

Title I – Improving The Academic Achievement Of The Disadvantaged

SEC. 101. IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED.

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended to read as follows:

TITLE I--IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

SEC. 1001. STATEMENT OF PURPOSE.

The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments. This purpose can be accomplished by —

- (1) ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;
- (2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance;
- (3) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;
- (4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education;
- (5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;
- (6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure that students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;
- (7) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance;
- (8) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time;
- (9) promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content;
- (10) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;
- (11) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with other agencies providing services to youth, children, and families; and
- (12) affording parents substantial and meaningful opportunities to participate in the education of their children.

SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

(a) LOCAL EDUCATIONAL AGENCY GRANTS- For the purpose of carrying out part A, there are authorized to be appropriated —

- (1) \$13,500,000,000 for fiscal year 2002;
- (2) \$16,000,000,000 for fiscal year 2003;
- (3) \$18,500,000,000 for fiscal year 2004;
- (4) \$20,500,000,000 for fiscal year 2005;
- (5) \$22,750,000,000 for fiscal year 2006; and
- (6) \$25,000,000,000 for fiscal year 2007.

(b) READING FIRST-

- (1) READING FIRST- For the purpose of carrying out subpart 1 of part B, there are authorized to be appropriated \$900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- (2) EARLY READING FIRST- For the purpose of carrying out subpart 2 of part B, there are authorized to be appropriated \$75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- (3) EVEN START- For the purpose of carrying out subpart 3 of part B, there are authorized to be appropriated \$260,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

- (4) IMPROVING LITERACY THROUGH SCHOOL LIBRARIES- For the purpose of carrying out subpart 4 of part B, there are authorized to be appropriated \$250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- (c) EDUCATION OF MIGRATORY CHILDREN- For the purpose of carrying out part C, there are authorized to be appropriated \$410,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- (d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK- For the purpose of carrying out part D, there are authorized to be appropriated \$50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- (e) FEDERAL ACTIVITIES-
- (1) SECTIONS 1501 AND 1502- For the purpose of carrying out sections 1501 and 1502, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.
 - (2) SECTION 1504-
 - (A) IN GENERAL- For the purpose of carrying out section 1504, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.
 - (B) SPECIAL RULE- Of the funds appropriated pursuant to subparagraph (A), not more than 30 percent may be used for teachers associated with students participating in the programs described in subsections (a)(1), (b)(1), and (c)(1).
- (f) COMPREHENSIVE SCHOOL REFORM- For the purpose of carrying out part F, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.
- (g) ADVANCED PLACEMENT- For the purposes of carrying out part G, there are authorized to be appropriated such sums for fiscal year 2002 and each 5 succeeding fiscal year.
- (h) SCHOOL DROPOUT PREVENTION- For the purpose of carrying out part H, there are authorized to be appropriated \$125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which —
- (1) up to 10 percent shall be available to carry out subpart 1 of part H for each fiscal year; and
 - (2) the remainder shall be available to carry out subpart 2 of part H for each fiscal year.
- (i) SCHOOL IMPROVEMENT- For the purpose of carrying out section 1003(g), there are authorized to be appropriated \$500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

SEC. 1003. SCHOOL IMPROVEMENT.

- (a) STATE RESERVATIONS- Each State shall reserve 2 percent of the amount the State receives under subpart 2 of part A for fiscal years 2002 and 2003, and 4 percent of the amount received under such subpart for fiscal years 2004 through 2007, to carry out subsection (b) and to carry out the State's responsibilities under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.
- (b) USES- Of the amount reserved under subsection (a) for any fiscal year, the State educational agency —
- (1) shall allocate not less than 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring, for activities under section 1116(b); or
 - (2) may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.
- (c) PRIORITY- The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that —
- (1) serve the lowest-achieving schools;
 - (2) demonstrate the greatest need for such funds; and
 - (3) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest-achieving schools to meet the progress goals in school improvement plans under section 1116 (b)(3)(A)(v).
- (d) UNUSED FUNDS- If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) is greater than the amount needed to provide the assistance described in that subsection, the State educational agency shall allocate the excess amount to local educational agencies in accordance with —
- (1) the relative allocations the State educational agency made to those agencies for that fiscal year under subpart 2 of part A; or
 - (2) section 1126(c).
- (e) SPECIAL RULE- Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) in any fiscal year shall not decrease the amount of funds each local educational agency receives under subpart 2 below the amount received by such local educational agency under such subpart for the preceding fiscal year.
- (f) REPORTING- The State educational agency shall make publicly available a list of those schools that have received funds or services pursuant to subsection (b) and the percentage of students from each school from families with incomes below the poverty line.
- (g) ASSISTANCE FOR LOCAL SCHOOL IMPROVEMENT-

(1) PROGRAM AUTHORIZED- The Secretary shall award grants to States to enable the States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 1116.

(2) STATE ALLOTMENTS- Such grants shall be allotted among States, the Bureau of Indian Affairs, and the outlying areas, in proportion to the funds received by the States, the Bureau of Indian Affairs, and the outlying areas, respectively, for the fiscal year under parts A, C, and D of this title. The Secretary shall expeditiously allot a portion of such funds to States for the purpose of assisting local educational agencies and schools that were in school improvement status on the date preceding the date of enactment of the No Child Left Behind Act of 2001.

(3) REALLOCATIONS- If a State does not receive funds under this subsection, the Secretary shall reallocate such funds to other States in the same proportion funds are allocated under paragraph (2).

(4) STATE APPLICATIONS- Each State educational agency that desires to receive funds under this subsection shall submit an application to the Secretary at such time, and containing such information, as the Secretary shall reasonably require, except that such requirement shall be waived if a State educational agency submitted such information as part of its State plan under this part. Each State application shall describe how the State educational agency will allocate such funds in order to assist the State educational agency and local educational agencies in complying with school improvement, corrective action, and restructuring requirements of section 1116.

(5) LOCAL EDUCATIONAL AGENCY GRANTS- A grant to a local educational agency under this subsection shall be —

(A) of sufficient size and scope to support the activities required under sections 1116 and 1117, but not less than \$50,000 and not more than \$500,000 for each participating school;

(B) integrated with other funds awarded by the State under this Act; and

(C) renewable for two additional 1-year periods if schools are meeting the goals in their school improvement plans developed under section 1116.

(6) PRIORITY- The State, in awarding such grants, shall give priority to local educational agencies with the lowest-achieving schools that demonstrate —

(A) the greatest need for such funds; and

(B) the strongest commitment to ensuring that such funds are used to provide adequate resources to enable the lowest-achieving schools to meet the goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116.

(7) ALLOCATION- A State educational agency that receives a grant under this subsection shall allocate at least 95 percent of the grant funds directly to local educational agencies for schools identified for school improvement, corrective action, or restructuring to carry out activities under section 1116(b), or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

(8) ADMINISTRATIVE COSTS- A State educational agency that receives a grant award under this subsection may reserve not more than 5 percent of such grant funds for administration, evaluation, and technical assistance expenses.

(9) LOCAL AWARDS- Each local educational agency that applies for assistance under this subsection shall describe how it will provide the lowest-achieving schools the resources necessary to meet goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116.

SEC. 1004. STATE ADMINISTRATION.

(a) IN GENERAL- Except as provided in subsection (b), to carry out administrative duties assigned under parts A, C, and D of this title, each State may reserve the greater of —

(1) 1 percent of the amounts received under such parts; or

(2) \$400,000 (\$50,000 in the case of each outlying area).

(b) EXCEPTION- If the sum of the amounts appropriated for parts A, C, and D of this title is equal to or greater than \$14,000,000,000, then the reservation described in subsection (a)(1) shall not exceed 1 percent of the amount the State would receive, if \$14,000,000,000 were allocated among the States for parts A, C, and D of this title.

Part A — Improving Basic Programs Operated by Local Educational Agencies

SUBPART 1 — BASIC PROGRAM REQUIREMENTS

SEC. 1111. STATE PLANS.

(a) PLANS REQUIRED-

(1) IN GENERAL- For any State desiring to receive a grant under this part, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this title), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act.

(2) CONSOLIDATED PLAN- A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 9302.

(b) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND ACCOUNTABILITY-

(1) CHALLENGING ACADEMIC STANDARDS-

(A) IN GENERAL- Each State plan shall demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

(B) SAME STANDARDS- The academic standards required by subparagraph (A) shall be the same academic standards that the State applies to all schools and children in the State.

(C) SUBJECTS- The State shall have such academic standards for all public elementary school and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and (beginning in the 2005-2006 school year) science, which shall include the same knowledge, skills, and levels of achievement expected of all children.

(D) CHALLENGING ACADEMIC STANDARDS- Standards under this paragraph shall include —

(i) challenging academic content standards in academic subjects that —

(I) specify what children are expected to know and be able to do;

(II) contain coherent and rigorous content; and

(III) encourage the teaching of advanced skills; and

(ii) challenging student academic achievement standards that —

(I) are aligned with the State's academic content standards;

(II) describe two levels of high achievement (proficient and advanced) that determine how well children are mastering the material in the State academic content standards; and

(III) describe a third level of achievement (basic) to provide complete information about the progress of the lower-achieving children toward mastering the proficient and advanced levels of achievement.

(E) INFORMATION- For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed, such academic standards, the State plan shall describe a strategy for ensuring that students are taught the same knowledge and skills in such subjects and held to the same expectations as are all children.

(F) EXISTING STANDARDS- Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after the date of enactment of the No Child Left Behind Act of 2001.

(2) ACCOUNTABILITY-

(A) IN GENERAL- Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall--

(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 1116; and

(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary

schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under subparagraphs (B) and (C).

(B) ADEQUATE YEARLY PROGRESS- Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

(C) DEFINITION- Adequate yearly progress' shall be defined by the State in a manner that--

(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

(ii) is statistically valid and reliable;

(iii) results in continuous and substantial academic improvement for all students;

(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

(I) The achievement of all public elementary school and secondary school students.

(II) The achievement of--

(aa) economically disadvantaged students;

(bb) students from major racial and ethnic groups;

(cc) students with disabilities; and

(dd) students with limited English proficiency;

except that disaggregation of data under subclause

(II) shall not be required in a case in which the number of students in a

category is insufficient to yield statistically reliable information or the

results would reveal personally identifiable information about an individual student;

(vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and

(vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

(D) REQUIREMENTS FOR OTHER INDICATORS- In carrying out subparagraph (C)(vi) and (vii), the State--

(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

(E) STARTING POINT- Each State, using data for the 2001-2002 school year, shall establish the starting point for measuring, under subparagraphs (G) and (H), the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments under paragraph (3) and pursuant to the timeline described in subparagraph (F). The starting point shall be, at a minimum, based on the higher of the percentage of students at the proficient level who are in--

(i) the State's lowest achieving group of students described in subparagraph (C)(v)(II); or

(ii) the school at the 20th percentile in the State, based on enrollment, among all schools ranked by the percentage of students at the proficient level.

(F) TIMELINE- Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001-2002 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments under paragraph (3).

(G) MEASURABLE OBJECTIVES- Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which--

- (i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3);
- (ii) shall be the same for all schools and local educational agencies in the State;
- (iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);
- (iv) shall ensure that all students will meet or exceed the State's proficient level of academic achievement on the State assessments within the State's timeline under subparagraph (F); and
- (v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

(H) INTERMEDIATE GOALS FOR ANNUAL YEARLY PROGRESS- Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall--

- (i) increase in equal increments over the period covered by the State's timeline under subparagraph (F);
- (ii) provide for the first increase to occur in not more than 2 years; and
- (iii) provide for each following increase to occur in not more than 3 years.

(I) ANNUAL IMPROVEMENT FOR SCHOOLS- Each year, for a school to make adequate yearly progress under this paragraph--

- (i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and
- (ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(17)(A) of the Individuals with Disabilities Education Act and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

(J) UNIFORM AVERAGING PROCEDURE- For the purpose of determining whether schools are making adequate yearly progress, the State may establish a uniform procedure for averaging data which includes one or more of the following:

- (i) The State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.
- (ii) Until the assessments described in paragraph (3) are administered in such manner and time to allow for the implementation of the uniform procedure for averaging data described in clause (i), the State may use the academic assessments that were required under paragraph (3) as that paragraph was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001, provided that nothing in this clause shall be construed to undermine or delay the determination of adequate yearly progress, the requirements of section 1116, or the implementation of assessments under this section.
- (iii) The State may use data across grades in a school.

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

(3) ACADEMIC ASSESSMENTS-

(A) IN GENERAL- Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007-2008 school year.

(B) USE OF ASSESSMENTS- Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

(C) REQUIREMENTS- Such assessments shall--

- (i) be the same academic assessments used to measure the achievement of all children;

- (ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;
- (iii) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards;
- (iv) be used only if the State educational agency provides to the Secretary evidence from the test publisher or other relevant sources that the assessments used are of adequate technical quality for each purpose required under this Act and are consistent with the requirements of this section, and such evidence is made public by the Secretary upon request;
- (v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during--
 - (aa) grades 3 through 5;
 - (bb) grades 6 through 9; and
 - (cc) grades 10 through 12;
- (II) beginning not later than school year 2007-2008, measure the proficiency of all students in science and be administered not less than one time during--
 - (aa) grades 3 through 5;
 - (bb) grades 6 through 9; and
 - (cc) grades 10 through 12;
- (vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding;
- (vii) beginning not later than school year 2005-2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;
- (viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;
- (ix) provide for—
 - (I) the participation in such assessments of all students;
 - (II) the reasonable adaptations and accommodations for students with disabilities (as defined under section 602(3) of the Individuals with Disabilities Education Act) necessary to measure the academic achievement of such students relative to State academic content and State student academic achievement standards; and
 - (III) the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7);
- (x) notwithstanding subclause (III), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for three or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;
- (xi) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;
- (xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals,

as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

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

(xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and

(xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items.

(D) DEFERRAL- A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, that were not required prior to the date of enactment of the No Child Left Behind Act of 2001, for 1 year for each year for which the amount appropriated for grants under section 6113(a)(2) is less than—

(i) \$370,000,000 for fiscal year 2002;

(ii) \$380,000,000 for fiscal year 2003;

(iii) \$390,000,000 for fiscal year 2004; and

(iv) \$400,000,000 for fiscal years 2005 through 2007.

(4) SPECIAL RULE- Academic assessment measures in addition to those in paragraph (3) that do not meet the requirements of such paragraph may be included in the assessment under paragraph (3) as additional measures, but may not be used in lieu of the academic assessments required under paragraph (3). Such additional assessment measures may not be used to reduce the number of or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring except as provided in paragraph (2)(I)(i).

(5) STATE AUTHORITY- If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—

(A) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

(B) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt curriculum content and student academic achievement standards, and academic assessments aligned with such standards, which—

(i) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

(ii) are applicable to all students served by each such local educational agency.

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

(7) ACADEMIC ASSESSMENTS OF ENGLISH LANGUAGE PROFICIENCY- Each State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002-2003, provide for an annual assessment of English proficiency (measuring students' oral language, reading, and writing skills in English) of all students with limited English proficiency in the schools served by the State educational agency, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period.

(8) REQUIREMENT- Each State plan shall describe—

(A) how the State educational agency will assist each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school;

(B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic achievement standards;

(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(E), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

(D) an assurance that the State educational agency will assist local educational agencies in developing or identifying high-quality effective curricula aligned with State academic achievement standards and how the State educational agency will disseminate such curricula to each local educational agency and school within the State; and

(E) such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging academic content standards adopted by the State.

(9) FACTORS AFFECTING STUDENT ACHIEVEMENT- Each State plan shall include an assurance that the State educational agency will coordinate and collaborate, to the extent feasible and necessary as determined by the State educational agency, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified under section 1116 and that request assistance with addressing major factors that have significantly affected the academic achievement of students in the local educational agency or schools served by such agency.

(10) USE OF ACADEMIC ASSESSMENT RESULTS TO IMPROVE STUDENT ACADEMIC ACHIEVEMENT- Each State plan shall describe how the State educational agency will ensure that the results of the State assessments described in paragraph (3)—

(A) will be promptly provided to local educational agencies, schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year; and

(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

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

(1) the State educational agency will meet the requirements of subsection (h)(1) and, beginning with the 2002-2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State educational agency 1 additional year if the State educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period;

(2) the State will, beginning in school year 2002-2003, participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 411(b)(2) of the National Education Statistics Act of 1994 if the Secretary pays the costs of administering such assessments;

(3) the State educational agency, in consultation with the Governor, will include, as a component of the State plan, a plan to carry out the responsibilities of the State under sections 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies;

(4) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools, including technical assistance in providing professional development under section 1119, technical assistance under section 1117, and technical assistance relating to parental involvement under section 1118;

(5)(A) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

(B) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

(6) the State educational agency will notify local educational agencies and the public of the content and student academic achievement standards and academic assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

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

(8) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic achievement;

- (9) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;
 - (10) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 1114;
 - (11) the State educational agency has involved the committee of practitioners established under section 1903(b) in developing the plan and monitoring its implementation;
 - (12) the State educational agency will inform local educational agencies in the State of the local educational agency's authority to transfer funds under title VI, to obtain waivers under part D of title IX, and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;
 - (13) the State educational agency will coordinate activities funded under this part with other Federal activities as appropriate; and
 - (14) the State educational agency will encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a secondary school diploma or its recognized equivalent or who have low levels of literacy.
- (d) PARENTAL INVOLVEMENT- Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—
- (1) be based on the most current research that meets the highest professional and technical standards, on effective parental involvement that fosters achievement to high standards for all children; and
 - (2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement experienced.
- (e) PEER REVIEW AND SECRETARIAL APPROVAL-
- (1) SECRETARIAL DUTIES- The Secretary shall—
 - (A) establish a peer-review process to assist in the review of State plans;
 - (B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students;
 - (C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;
 - (D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;
 - (E) not decline to approve a State's plan before—
 - (i) offering the State an opportunity to revise its plan;
 - (ii) providing technical assistance in order to assist the State to meet the requirements of subsections (a), (b), and (c); and
 - (iii) providing a hearing; and
 - (F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's academic content standards or to use specific academic assessment instruments or items.
 - (2) STATE REVISIONS- A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section.
- (f) DURATION OF THE PLAN-
- (1) IN GENERAL- Each State plan shall—
 - (A) remain in effect for the duration of the State's participation under this part; and
 - (B) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part.
 - (2) ADDITIONAL INFORMATION- If significant changes are made to a State's plan, such as the adoption of new State academic content standards and State student achievement standards, new academic assessments, or a new definition of adequate yearly progress, such information shall be submitted to the Secretary.
- (g) PENALTIES-
- (1) FAILURE TO MEET DEADLINES ENACTED IN 1994-
 - (A) IN GENERAL- If a State fails to meet the deadlines established by the Improving America's Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that the State has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available to the State for State administration and activities under this part in each year until the Secretary determines that the State meets those requirements.
 - (B) NO EXTENSION- Notwithstanding any other provision of law, 90 days after the date of enactment of the No Child Left Behind Act of 2001 the Secretary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.

(2) FAILURE TO MEET REQUIREMENTS ENACTED IN 2001- If a State fails to meet any of the requirements of this section, other than the requirements described in paragraph (1), then the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

(h) REPORTS-

(1) ANNUAL STATE REPORT CARD-

(A) IN GENERAL- Not later than the beginning of the 2002-2003 school year, unless the State has received a 1-year extension pursuant to subsection (c)(1), a State that receives assistance under this part shall prepare and disseminate an annual State report card.

(B) IMPLEMENTATION- The State report card shall be—

(i) concise; and

(ii) presented in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(C) REQUIRED INFORMATION- The State shall include in its annual State report card—

(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(3) (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

(ii) information that provides a comparison between the actual achievement levels of each group of students described in subsection (b)(2)(C)(v) and the State's annual measurable objectives for each such group of students on each of the academic assessments required under this part;

(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

(iv) the most recent 2-year trend in student achievement in each subject area, and for each grade level, for which assessments under this section are required;

(v) aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards;

(vi) graduation rates for secondary school students consistent with subsection (b)(2)(C)(vi);

(vii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement under section 1116; and

(viii) the professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

(D) OPTIONAL INFORMATION- The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and public secondary schools. Such information may include information regarding—

(i) school attendance rates;

(ii) average class size in each grade;

(iii) academic achievement and gains in English proficiency of limited English proficient students;

(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

(v) the extent and type of parental involvement in the schools;

(vi) the percentage of students completing advanced placement courses, and the rate of passing of advanced placement tests; and

(vii) a clear and concise description of the State's accountability system, including a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with subsection (b)(2), to determine the status of schools regarding school improvement, corrective action, and restructuring.

(2) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT CARDS-

(A) REPORT CARDS-

(i) IN GENERAL- Not later than the beginning of the 2002-2003 school year, a local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card, except that the State educational agency may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented full implementation

of this paragraph by that deadline and that the local educational agency will complete implementation within the additional 1-year period.

(ii) SPECIAL RULE- If a State educational agency has received an extension pursuant to subsection (c)(1), then a local educational agency within that State shall not be required to include the information required under paragraph (1)(C) in such report card during such extension.

(B) MINIMUM REQUIREMENTS- The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

(i) in the case of a local educational agency—

(I) the number and percentage of schools identified for school improvement under section 1116(c) and how long the schools have been so identified; and

(II) information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the State as a whole; and

(ii) in the case of a school—

(I) whether the school has been identified for school improvement; and
(II) information that shows how the school's students achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the State as a whole.

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

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

(E) PUBLIC DISSEMINATION- The local educational agency shall, not later than the beginning of the 2002-2003 school year, unless the local educational agency has received a 1-year extension pursuant to subparagraph (A), publicly disseminate the information described in this paragraph to all schools in the school district served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

(3) PREEXISTING REPORT CARDS- A State educational agency or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the State prior to the enactment of the No Child Left Behind Act of 2001 may use those report cards for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

(4) ANNUAL STATE REPORT TO THE SECRETARY- Each State educational agency receiving assistance under this part shall report annually to the Secretary, and make widely available within the State—

(A) beginning with school year 2002-2003, information on the State's progress in developing and implementing the academic assessments described in subsection (b)(3);

(B) beginning not later than school year 2002-2003, information on the achievement of students on the academic assessments required by subsection (b)(3), including the disaggregated results for the categories of students identified in subsection (b)(2)(C)(v);

(C) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student academic assessments (including disaggregated results) required under this section;

(D) beginning not later than school year 2002-2003, unless the State has received an extension pursuant to subsection (c)(1), information on the acquisition of English proficiency by children with limited English proficiency;

(E) the number and names of each school identified for school improvement under section 1116(c), the reason why each school was so identified, and the measures taken to address the achievement problems of such schools;

(F) the number of students and schools that participated in public school choice and supplemental service programs and activities under this title; and

(G) beginning not later than the 2002-2003 school year, information on the quality of teachers and the percentage of classes being taught by highly qualified teachers in the State, local educational agency, and school.

(5) REPORT TO CONGRESS- The Secretary shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (4).

(6) PARENTS RIGHT-TO-KNOW-

(A) QUALIFICATIONS- At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

- (i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
- (ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.
- (iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
- (iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

(B) ADDITIONAL INFORMATION- In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent—

- (i) information on the level of achievement of the parent's child in each of the State academic assessments as required under this part; and
- (ii) timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

(C) FORMAT- The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(i) PRIVACY- Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

(j) TECHNICAL ASSISTANCE- The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality academic assessments, the setting of State standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

(k) VOLUNTARY PARTNERSHIPS- A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section.

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

(m) SPECIAL RULE WITH RESPECT TO BUREAU-FUNDED SCHOOLS- In determining the assessments to be used by each operated or funded by BIA school receiving funds under this part, the following shall apply:

- (1) Each such school that is accredited by the State in which it is operating shall use the assessments the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.
- (2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.
- (3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment meets the requirements of this section.

SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

(a) PLANS REQUIRED-

(1) SUBGRANTS- A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Individuals with Disabilities Education Act, the Carl D. Perkins Vocational and Technical Education Act of 1998, the McKinney-Vento Homeless Assistance Act, and other Acts, as appropriate.

(2) CONSOLIDATED APPLICATION- The plan may be submitted as part of a consolidated application under section 9305.

(b) PLAN PROVISIONS-

(1) IN GENERAL- In order to help low-achieving children meet challenging achievement academic standards, each local educational agency plan shall include —

(A) a description of high-quality student academic assessments, if any, that are in addition to the academic assessments described in the State plan under section 1111(b)(3), that the local educational agency and schools served under this part will use —

- (i) to determine the success of children served under this part in meeting the State student academic achievement standards, and to provide information to teachers, parents, and students on the progress being made toward meeting the State student academic achievement standards described in section 1111(b)(1)(D)(ii);
- (ii) to assist in diagnosis, teaching, and learning in the classroom in ways that best enable low-achieving children served under this part to meet State student achievement academic standards and do well in the local curriculum;

- (iii) to determine what revisions are needed to projects under this part so that such children meet the State student academic achievement standards; and
 - (iv) to identify effectively students who may be at risk for reading failure or who are having difficulty reading, through the use of screening, diagnostic, and classroom-based instructional reading assessments, as defined under section 1208;
- (B) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic indicators described in section 1111 for the uses described in such section;
- (C) a description of how the local educational agency will provide additional educational assistance to individual students assessed as needing help in meeting the State's challenging student academic achievement standards;
- (D) a description of the strategy the local educational agency will use to coordinate programs under this part with programs under title II to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with sections 1118 and 1119;
- (E) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as —
- (i) Even Start, Head Start, Reading First, Early Reading First, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs; and
 - (ii) services for children with limited English proficiency, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of title VII, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;
- (F) an assurance that the local educational agency will participate, if selected, in the State National Assessment of Educational Progress in 4th and 8th grade reading and mathematics carried out under section 411(b)(2) of the National Education Statistics Act of 1994;
- (G) a description of the poverty criteria that will be used to select school attendance areas under section 1113;
- (H) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;
- (I) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected and delinquent children in community day school programs;
- (J) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;
- (K) if appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in Early Reading First, or in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or an agency operating an Even Start program, an Early Reading First program, or another comparable public early childhood development program;
- (L) a description of the actions the local educational agency will take to assist its low-achieving schools identified under section 1116 as in need of improvement;
- (M) a description of the actions the local educational agency will take to implement public school choice and supplemental services, consistent with the requirements of section 1116;
- (N) a description of how the local educational agency will meet the requirements of section 1119;
- (O) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 1113(c)(3)(A);
- (P) a description of the strategy the local educational agency will use to implement effective parental involvement under section 1118; and
- (Q) where appropriate, a description of how the local educational agency will use funds under this part to support after school (including before school and summer school) and school-year extension programs.
- (2) EXCEPTION- The academic assessments and indicators described in subparagraphs (A) and (B) of paragraph (1) shall not be used —
- (A) in lieu of the academic assessments required under section 1111(b)(3) and other State academic indicators under section 1111(b)(2); or
 - (B) to reduce the number of, or change which, schools would otherwise be subject to school improvement, corrective action, or restructuring under section 1116, if such additional assessments or indicators described in such subparagraphs were not used, but such assessments and indicators may be used to identify additional schools for school improvement or in need of corrective action or restructuring.

(c) ASSURANCES-

(1) IN GENERAL- Each local educational agency plan shall provide assurances that the local educational agency will —

- (A) inform eligible schools and parents of schoolwide program authority and the ability of such schools to consolidate funds from Federal, State, and local sources;
- (B) provide technical assistance and support to schoolwide programs;
- (C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State student academic achievement standards;
- (D) fulfill such agency's school improvement responsibilities under section 1116, including taking actions under paragraphs (7) and (8) of section 1116(b);
- (E) provide services to eligible children attending private elementary schools and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;
- (F) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant scientifically based research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part;
- (G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act;
- (H) work in consultation with schools as the schools develop and implement their plans or activities under sections 1118 and 1119;
- (I) comply with the requirements of section 1119 regarding the qualifications of teachers and paraprofessionals and professional development;
- (J) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under title IX and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;
- (K) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with the State educational agency and other agencies providing services to children, youth, and families with respect to a school in school improvement, corrective action, or restructuring under section 1116 if such a school requests assistance from the local educational agency in addressing major factors that have significantly affected student achievement at the school;
- (L) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;
- (M) use the results of the student academic assessments required under section 1111(b)(3), and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this part to determine whether all of the schools are making the progress necessary to ensure that all students will meet the State's proficient level of achievement on the State academic assessments described in section 1111(b)(3) within 12 years from the end of the 2001-2002 school year;
- (N) ensure that the results from the academic assessments required under section 1111(b)(3) will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and
- (O) assist each school served by the agency and assisted under this part in developing or identifying examples of high-quality, effective curricula consistent with section 1111(b)(8)(D).

(2) SPECIAL RULE- In carrying out subparagraph (G) of paragraph (1), the Secretary —

- (A) shall consult with the Secretary of Health and Human Services and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and
- (B) shall disseminate to local educational agencies the Head Start performance standards as in effect under section 641A(a) of the Head Start Act, and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

(3) INAPPLICABILITY- Paragraph (1)(G) of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs that are expanded through the use of funds under this part.

(d) PLAN DEVELOPMENT AND DURATION-

(1) CONSULTATION- Each local educational agency plan shall be developed in consultation with teachers, principals, administrators (including administrators of programs described in other parts of this title), and other appropriate school personnel, and with parents of children in schools served under this part.

(2) DURATION- Each such plan shall be submitted for the first year for which this part is in effect following the date of enactment of the No Child Left Behind Act of 2001 and shall remain in effect for the duration of the agency's participation under this part.

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

(e) STATE APPROVAL-

(1) IN GENERAL- Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

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

(A) enables schools served under this part to substantially help children served under this part meet the academic standards expected of all children described in section 1111(b)(1); and

(B) meets the requirements of this section.

(3) REVIEW- The State educational agency shall review the local educational agency's plan to determine if such agencies activities are in accordance with sections 1118 and 1119.

(f) PROGRAM RESPONSIBILITY- The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

(g) PARENTAL NOTIFICATION-

(1) IN GENERAL-

(A) NOTICE- Each local educational agency using funds under this part to provide a language instruction educational program as determined in part C of title III shall, not later than 30 days after the beginning of the school year, inform a parent or parents of a limited English proficient child identified for participation or participating in, such a program of —

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

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

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

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

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

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

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

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

(I) detailing —

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

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

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

(B) SEPARATE NOTIFICATION- In addition to providing the information required to be provided under paragraph (1), each eligible entity that is using funds provided under this part to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

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

(3) SPECIAL RULE APPLICABLE DURING THE SCHOOL YEAR- For those children who have not been identified as limited English proficient prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

(4) PARENTAL PARTICIPATION- Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of limited English proficient students to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet challenging State academic achievement standards and State academic

content standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

(5) BASIS FOR ADMISSION OR EXCLUSION- A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

(a) DETERMINATION-

(1) IN GENERAL- A local educational agency shall use funds received under this part only in eligible school attendance areas.

(2) ELIGIBLE SCHOOL ATTENDANCE AREAS- For the purposes of this part —

(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

(B) the term 'eligible school attendance area' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families served by the local educational agency as a whole.

(3) RANKING ORDER- If funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall —

(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order.

(4) REMAINING FUNDS- If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall —

(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

(5) MEASURES- The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency —

(A) to identify eligible school attendance areas;

(B) to determine the ranking of each area; and

(C) to determine allocations under subsection (c).

(6) EXCEPTION- This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) WAIVER FOR DESEGREGATION PLANS- The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered, court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if —

(A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and

(B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

(b) LOCAL EDUCATIONAL AGENCY DISCRETION-

(1) IN GENERAL- Notwithstanding subsection (a)(2), a local educational agency may —

(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

(C) designate and serve a school attendance area or school that is not eligible under this section, but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

(D) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if —

(i) the school meets the comparability requirements of section 1120A(c);

(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

(2) SPECIAL RULE- Notwithstanding paragraph (1)(D), the number of children attending private elementary schools and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

(c) ALLOCATIONS-

(1) IN GENERAL- A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsections (a) and (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

(2) SPECIAL RULE-

(A) IN GENERAL- Except as provided in subparagraph (B), the per-pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per-pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

(B) EXCEPTION- A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

(3) RESERVATION- A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve

(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

(B) children in local institutions for neglected children; and

(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.

(4) FINANCIAL INCENTIVES AND REWARDS RESERVATION- A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under title II, and not more than 5 percent of those funds received by the local educational agency under subpart 2, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for school improvement, corrective action, and restructuring under section 1116(b) for the purpose of attracting and retaining qualified and effective teachers.

SEC. 1114. SCHOOLWIDE PROGRAMS.

(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS-

(1) IN GENERAL- A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

(2) IDENTIFICATION OF STUDENTS NOT REQUIRED-

(A) IN GENERAL- No school participating in a schoolwide program shall be required —

(i) to identify particular children under this part as eligible to participate in a schoolwide program; or

(ii) to provide services to such children that are supplementary, as otherwise required by section 1120A(b).

(B) SUPPLEMENTAL FUNDS- A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

(3) EXEMPTION FROM STATUTORY AND REGULATORY REQUIREMENTS-

(A) EXEMPTION- Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act, except as provided in section 613(a)(2)(D) of such Act), or any discretionary grant program administered by the Secretary, to support schoolwide programs if the intent and purposes of such other programs are met.

(B) REQUIREMENTS- A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State educational agencies or local educational agencies that apply to the receipt of funds from such programs.

(C) RECORDS- A school that consolidates and uses funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by

program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(4) PROFESSIONAL DEVELOPMENT- Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(b) COMPONENTS OF A SCHOOLWIDE PROGRAM-

(1) IN GENERAL- A schoolwide program shall include the following components:

(A) A comprehensive needs assessment of the entire school (including taking into account the needs of migratory children as defined in section 1309(2)) that is based on information which includes the achievement of children in relation to the State academic content standards and the State student academic achievement standards described in section 1111(b)(1).

(B) Schoolwide reform strategies that —

(i) provide opportunities for all children to meet the State's proficient and advanced levels of student academic achievement described in section 1111(b)(1)(D);

(ii) use effective methods and instructional strategies that are based on scientifically based research that —

(I) strengthen the core academic program in the school;

(II) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

(III) include strategies for meeting the educational needs of historically underserved populations;

(iii)(I) include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards who are members of the target population of any program that is included in the schoolwide program, which may include —

(aa) counseling, pupil services, and mentoring services;

(bb) college and career awareness and preparation, such as college and career guidance, personal finance education, and innovative teaching methods, which may include applied learning and team-teaching strategies; and

(cc) the integration of vocational and technical education programs; and

(II) address how the school will determine if such needs have been met; and
(iv) are consistent with, and are designed to implement, the State and local improvement plans, if any.

(C) Instruction by highly qualified teachers.

(D) In accordance with section 1119 and subsection (a)(4), high-quality and ongoing professional development for teachers, principals, and paraprofessionals and, if appropriate, pupil services personnel, parents, and other staff to enable all children in the school to meet the State's student academic achievement standards.

(E) Strategies to attract high-quality highly qualified teachers to high-need schools.

(F) Strategies to increase parental involvement in accordance with section 1118, such as family literary services.

(G) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, Early Reading First, or a State-run preschool program, to local elementary school programs.

(H) Measures to include teachers in the decisions regarding the use of academic assessments described in section 1111(b)(3) in order to provide information on, and to improve, the achievement of individual students and the overall instructional program.

(I) Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards required by section 1111(b)(1) shall be provided with effective, timely additional assistance which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

(J) Coordination and integration of Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

(2) PLAN-

(A) IN GENERAL- Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence on the day before the date of enactment of the No Child Left Behind Act of 2001), in consultation with the local educational agency and its school support team or other technical assistance provider under section 1117, a comprehensive plan for reforming the total instructional program in the school that —

- (i) describes how the school will implement the components described in paragraph (1);
- (ii) describes how the school will use resources under this part and from other sources to implement those components;
- (iii) includes a list of State educational agency and local educational agency programs and other Federal programs under subsection (a)(3) that will be consolidated in the schoolwide program; and
- (iv) describes how the school will provide individual student academic assessment results in a language the parents can understand, including an interpretation of those results, to the parents of a child who participates in the academic assessments required by section 1111(b)(3).

(B) PLAN DEVELOPMENT- The comprehensive plan shall be —

- (i) developed during a one-year period, unless —
 - (I) the local educational agency, after considering the recommendation of the technical assistance providers under section 1117, determines that less time is needed to develop and implement the schoolwide program; or
 - (II) the school is operating a schoolwide program on the day preceding the date of enactment of the No Child Left Behind Act of 2001, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;
- (ii) developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, and administrators (including administrators of programs described in other parts of this title), and, if appropriate, pupil services personnel, technical assistance providers, school staff, and, if the plan relates to a secondary school, students from such school;
- (iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;
- (iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and
- (v) if appropriate, developed in coordination with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act.

(c) PREKINDERGARTEN PROGRAM- A school that is eligible for a schoolwide program under this section may use funds made available under this part to establish or enhance prekindergarten programs for children below the age of 6, such as Even Start programs or Early Reading First programs.

SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

(a) IN GENERAL- In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency serving such school may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

(b) ELIGIBLE CHILDREN-

(1) ELIGIBLE POPULATION-

(A) IN GENERAL- The eligible population for services under this section is —

- (i) children not older than age 21 who are entitled to a free public education through grade 12; and
- (ii) children who are not yet at a grade level at which the local educational agency provides a free public education.

(B) ELIGIBLE CHILDREN FROM ELIGIBLE POPULATION- From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student academic achievement standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

(2) CHILDREN INCLUDED-

(A) IN GENERAL- Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

(B) HEAD START, EVEN START, OR EARLY READING FIRST CHILDREN- A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start, Even Start, or Early Reading First program, or in preschool services under this title, is eligible for services under this part.

- (C) PART C CHILDREN- A child who, at any time in the 2 years preceding the year for which the determination is made, received services under part C is eligible for services under this part.
- (D) NEGLECTED OR DELINQUENT CHILDREN- A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under this part.
- (E) HOMELESS CHILDREN- A child who is homeless and attending any school served by the local educational agency is eligible for services under this part.
- (3) SPECIAL RULE- Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children described in paragraph (2) but may be used to coordinate or supplement such services.
- (c) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM-
- (1) IN GENERAL- To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's challenging student academic achievement standards in subjects as determined by the State, each targeted assistance program under this section shall —
- (A) use such program's resources under this part to help participating children meet such State's challenging student academic achievement standards expected for all children;
- (B) ensure that planning for students served under this part is incorporated into existing school planning;
- (C) use effective methods and instructional strategies that are based on scientifically based research that strengthens the core academic program of the school and that —
- (i) give primary consideration to providing extended learning time, such as an extended school year, before- and after-school, and summer programs and opportunities;
- (ii) help provide an accelerated, high-quality curriculum, including applied learning; and
- (iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;
- (D) coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or State-run preschool programs to elementary school programs;
- (E) provide instruction by highly qualified teachers;
- (F) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and paraprofessionals, including, if appropriate, pupil services personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education program;
- (G) provide strategies to increase parental involvement in accordance with section 1118, such as family literacy services; and
- (H) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.
- (2) REQUIREMENTS- Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of achievement by--
- (A) the coordinating of resources provided under this part with other resources; and
- (B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student academic achievement standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students who need additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.
- (d) INTEGRATION OF PROFESSIONAL DEVELOPMENT- To promote the integration of staff supported with funds under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may —
- (1) participate in general professional development and school planning activities; and
- (2) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.
- (e) SPECIAL RULES-
- (1) SIMULTANEOUS SERVICE- Nothing in this section shall be construed to prohibit a school from serving students under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.
- (2) COMPREHENSIVE SERVICES- If--

(A) health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers; and (B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including--

- (i) the provision of basic medical equipment, such as eyeglasses and hearing aids;
- (ii) compensation of a coordinator; and
- (iii) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(3) PROFESSIONAL DEVELOPMENT- Each school receiving funds under this part for any fiscal year shall devote sufficient resources to carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) in accordance with section 1119 for such fiscal year, and a school may enter into a consortium with another school to carry out such activities.

1116

SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

(a) LOCAL REVIEW-

(1) IN GENERAL- Each local educational agency receiving funds under this part shall —

- (A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2);
- (B) at the local educational agency's discretion, use any academic assessments or any other academic indicators described in the local educational agency's plan under section 1112(b)(1)(A) and (B) to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2), except that the local educational agency may not use such indicators (other than as provided for in section 1111(b)(2)(I)) if the indicators reduce the number or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;
- (C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 1111(b)(1); and
- (D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

(2) AVAILABLE RESULTS- The State educational agency shall ensure that the results of State academic assessments administered in that school year are available to the local educational agency before the beginning of the next school year.

(b) SCHOOL IMPROVEMENT-

(1) GENERAL REQUIREMENTS-

- (A) IDENTIFICATION- Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).
- (B) DEADLINE- The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.
- (C) APPLICATION- Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 1111(b)(2)(C)(v) enrolled in such school is meeting or exceeding the State's proficient level of academic achievement.
- (D) TARGETED ASSISTANCE SCHOOLS- To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.
- (E) PUBLIC SCHOOL CHOICE-

(i) IN GENERAL- In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

(ii) RULE- In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-

income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1).

(F) TRANSFER- Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT-

(A) IDENTIFICATION- Before identifying an elementary school or a secondary school for school improvement under paragraphs (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE- If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

(C) FINAL DETERMINATION- Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

(3) SCHOOL PLAN-

(A) REVISED PLAN- After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and —

(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F;

(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 1111(b)(2)(C)(v) and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001-2002 school year;

(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 1113 for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that —

(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

(II) meets the requirements for professional development activities under section 1119; and

(III) is provided in a manner that affords increased opportunity for participating in that professional development;

(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 1111(b)(2)(C)(v) and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 1111(b)(2), meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001-2002 school year;

(vi) describe how the school will provide written notice about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language that the parents can understand;

(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 1120A;

(viii) include strategies to promote effective parental involvement in the school;

(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

(x) incorporate a teacher mentoring program.

(B) CONDITIONAL APPROVAL- The local educational agency may condition approval of a school plan under this paragraph on —

(i) inclusion of one or more of the corrective actions specified in paragraph (7)(C)(iv); or

- (ii) feedback on the school improvement plan from parents and community leaders.
 - (C) PLAN IMPLEMENTATION- Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).
 - (D) PLAN APPROVED DURING SCHOOL YEAR- Notwithstanding subparagraph (C), if a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.
 - (E) LOCAL EDUCATIONAL AGENCY APPROVAL- The local educational agency, within 45 days of receiving a school plan, shall —
 - (i) establish a peer review process to assist with review of the school plan; and
 - (ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.
- (4) TECHNICAL ASSISTANCE-
- (A) IN GENERAL- For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.
 - (B) SPECIFIC ASSISTANCE- Such technical assistance —
 - (i) shall include assistance in analyzing data from the assessments required under section 1111(b)(3), and other examples of student work, to identify and address problems in instruction, and problems if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;
 - (ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;
 - (iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school improvement status; and
 - (iv) may be provided —
 - (I) by the local educational agency, through mechanisms authorized under section 1117; or
 - (II) by the State educational agency, an institution of higher education (that is in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.
 - (C) SCIENTIFICALLY BASED RESEARCH- Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.
- (5) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION- In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State's plan under section 1111(b)(2), by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school —
- (A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);
 - (B) shall make supplemental educational services available consistent with subsection (e)(1); and
 - (C) shall continue to provide technical assistance.
- (6) NOTICE TO PARENTS- A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8) —
- (A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;
 - (B) the reasons for the identification;
 - (C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;
 - (D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;
 - (E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and
 - (F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) (with

transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e).

(7) CORRECTIVE ACTION-

(A) IN GENERAL- In this subsection, the term 'corrective action' means action, consistent with State law, that —

(i) substantially and directly responds to —

(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

(II) any underlying staffing, curriculum, or other problems in the school; and

(ii) is designed to increase substantially the likelihood that each group of students described in 1111(b)(2)(C) enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 1111(b)(3).

(B) SYSTEM- In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

(C) ROLE OF LOCAL EDUCATIONAL AGENCY- In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2), by the end of the second full school year after the identification under paragraph (1), the local educational agency shall —

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

(iii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

(iv) identify the school for corrective action and take at least one of the following corrective actions:

(I) Replace the school staff who are relevant to the failure to make adequate yearly progress.

(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

(III) Significantly decrease management authority at the school level.

(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

(V) Extend the school year or school day for the school.

(VI) Restructure the internal organizational structure of the school.

(D) DELAY- Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(E) PUBLICATION AND DISSEMINATION- The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

(ii) in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(iii) through such means as the Internet, the media, and public agencies.

(8) RESTRUCTURING-

(A) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS- If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

(B) ALTERNATIVE GOVERNANCE—Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

- (i) Reopening the school as a public charter school.
- (ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.
- (iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.
- (iv) Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.
- (v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 1111(b)(2). In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

(C) PROMPT NOTICE- The local educational agency shall—

- (i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and
- (ii) provide the teachers and parents with an adequate opportunity to—
 - (I) comment before taking any action under those subparagraphs; and
 - (II) participate in developing any plan under subparagraph (A)(iii).

(9) TRANSPORTATION— In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5), (7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii), the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

(10) FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES—

(A) IN GENERAL— Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend—

- (i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (9);
- (ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and
- (iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (9), supplemental educational services under subsection (e), or both, as the agency determines.

(B) TOTAL AMOUNT— The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

(C) INSUFFICIENT FUNDS— If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

(D) PROHIBITION— A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 1113(c) to a school described in paragraph (7)(C) or (8)(A) of subsection (b).

(11) COOPERATIVE AGREEMENT— In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) if all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

(12) DURATION— If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

(13) SPECIAL RULE— A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

(14) STATE EDUCATIONAL AGENCY RESPONSIBILITIES— The State educational agency shall—

- (A) make technical assistance under section 1117 available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 1117(a)(2);
- (B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;
- (C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and
- (D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 1111(b)(9) that have significantly affected student academic achievement.

(c) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT-

(1) IN GENERAL- A State shall-

- (A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student academic achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 1117, 1118, and 1119; and
- (B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 1111(b)(2).

(2) REWARDS- In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 1111(b)(2), the State may make rewards of the kinds described under section 1117 to the agency.

(3) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT- A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to the date of enactment of the No Child Left Behind Act of 2001, failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).

(4) TARGETED ASSISTANCE SCHOOLS- When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served, or are eligible for services, under this part.

(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE-

(A) REVIEW- Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE- If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

(6) NOTIFICATION TO PARENTS-The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

(7) LOCAL EDUCATIONAL AGENCY REVISIONS-

(A) PLAN- Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall-

- (i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;
- (ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;
- (iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii)), but excluding funds reserved for professional development under section 1119;
- (iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 1111(b)(2)(C)(v), consistent with adequate yearly progress as defined under section 1111(b)(2);
- (v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

- (vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;
 - (vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 1120A; and
 - (viii) include strategies to promote effective parental involvement in the school.
- (B) IMPLEMENTATION—The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.
- (9) STATE EDUCATIONAL AGENCY RESPONSIBILITY—
- (A) TECHNICAL OR OTHER ASSISTANCE— For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 1117, to better enable the local educational agency to—
- (i) develop and implement the local educational agency's plan; and
 - (ii) work with schools needing improvement.
- (B) METHODS AND STRATEGIES—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 1118 and the professional development activities described in section 1119.
- (10) CORRECTIVE ACTION— In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:
- (A) DEFINITION— As used in this paragraph, the term corrective action' means action, consistent with State law, that—
- (i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and
 - (ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.
- (B) GENERAL REQUIREMENTS— After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—
- (i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);
 - (ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and
 - (iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).
- (C) CERTAIN CORRECTIVE ACTIONS REQUIRED— In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:
- (i) Deferring programmatic funds or reducing administrative funds.
 - (ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.
 - (iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.
 - (iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.
 - (v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.
 - (vi) Abolishing or restructuring the local educational agency.
 - (vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F), and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9), in conjunction with carrying out not less than one additional action described under this subparagraph.
- (D) HEARING— Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

(E) NOTICE TO PARENTS- The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

(F) DELAY- Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(11) SPECIAL RULE- If a local educational agency makes adequate yearly progress for two consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer identify the local educational agency for improvement or subject the local educational agency to corrective action for the succeeding school year.

(d) CONSTRUCTION- Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(e) SUPPLEMENTAL EDUCATIONAL SERVICES-

(1) SUPPLEMENTAL EDUCATIONAL SERVICES- In the case of any school described in paragraph (5), (7), or (8) of subsection (b), the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(2) LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES- Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

(3) AGREEMENT- In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;

(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES- A State educational agency shall--

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection,

and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

(5) CRITERIA FOR PROVIDERS– In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

(6) AMOUNTS FOR SUPPLEMENTAL EDUCATIONAL SERVICES– The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of--

(A) the amount of the agency's allocation under subpart 2, divided by the number of children from families below the poverty level counted under section 1124(c)(1)(A); or

(B) the actual costs of the supplemental educational services received by the child.

(7) FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY– Each State educational agency may use funds that the agency reserves under this part, and part A of title V, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

(8) DURATION– The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

(9) PROHIBITION– Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

(10) WAIVER–

(A) REQUIREMENT– At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that--

(i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

(ii) the local educational agency provides evidence that it is not able to provide those services.

(B) NOTIFICATION– The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

(11) SPECIAL RULE– If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

(12) DEFINITIONS– In this subsection—

(A) the term 'eligible child' means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1);

(B) the term 'provider' means a non-profit entity, a for-profit entity, or a local educational agency that—

(i) has a demonstrated record of effectiveness in increasing student academic achievement;

(ii) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the academic standards described under section 1111; and

(iii) is financially sound; and

(C) the term 'supplemental educational services' means tutoring and other supplemental academic enrichment services that are—

(i) in addition to instruction provided during the school day; and

(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111 and attain proficiency in meeting the State's academic achievement standards.

(f) SCHOOLS AND LEAS PREVIOUSLY IDENTIFIED FOR IMPROVEMENT OR CORRECTIVE ACTION–

(1) SCHOOLS-

(A) SCHOOL IMPROVEMENT-

(i) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS BEFORE DATE OF ENACTMENT- Any school that was in the first year of school improvement status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

(ii) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS FOR 2 OR MORE YEARS BEFORE DATE OF ENACTMENT- Any school that was in school improvement status under this section for two or more consecutive school years preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5).

(B) CORRECTIVE ACTION- Any school that was in corrective action status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

(2) LEAS-

(A) LEA IMPROVEMENT- A State shall identify for improvement under subsection (c)(3) any local educational agency that was in improvement status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

(B) CORRECTIVE ACTION- A State shall identify for corrective action under subsection (c)(10) any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

(C) SPECIAL RULE- For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F) and supplemental education services in accordance with subsection (e) are provided not later than the first day of the 2002-2003 school year.

(D) TRANSITION- With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 1111(b)(2), such determination shall include in such 2-year period any continuous period of time immediately preceding the date of enactment of the No Child Left Behind Act of 2001 during which the agency has failed to make such progress.

(g) SCHOOLS FUNDED BY THE BUREAU OF INDIAN AFFAIRS-

(1) ADEQUATE YEARLY PROGRESS FOR BUREAU FUNDED SCHOOLS-

(A) DEVELOPMENT OF DEFINITION-

(i) DEFINITION- The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, using the process set out in section 1138(b) of the Education Amendments of 1978, shall define adequate yearly progress, consistent with section 1111(b), for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

(ii) USE OF DEFINITION- The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 1111(b), or in the case of schools that are located in more than one State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the unique circumstances and needs of such school or schools and the students the schools serve.

(B) WAIVER- The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 1111(b), that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 1111(b), taking into account the unique circumstances and needs of such school or schools and the students served.

(C) TECHNICAL ASSISTANCE- The Secretary of Interior shall, in consultation with the Secretary if the Secretary of Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

(2) ACCOUNTABILITY FOR BIA SCHOOLS- For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b), as specifically provided for in this subsection, except that such schools shall not be subject to subsection (c), or the requirements to provide public school choice and supplemental educational services under subsections (b) and (e).

(3) SCHOOL IMPROVEMENT FOR BUREAU SCHOOLS-

(A) CONTRACT AND GRANT SCHOOLS- For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(3), and subsection (b)(5), other than subsection (b)(1)(E). The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) relating to technical assistance.

(B) BUREAU OPERATED SCHOOLS- For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(5), other than subsection (b)(1)(E).

(4) CORRECTIVE ACTION AND RESTRUCTURING FOR BUREAU-FUNDED SCHOOLS-

(A) CONTRACT AND GRANT SCHOOLS- For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by such school board under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(B) BUREAU OPERATED SCHOOLS- For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8). Any action taken by the Bureau under subsection (b)(7) or (b)(8) shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(5) ANNUAL REPORT- On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the appropriate committees of Congress regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include--

(A) the identity of each school;

(B) a statement from each affected school board regarding the factors that lead to such identification; and

(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

(h) OTHER AGENCIES- After receiving the notice described in subsection (b)(14)(D), the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors that were determined by the State educational agency to have significantly affected student academic achievement.

SEC. 1117. SCHOOL SUPPORT AND RECOGNITION.

(a) SYSTEM FOR SUPPORT-

(1) IN GENERAL- Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's academic content standards and student academic achievement standards.

(2) PRIORITIES- In carrying out this subsection, a State shall —

(A) first, provide support and assistance to local educational agencies with schools subject to corrective action under section 1116 and assist those schools, in accordance with section 1116(b)(11), for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 1116(b);

(B) second, provide support and assistance to other local educational agencies with schools identified as in need of improvement under section 1116(b); and

(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

(3) REGIONAL CENTERS- Such a statewide system shall, to the extent practicable, work with and receive support and assistance from the comprehensive regional technical assistance centers and the regional educational laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, or other providers of technical assistance.

(4) STATEWIDE SYSTEM-

(A) In order to achieve the purpose described in paragraph (1), the statewide system shall include, at a minimum, the following approaches:

- (i) Establishing school support teams in accordance with subparagraph (C) for assignment to, and working in, schools in the State that are described in paragraph (2).
- (ii) Providing such support as the State educational agency determines necessary and available in order to ensure the effectiveness of such teams.
- (iii) Designating and using distinguished teachers and principals who are chosen from schools served under this part that have been especially successful in improving academic achievement.
- (iv) Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

(B) PRIORITY- The State educational agency shall give priority to the approach described in clause (i) of subparagraph (A).

(5) SCHOOL SUPPORT TEAMS-

(A) COMPOSITION- Each school support team established under this section shall be composed of persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including —

- (i) highly qualified or distinguished teachers and principals;
- (ii) pupil services personnel;
- (iii) parents;
- (iv) representatives of institutions of higher education;
- (v) representatives of regional educational laboratories or comprehensive regional technical assistance centers;
- (vi) representatives of outside consultant groups; or
- (vii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

(B) FUNCTIONS- Each school support team assigned to a school under this section shall —

- (i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performance in that school;
- (ii) collaborate with parents and school staff and the local educational agency serving the school in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 1111(b)(2)(B);
- (iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency; and
- (iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance that is needed by the school or the school support team.

(C) CONTINUATION OF ASSISTANCE- After one school year, from the beginning of the activities, such school support team, in consultation with the local educational agency, may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.

(b) STATE RECOGNITION-

(1) ACADEMIC ACHIEVEMENT AWARDS PROGRAM-

(A) IN GENERAL- Each State receiving a grant under this part —

- (i) shall establish a program for making academic achievement awards to recognize schools that meet the criteria described in subparagraph (B); and
- (ii) as appropriate and as funds are available under subsection (c)(2)(A), may financially reward schools served under this part that meet the criteria described in clause (ii).

(B) CRITERIA- The criteria referred to in subparagraph (A) are that a school —

- (i) significantly closed the achievement gap between the groups of students described in section 1111(b)(2); or
- (ii) exceeded their adequate yearly progress, consistent with section 1111(b)(2), for 2 or more consecutive years.

(2) DISTINGUISHED SCHOOLS- Of those schools meeting the criteria described in paragraph (2), each State shall designate as distinguished schools those schools that have made the greatest gains in closing the achievement gap as described in subparagraph (B)(i) or exceeding adequate yearly progress as described in subparagraph (B)(ii). Such distinguished schools may serve as models for and provide support to other schools, especially schools identified for improvement under section 1116, to assist

such schools in meeting the State's academic content standards and student academic achievement standards.

(3) AWARDS TO TEACHERS- A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph that consistently makes significant gains in academic achievement in the areas in which the teacher provides instruction, or to teachers or principals designated as distinguished under subsection (a)(4)(A)(iii).

(c) FUNDING-

(1) IN GENERAL- Each State —

(A) shall use funds reserved under section 1003(a) and may use funds made available under section 1003(g) for the approaches described under subsection (a)(4)(A); and

(B) shall use State administrative funds authorized under section 1004(a) to establish the statewide system of support described under subsection (a).

(2) RESERVATIONS OF FUNDS BY STATE-

(A) AWARDS PROGRAM- For the purpose of carrying out subsection (b)(1), each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under subpart 2 for a fiscal year exceed the amount received by the State under that subpart for the preceding fiscal year, not more than 5 percent of such excess amount.

(B) TEACHER AWARDS- For the purpose of carrying out subsection (b)(3), a State educational agency may reserve such funds as necessary from funds made available under section 2113.

(3) USE WITHIN 3 YEARS- Notwithstanding any other provision of law, the amount reserved under subparagraph (A) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years receipt of funds.

(4) SPECIAL ALLOCATION RULE FOR SCHOOLS IN HIGH-POVERTY AREAS-

(A) IN GENERAL- Each State shall distribute not less than 75 percent of any amount reserved under paragraph (2)(A) for each fiscal year to schools described in subparagraph (B), or to teachers in those schools consistent with subsection (b)(3).

(B) SCHOOL DESCRIBED- A school described in subparagraph (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.

SEC. 1118. PARENTAL INVOLVEMENT.

(a) LOCAL EDUCATIONAL AGENCY POLICY-

(1) IN GENERAL- A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with this section. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

(2) WRITTEN POLICY- Each local educational agency that receives funds under this part shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the local educational agency's plan developed under section 1112, establish the agency's expectations for parent involvement, and describe how the agency will —

(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;

(C) build the schools' and parents' capacity for strong parental involvement as described in subsection (e);

(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as the Head Start program, Reading First program, Early Reading First program, Even Start program, Parents as Teachers program, and Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this part, including identifying barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background), and use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and

(F) involve parents in the activities of the schools served under this part.

(3) RESERVATION-

(A) IN GENERAL- Each local educational agency shall reserve not less than 1 percent of such agency's allocation under subpart 2 of this part to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under subpart 2 of this part for the fiscal year for which the determination is made is \$5,000 or less.

(B) PARENTAL INPUT- Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(C) DISTRIBUTION OF FUNDS- Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part.

(b) SCHOOL PARENTAL INVOLVEMENT POLICY-

(1) IN GENERAL- Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

(2) SPECIAL RULE- If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

(3) AMENDMENT- If the local educational agency involved has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

(4) PARENTAL COMMENTS- If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

(c) POLICY INVOLVEMENT- Each school served under this part shall —

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain the requirements of this part, and the right of the parents to be involved;

(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b)(2), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children —

(A) timely information about programs under this part;

(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and

(5) if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT ACADEMIC ACHIEVEMENT- As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall —

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student academic achievement standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum —

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress; and

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

(e) BUILDING CAPACITY FOR INVOLVEMENT- To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this part —

(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the State's academic content standards and State student academic achievement standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

- (2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;
- (3) shall educate teachers, pupil services personnel, principals, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;
- (4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;
- (5) shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;
- (6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;
- (7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such training;
- (8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;
- (9) may train parents to enhance the involvement of other parents;
- (10) may arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;
- (11) may adopt and implement model approaches to improving parental involvement;
- (12) may establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under this section;
- (13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and
- (14) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

(f) ACCESSIBILITY- In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 1111 in a format and, to the extent practicable, in a language such parents understand.

(g) INFORMATION FROM PARENTAL INFORMATION AND RESOURCE CENTERS- In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers.

(h) REVIEW- The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.

SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) TEACHER QUALIFICATIONS AND MEASURABLE OBJECTIVES-

- (1) IN GENERAL- Beginning with the first day of the first school year after the date of enactment of the No Child Left Behind Act of 2001, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.
- (2) STATE PLAN- As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum —
 - (A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005-2006 school year;
 - (B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and
 - (C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.
- (3) LOCAL PLAN- As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school

district served by the local educational agency are highly qualified not later than the end of the 2005-2006 school year.

(b) REPORTS-

(1) ANNUAL STATE AND LOCAL REPORTS-

(A) LOCAL REPORTS- Each State educational agency described in subsection (a)(2) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002-2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2).

(B) STATE REPORTS- Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002-2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2).

(C) INFORMATION FROM OTHER REPORTS- A State educational agency or local educational agency may submit information from the reports described in section 1111(h) for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111(h).

(2) ANNUAL REPORTS BY THE SECRETARY- Each year, beginning with the 2002-2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2).

(c) NEW PARAPROFESSIONALS-

(1) IN GENERAL- Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after the date of enactment of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall have —

(A) completed at least 2 years of study at an institution of higher education;

(B) obtained an associate's (or higher) degree; or

(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment —

(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

(2) CLARIFICATION- The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

(d) EXISTING PARAPROFESSIONALS- Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date of enactment of the No Child Left Behind Act of 2001, and working in a program supported with funds under this part shall, not later than 4 years after the date of enactment satisfy the requirements of subsection (c).

(e) EXCEPTIONS FOR TRANSLATION AND PARENTAL INVOLVEMENT ACTIVITIES- Subsections (c) and (d) shall not apply to a paraprofessional —

(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

(2) whose duties consist solely of conducting parental involvement activities consistent with section 1118.

(f) GENERAL REQUIREMENT FOR ALL PARAPROFESSIONALS- Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

(g) DUTIES OF PARAPROFESSIONALS-

(1) IN GENERAL- Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

(2) RESPONSIBILITIES PARAPROFESSIONALS MAY BE ASSIGNED- A paraprofessional described in paragraph (1) may be assigned —

(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

(B) to assist with classroom management, such as organizing instructional and other materials;

(C) to provide assistance in a computer laboratory;

(D) to conduct parental involvement activities;

(E) to provide support in a library or media center;

(F) to act as a translator; or

(G) to provide instructional services to students in accordance with paragraph (3).

(3) ADDITIONAL LIMITATIONS- A paraprofessional described in paragraph (1) —

(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with section 1119; and

(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such

duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(h) USE OF FUNDS- A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

(i) VERIFICATION OF COMPLIANCE-

(1) IN GENERAL- In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 1114 or 1115 attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) AVAILABILITY OF INFORMATION- Copies of attestations under paragraph (1) —

(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) COMBINATIONS OF FUNDS- Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, other Acts, and other sources.

(k) SPECIAL RULE- Except as provided in subsection (l), no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(3).

(l) MINIMUM EXPENDITURES- Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005-2006 school year.

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

(a) GENERAL REQUIREMENT-

(1) IN GENERAL- To the extent consistent with the number of eligible children identified under section 1115(b) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119.

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

(3) EQUITY- Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

(4) EXPENDITURES- Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

(5) PROVISION OF SERVICES- The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

(b) CONSULTATION-

(1) IN GENERAL- To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as —

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

(B) what services will be offered;

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

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

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

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

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

(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such

- private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.
- (2) TIMING- Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.
- (3) DISCUSSION- Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.
- (4) DOCUMENTATION- Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.
- (5) COMPLIANCE-
- (A) 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.
- (B) 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 appropriate documentation to the State educational agency.
- (c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS-
- (1) CALCULATION- A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by —
- (A) using the same measure of low income used to count public school children;
- (B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;
- (C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or
- (D) using an equated measure of low income correlated with the measure of low income used to count public school children.
- (2) COMPLAINT PROCESS- Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 9505.
- (d) PUBLIC CONTROL OF FUNDS-
- (1) IN GENERAL- The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property.
- (2) PROVISION OF SERVICES-
- (A) PROVIDER- The provision of services under this section shall be provided —
- (i) by employees of a public agency; or
- (ii) through contract by such public agency with an individual, association, agency, or organization.
- (B) REQUIREMENT- In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.
- (e) STANDARDS FOR A BYPASS- If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall —
- (1) waive the requirements of this section for such local educational agency;
- (2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 9503 and 9504; and
- (3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

SEC. 1120A. FISCAL REQUIREMENTS.

- (a) MAINTENANCE OF EFFORT- A local educational agency may receive funds under this part for any fiscal year only if the State educational agency involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with section 9521.
- (b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS-
- (1) IN GENERAL- A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

- (2) SPECIAL RULE- No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).
- (c) COMPARABILITY OF SERVICES-
- (1) IN GENERAL-
- (A) COMPARABLE SERVICES- Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.
- (B) SUBSTANTIALLY COMPARABLE SERVICES- If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.
- (C) BASIS- A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.
- (2) WRITTEN ASSURANCE-
- (A) EQUIVALENCE- A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented--
- (i) a local educational agency-wide salary schedule;
- (ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and
- (iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.
- (B) DETERMINATIONS- For the purpose of this subsection, in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.
- (C) EXCLUSIONS- A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.
- (3) PROCEDURES AND RECORDS- Each local educational agency assisted under this part shall--
- (A) develop procedures for compliance with this subsection; and
- (B) maintain records that are updated biennially documenting such agency's compliance with this subsection.
- (4) INAPPLICABILITY- This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.
- (5) COMPLIANCE- For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for--
- (A) language instruction educational programs; and
- (B) the excess costs of providing services to children with disabilities as determined by the local educational agency.
- (d) EXCLUSION OF FUNDS- For the purpose of complying with subsections (b) and (c), a State educational agency or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

SEC. 1120B. COORDINATION REQUIREMENTS.

- (a) IN GENERAL- Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) with Head Start agencies and, if feasible, other entities carrying out early childhood development programs such as the Early Reading First program.
- (b) ACTIVITIES- The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency and, if feasible, other entities carrying out early childhood development programs, such as the Early Reading First program, serving children who will attend the schools of the local educational agency, including --
- (1) developing and implementing a systematic procedure for receiving records regarding such children, transferred with parental consent from a Head Start program or, where applicable, another early childhood development program such as the Early Reading First program;
- (2) establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood development programs such as the Early Reading First program, as appropriate, to facilitate coordination of programs;
- (3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs such as the Early Reading First program, to discuss the developmental and other needs of individual children;
- (4) organizing and participating in joint transition-related training of school staff, Head Start program staff, Early Reading First program staff, and, where appropriate, other early childhood development program staff; and
- (5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies and entities carrying out Early Reading First programs.

(c) COORDINATION OF REGULATIONS- The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act.

SUBPART 2 – ALLOCATIONS

SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

- (a) RESERVATION OF FUNDS- From the amount appropriated for payments to States for any fiscal year under section 1002(a) and 1125A(f), the Secretary shall reserve a total of 1 percent to provide assistance to —
- (1) the outlying areas in the amount determined in accordance with subsection (b); and
 - (2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (d).
- (b) ASSISTANCE TO OUTLYING AREAS-
- (1) FUNDS RESERVED- From the amount made available for any fiscal year under subsection (a), the Secretary shall award grants to local educational agencies in the outlying areas.
 - (2) COMPETITIVE GRANTS- Until each appropriate outlying area enters into an agreement for extension of United States educational assistance under the Compact of Free Association after the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed \$5,000,000.
 - (3) LIMITATION FOR COMPETITIVE GRANTS-
 - (A) COMPETITIVE GRANTS- The Secretary shall use funds described in paragraph (2) to award grants to the outlying areas and freely associated States to carry out the purposes of this part.
 - (B) AWARD BASIS- The Secretary shall award grants under subparagraph (A) on a competitive basis, taking into consideration the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.
 - (C) USES- Except as provided in subparagraph (D), grant funds awarded under this paragraph may be used only —
 - (i) for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and
 - (ii) to provide direct educational services that assist all students with meeting challenging State academic content standards.
 - (D) ADMINISTRATIVE COSTS- The Secretary may provide not more than 5 percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).
 - (4) SPECIAL RULE- The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the freely associated States under this section.
- (c) DEFINITIONS- For the purpose of subsections (a) and (b) —
- (1) the term 'freely associated states' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau; and
 - (2) the term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
- (d) ALLOTMENT TO THE SECRETARY OF THE INTERIOR-
- (1) IN GENERAL- The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of —
 - (A) Indian children on reservations served by elementary schools and secondary schools for Indian children operated or supported by the Department of the Interior; and
 - (B) out-of-State Indian children in elementary schools and secondary schools in local educational agencies under special contracts with the Department of the Interior.
 - (2) PAYMENTS- From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, on such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of —
 - (A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or
 - (B) 48 percent of such expenditure in the United States.

SEC. 1122. ALLOCATIONS TO STATES.

- (a) ALLOCATION FORMULA- Of the amount appropriated under section 1002(a) to carry out this part for each of fiscal years 2002-2007 (referred to in this subsection as the current fiscal year) —
- (1) an amount equal to the amount made available to carry out section 1124 for fiscal year 2001 shall be allocated in accordance with section 1124;

- (2) an amount equal to the amount made available to carry out section 1124A for fiscal year 2001 shall be allocated in accordance with section 1124A; and
- (3) an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sections 1124, 1124A, and 1125 for the current fiscal year for which the determination is made exceeds the amount available to carry out sections 1124 and 1124A for fiscal year 2001 shall be allocated in accordance with section 1125.
- (b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS-
- (1) IN GENERAL- If the sums available under this subpart for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.
- (2) ADDITIONAL FUNDS- If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.
- (c) HOLD-HARMLESS AMOUNTS-
- (1) AMOUNTS FOR SECTIONS 1124, 1124A, AND 1125- For each fiscal year, the amount made available to each local educational agency under each of sections 1124, 1124A, and 1125 shall be —
- (A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;
- (B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and
- (C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.
- (2) PAYMENTS- If sufficient funds are appropriated, the amounts described in paragraph (1) shall be paid to all local educational agencies that received grants under section 1124A for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year described in section 1124A(a)(1)(A) except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (1).
- (3) APPLICABILITY- Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.
- (4) POPULATION DATA- For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-harmless percentages in paragraphs (1) and (2) to counties and, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this subsection.
- (d) RATABLE REDUCTIONS-
- (1) IN GENERAL- If the sums made available under this subpart for any fiscal year are insufficient to pay the full amounts that local educational agencies in all States are eligible to receive under subsection (c) for such year, the Secretary shall ratably reduce such amounts for such year.
- (2) ADDITIONAL FUNDS- If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.
- (e) DEFINITION- For the purpose of this section and sections 1124, 1124A, 1125, and 1125A, the term State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

- (a) AMOUNT OF GRANTS-
- (1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO- Except as provided in paragraph (4) and in section 1126, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying —
- (A) the number of children counted under subsection (c); and
- (B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.
- (2) CALCULATION OF GRANTS-
- (A) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES- The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case —
- (i) the two Secretaries shall publicly disclose the reasons for their determination in detail; and
- (ii) paragraph (3) shall apply.

(B) ALLOCATIONS TO LARGE AND SMALL LOCAL EDUCATIONAL AGENCIES-

- (i) For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.
- (ii) The amount of a grant under this section for each large local educational agency shall be the amount determined under clause (i).
- (iii) For small local educational agencies, the State educational agency may either —
 - (I) distribute grants under this section in amounts determined by the Secretary under clause (i); or
 - (II) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small agencies.
- (iv) An alternative method under clause (iii)(II) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the eligibility criteria of subsection (b).
- (v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.
- (vi) As used in this subparagraph —
 - (I) the term large local educational agency' means a local educational agency serving an area with a total population of 20,000 or more; and
 - (II) the term small local educational agency' means a local educational agency serving an area with a total population of less than 20,000.

(3) ALLOCATIONS TO COUNTIES-

- (A) CALCULATION- For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations issued by the Secretary.
- (B) DIRECT ALLOCATIONS- In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this subpart for a particular fiscal year directly to local educational agencies without regard to counties.
- (C) ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES- If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made —
 - (i) using precisely the same factors for determining a grant as are used under this subpart; or
 - (ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.
- (D) APPEAL- The State educational agency shall provide the Secretary an assurance that it will establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

(4) PUERTO RICO-

- (A) IN GENERAL- For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of —
 - (i) subject to subparagraph (B), the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and
 - (ii) 32 percent of the average per-pupil expenditure in the United States.
- (B) MINIMUM PERCENTAGE- The percentage in subparagraph (A)(i) shall not be less than —
 - (i) for fiscal year 2002, 77.5 percent;
 - (ii) for fiscal year 2003, 80.0 percent;
 - (iii) for fiscal year 2004, 82.5 percent;
 - (iv) for fiscal year 2005, 85.0 percent;
 - (v) for fiscal year 2006, 92.5 percent; and
 - (vi) for fiscal year 2007 and succeeding fiscal years, 100.0 percent.
- (C) LIMITATION- If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of —
 - (i) the percentage in subparagraph (A)(i);
 - (ii) the percentage specified in subparagraph (B) for the preceding fiscal year; or
 - (iii) the percentage used for the preceding fiscal year.

(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY- A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) for that agency is both

- (1) 10 or more; and

(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

(c) CHILDREN TO BE COUNTED-

(1) CATEGORIES OF CHILDREN- The number of children to be counted for purposes of this section is the aggregate of —

- (A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);
- (B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and
- (C) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4).

(2) DETERMINATION OF NUMBER OF CHILDREN- For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

(3) POPULATION UPDATES-

- (A) IN GENERAL- In fiscal year 2002 and each subsequent fiscal year, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that the use of the updated population data would be inappropriate or unreliable. If appropriate and reliable data are not available annually, the Secretary shall use data which are updated every 2 years.
- (B) INAPPROPRIATE OR UNRELIABLE DATA- If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in subparagraph (A) are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons.
- (C) CRITERIA OF POVERTY- In determining the families that are below the poverty level, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(4) OTHER CHILDREN TO BE COUNTED-

- (A) For the purpose of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act; and in making such determinations, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of four in such form as those criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.
- (B) The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination.
- (C) Except for the data on children living in institutions for neglected or delinquent children, the Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.
- (D) For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(5) ESTIMATE- When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (1)(A)) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

(d) STATE MINIMUM- Notwithstanding section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of —

- (1) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or
- (2) the average of —
 - (A) the amount calculated in paragraph (1), above; and
 - (B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS-

- (1) IN GENERAL- (A) Except as otherwise provided in this paragraph, each local educational agency which is eligible for a grant under section 1124 for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 1124(c) in the agency exceeds either —
 - (i) 6,500; or
 - (ii) 15 percent of the total number of children aged 5 through 17 in the agency.
- (B) Notwithstanding section 1122, no State shall receive less than the lesser of —
 - (i) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or
 - (ii) the average of —
 - (I) the amount calculated under clause (i); and
 - (II) the greater of —
 - (aa) \$340,000; or
 - (bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.
- (2) DETERMINATION- For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year, the Secretary shall determine the product of —
 - (A) the number of children counted under section 1124(c) for that fiscal year; and
 - (B) the amount in section 1124(a)(1)(B) for each State except the Commonwealth of Puerto Rico, and the amount in section 1124(a)(4) for the Commonwealth of Puerto Rico.
- (3) AMOUNT- The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.
- (4) LOCAL ALLOCATIONS- (A) Grant amounts under this section shall be determined in accordance with section 1124(a)(2), (3), and (4).
- (B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i) or (ii) and are in ineligible counties that do not meet these criteria.

(b) SMALL STATES- In any State for which on the date of enactment of the No Child Left Behind Act of 2001 the number of children counted under section 1124(c) is less than 0.25 percent of the number of those children counted for all States, the State educational agency shall allocate funds under this section among the local educational agencies in the State either —

- (1) in accordance with paragraphs (2) and (4) of subsection (a); or
- (2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES-

- (1) IN GENERAL- A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if —
 - (A) the number of children in the local educational agency counted under section 1124(c), before application of the weighted child count described in subsection (c), is at least 10; and
 - (B) if the number of children counted for grants under section 1124(c), before application of the weighted child count described in subsection (c), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.
- (2) SPECIAL RULE- For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the

State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO-

(1) IN GENERAL- The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) is eligible to receive under this section for any fiscal year shall be the product of —

(A) the weighted child count determined under subsection (c); and

(B) the amount determined under section 1124(a)(1)(B).

(2) PUERTO RICO- For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) for the Commonwealth of Puerto Rico, multiplied by the amount determined in section 1124(a)(4) for the Commonwealth of Puerto Rico.

(c) WEIGHTED CHILD COUNT-

(1) WEIGHTS FOR ALLOCATIONS TO COUNTIES-

(A) IN GENERAL- For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) BY PERCENTAGE OF CHILDREN- The amount referred to in subparagraph (A) is determined by adding —

(i) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(C) BY NUMBER OF CHILDREN- The amount referred to in subparagraph (A) is determined by adding —

(i) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(D) PUERTO RICO- Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.82.

(2) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES-

(A) IN GENERAL- For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) BY PERCENTAGE OF CHILDREN- The amount referred to in subparagraph (A) is determined by adding —

(i) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(C) BY NUMBER OF CHILDREN- The amount referred to in subparagraph (A) is determined by adding —

(i) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

- (iii) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;
- (iv) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and
- (v) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(D) PUERTO RICO- Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.82.

(d) CALCULATION OF GRANT AMOUNTS- Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 1124(a)(2) and (3).

(e) STATE MINIMUM- Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of —

- (1) 0.35 percent of the total amount available to carry out this section; or
- (2) the average of —
 - (A) 0.35 percent of the total amount available to carry out this section; and
 - (B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

SEC. 1125AA. ADEQUACY OF FUNDING OF TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES IN FISCAL YEARS AFTER FISCAL YEAR 2001.

(a) FINDINGS- Congress makes the following findings:

- (1) The current Basic Grant Formula for the distribution of funds under this part often does not provide funds for the economically disadvantaged students for which such funds are targeted.
- (2) Any school district in which more than 2 percent of the students live below the poverty level qualifies for funding under the Basic Grant Formula. As a result, 9 out of every 10 school districts in the country receive some form of aid under the Formula.
- (3) Fifty-eight percent of all schools receive at least some funding under this part, including many suburban schools with predominantly well-off students.
- (4) One out of every 5 schools with concentrations of poor students between 50 and 75 percent receive no funding at all under this part.
- (5) In passing the Improving America's Schools Act in 1994, Congress declared that grants under this part would more sharply target high poverty schools by using the Targeted Grant Formula, but annual appropriation Acts have prevented the use of that Formula.
- (6) The advantage of the Targeted Grant Formula over other funding formulas under this part is that the Targeted Grant Formula provides increased grants per poor child as the percentage of economically disadvantaged children in a school district increases.
- (7) Studies have found that the poverty of a child's family is much more likely to be associated with educational disadvantage if the family lives in an area with large concentrations of poor families.
- (8) States with large populations of high poverty students would receive significantly more funding if more funds under this part were allocated through the Targeted Grant Formula.
- (9) Congress has an obligation to allocate funds under this part so that such funds will positively affect the largest number of economically disadvantaged students.

(b) LIMITATION ON ALLOCATION OF TITLE I FUNDS CONTINGENT ON ADEQUATE FUNDING OF TARGETED GRANTS- Pursuant to section 1122, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this part shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 1125 in the applicable fiscal year meets the requirements of section 1122(a).

SEC. 1125A. EDUCATION FINANCE INCENTIVE GRANT PROGRAM.

(a) GRANTS- From funds appropriated under subsection (f) the Secretary is authorized to make grants to States, from allotments under subsection (b), to carry out the programs and activities of this part.

(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY-

(1) IN GENERAL-

(A) IN GENERAL- Except as provided in subparagraph (B), funds appropriated pursuant to subsection (f) shall be allotted to each State based upon the number of children counted under section 1124(c) in such State multiplied by the product of —

- (i) the amount in section 1124(a)(1)(B) for all States other than the Commonwealth of Puerto Rico, except that the amount determined under that subparagraph shall not be less than 34 percent or more than 46 percent of the average per pupil expenditure in the United States, and the amount in section 1124(a)(4) for the Commonwealth of Puerto Rico, except that the amount in section 1124(a)(4)(A)(ii) shall be 34 percent of the average per pupil expenditure in the United States; multiplied by
- (ii) such State's effort factor described in paragraph (2); multiplied by

(iii) 1.30 minus such State's equity factor described in paragraph (3).

(B) STATE MINIMUM- Notwithstanding any other provision of this section or section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of —

(i) 0.35 percent of total appropriations; or

(ii) the average of —

(I) 0.35 percent of the total amount available to carry out this section; and

(II) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

(2) EFFORT FACTOR-

(A) IN GENERAL- Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

(B) COMMONWEALTH OF PUERTO RICO- The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

(3) EQUITY FACTOR-

(A) DETERMINATION-

(i) IN GENERAL- Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

(ii) COMPUTATION-

(I) IN GENERAL- For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), and (IV).

(II) VARIATION- In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

(III) NUMBER OF PUPILS- In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children counted under section 1124(c) by a factor of 1.4.

(IV) ENROLLMENT REQUIREMENT- In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(B) SPECIAL RULE- The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) or a State with only one local educational agency shall be not greater than 0.10.

(c) USE OF FUNDS; ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES- All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 1113, and may only be used to carry out activities under this part. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if —

(A) the number of children in the local educational agency counted under section 1124(c), before application of the weighted child count described in paragraph (3), is at least 10; and

(B) if the number of children counted for grants under section 1124(c), before application of the weighted child count described in paragraph (3), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(d) ALLOCATION OF FUNDS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES- Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

(1) STATES WITH AN EQUITY FACTOR LESS THAN .10- In States with an equity factor less than .10, the weighted child counts referred to in subsection (d) shall be calculated as follows:

(A) WEIGHTS FOR ALLOCATIONS TO COUNTIES-

(i) IN GENERAL- For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) BY PERCENTAGE OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;
- (III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;
- (IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25;
- and
- (V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(iii) BY NUMBER OF CHILDREN- The amount referred to in clause (i) is determined by adding

- (I) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;
- (III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;
- (IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and
- (V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(B) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES-

(i) IN GENERAL- For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) BY PERCENTAGE OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;
- (III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;
- (IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25;
- and
- (V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(iii) BY NUMBER OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;
- (III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;
- (IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and
- (V) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(2) STATES WITH AN EQUITY FACTOR GREATER THAN OR EQUAL TO .10 AND LESS THAN .20- In States with an equity factor greater than or equal to .10 and less than .20, the weighted child counts referred to in subsection (d) shall be calculated as follows:

(A) WEIGHTS FOR ALLOCATIONS TO COUNTIES-

(i) IN GENERAL- For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) BY PERCENTAGE OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

- (II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.5;
- (III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 3.0;
- (IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 4.5;
- and
- (V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 6.0.

(iii) BY NUMBER OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;
- (III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.25;
- (IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 3.375; and
- (V) the number of such children in excess of 93,811 in such population, multiplied by 4.5.

(B) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES-

(i) IN GENERAL- For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) BY PERCENTAGE OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.5;
- (III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 3.0;
- (IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 4.5;
- and
- (V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 6.0.

(iii) BY NUMBER OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;
- (III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.25;
- (IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 3.375; and
- (V) the number of such children in excess of 35,514 in such population, multiplied by 4.5.

(3) STATES WITH AN EQUITY FACTOR GREATER THAN OR EQUAL TO .20- In States with an equity factor greater than or equal to .20, the weighted child counts referred to in subsection (d) shall be calculated as follows:

(A) WEIGHTS FOR ALLOCATIONS TO COUNTIES-

(i) IN GENERAL- For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) BY PERCENTAGE OF CHILDREN- The amount referred to in clause (i) is determined by adding —

- (I) the number of children determined under section 1124(c) for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;
- (II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 2.0;
- (III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 8.0.

(iii) BY NUMBER OF CHILDREN- The amount referred to in clause (i) is determined by adding —

(I) the number of children determined under section 1124(c) who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 6.0.

(B) WEIGHTS FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES-

(i) IN GENERAL- For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) BY PERCENTAGE OF CHILDREN- The amount referred to in clause (i) is determined by adding —

(I) the number of children determined under section 1124(c) for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 6.0;

and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 8.0.

(iii) BY NUMBER OF CHILDREN- The amount referred to in clause (i) is determined by adding —

(I) the number of children determined under section 1124(c) who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 6.0.

(e) MAINTENANCE OF EFFORT-

(1) IN GENERAL- Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) REDUCTION OF FUNDS- The Secretary shall reduce the amount of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) WAIVERS- The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(f) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

(g) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS-

(1) IN GENERAL- If the sums available under this section for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under this section for

such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to paragraphs (2) and (3).

(2) ADDITIONAL FUNDS- If additional funds become available for making payments under this section for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(3) HOLD-HARMLESS AMOUNTS- For each fiscal year, if sufficient funds are available, the amount made available to each local educational agency under this section shall be

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 1124 is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(4) APPLICABILITY- Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

(a) ALLOCATIONS FOR NEGLECTED CHILDREN-

(1) IN GENERAL- If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in section 1124(c)(1)(B), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, 1125, and 1125A that is attributable to such children.

(2) SPECIAL RULE- If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES- The State educational agency may allocate the amounts of grants under sections 1124, 1124A, 1125, and 1125A among the affected local educational agencies

—

(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

(c) REALLOCATION- If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, 1125, and 1125A is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

SEC. 1127. CARRYOVER AND WAIVER.

(a) LIMITATION ON CARRYOVER- Notwithstanding section 421(b) of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

(b) WAIVER- A State educational agency may, once every 3 years, waive the percentage limitation in subsection

(a) if —

(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

(2) supplemental appropriations for this subpart become available.

(c) EXCLUSION- The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than \$50,000 under this subpart for any fiscal year.

