOR STATE ACTIVITIES-</p> <p>(1) IN GENERAL- Each State may retain not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).</p> <p>(2) AMOUNT DESCRIBED- For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of--</p> <p>(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or</p> <p>(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(e) STATE ADMINISTRATION-</p> <p>(1) IN GENERAL- For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) for any fiscal</p>
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<p>with disabilities) a State may use not more than 20 percent of the maximum amount it may retain under subsection (d) of this section for any fiscal year.</p> <p>(2) Administration of subchapter III</p> <p>Funds described in paragraph (1) may also be used for the administration of subchapter III of this chapter, if the State educational agency is the lead agency for the State under that subchapter.</p> <p>(f) Other State-level activities</p> <p>Each State shall use any funds it retains under subsection (d) of this section and does not use for administration under subsection (e) of this section--</p> <p>(1) for support services (including establishing and implementing the mediation process required by section 1415(e) of this title), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;</p> <p>(2) for direct services for children eligible for services under this section;</p> <p>(3) to develop a State improvement plan under part A of subchapter IV of this chapter;</p> <p>(4) for activities at the State and local levels to meet the performance goals established by the State under section 1412(a)(16) of this title and to support implementation of the State improvement plan under part A of subchapter IV of this chapter if the State receives funds under that part; or</p>	<p>under subsection (d) for any fiscal year.</p> <p>((2) Administration of part c. Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.</p> <p>((f) Other State-Level Activities. Each State shall use any funds the State reserves under subsection (d) and does not use for administration under subsection (e)_</p> <p>(1) for support services (including establishing and implementing the mediation process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;</p> <p>((2) for direct services for children eligible for services under this section;</p> <p>Removed</p> <p>((3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart;</p> <p>((4) to supplement other funds used to develop and</p>	<p>year.</p> <p>((2) ADMINISTRATION OF PART C- Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.</p> <p>((f) OTHER STATE-LEVEL ACTIVITIES- Each State shall use any funds it retains under subsection (d) and does not use for administration under subsection (e)--</p> <p>(1) for support services (including establishing and implementing the mediation and voluntary binding arbitration process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;</p> <p>((2) for direct services for children eligible for services under this section;</p> <p>Removed</p> <p>(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16) and to support implementation of the State plan under subpart 1 of part D if the State receives funds under that subpart; or</p> <p>((4) to supplement other funds used to develop and implement a Statewide</p>
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<p>(5) to supplement other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.</p> <p>(g) Subgrants to local educational agencies</p> <p>(1) Subgrants required</p> <p>Each State that receives a grant under this section for any fiscal year shall distribute any of the grant funds that it does not reserve under subsection (d) of this section to local educational agencies in the State that have established their eligibility under section 1413 of this title, as follows:</p> <p>(A) Base payments</p> <p>The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.</p> <p>(B) Allocation of remaining funds</p> <p>After making allocations under subparagraph (A),</p>	<p>implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year; or</p> <p>((5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under this section and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten.</p> <p>((g) Subgrants to Local Educational Agencies._</p> <p>((1) Subgrants required._Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:</p> <p>((A) Base payments._The State shall first award each local educational agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect.</p> <p>((B) Allocation of remaining funds. _After making allocations under subparagraph (A), the State shall_</p> <p>((i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the</p>	<p>coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section for a fiscal year.</p> <p>((g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES-</p> <p>((1) SUBGRANTS REQUIRED- Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that it does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:</p> <p>((A) BASE PAYMENTS- The State shall first award each agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.</p> <p>((B) ALLOCATION OF REMAINING FUNDS- After making allocations under subparagraph (A), the State shall--</p> <p>((i) allocate 85 percent of any remaining funds to those agencies on the basis of the</p>
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<p>the State shall--</p> <p>(i) allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and</p> <p>(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.</p> <p>(2) Reallocation of funds</p> <p>If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.</p> <p>(h) Subchapter III inapplicable</p> <p>Subchapter III of this chapter does not apply to any child with a disability receiving a free appropriate public education, in accordance with this subchapter, with funds received under this section.</p>	<p>relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and</p> <p>“(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.</p> <p>“(2) Reallocation of funds. If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas the other local educational agencies serve.</p> <p>“(h) Part C Inapplicable. Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.</p> <p>“(i) Definition. For the purpose of this section, the</p>	<p>relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and</p> <p>“(ii) allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.</p> <p>“(2) REALLOCATION OF FUNDS- If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.</p> <p>“(h) PART C INAPPLICABLE- Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.</p> <p>“(i) DEFINITION- For the purpose of this</p>
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<p>(i) "State" defined</p> <p>For the purpose of this section, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.</p> <p>(j) Authorization of appropriations</p> <p>For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary \$500,000,000 for fiscal year 1998 and such sums as may be necessary for each subsequent fiscal year.</p>	<p>term `State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.</p> <p>``(j) Authorization of Appropriations. For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.</p> <p>–</p>	<p>section, the term `State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.</p> <p>‘</p> <p>(j) AUTHORIZATION OF APPROPRIATIONS- For the purpose of carrying out this section, there are authorized to be appropriated to the Secretary \$500,000,000 for fiscal year 2004 and such sums as may be necessary for each subsequent fiscal year.’.</p>
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