

/\* Part 2 of 3 follow for the ECHA. \*/

(2) (A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 611(d) [20 USC 1411(d)] if an individual application of any such local educational agency had been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a) [20 USC 1412(1); (7) and 1413(a)] and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this part, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

(d) Special education and related services provided directly by State educational agencies; regional or State centers. Whenever a State educational agency determines that a local educational agency:

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a);

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more children with disabilities who can best be served by a regional or State center designed to meet the needs of such children; the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to children with disabilities residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this part.

(e) Reallocation of funds. Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 611(d) [20 USC 1411(d)], to such other local educational agencies within the State as are not adequately providing special education and related services to all children with disabilities residing in the areas served by such

other local educational agencies.

(f) Programs using State or local funds. Notwithstanding the provisions of subsection (a)(2)(B)(ii), any local educational agency which is required to carry out any program for the education of children with disabilities pursuant to a State law shall be entitled to receive payments under section 611(d) [20 USC 1411(d)] for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

#### Section 1415. Procedural safeguards

(a) Establishment and maintenance. Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this part shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that children with disabilities and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

/\* This section is important for schools and for children and their parents in the event of disputes regarding placement. \*/

(b) Required procedures; hearing. (1) The procedures required by this section shall include, but shall not be limited to:

(A) an opportunity for the parents or guardian of a child with a disability to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit:

(i) proposes to initiate or change, or

(ii) refuses to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

(c) Review of local decision by State educational agency. If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

(d) Enumeration of rights accorded parties to hearings. Any party to any hearing conducted pursuant to subsections (b) and (c) shall be accorded:

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities,

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

(3) the right to a written or electronic verbatim record of such hearing, and

(4) the right to written findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) [20 USC 1417(c)] and shall also be transmitted to the advisory panel established pursuant to section 613(a)(12) [20 USC 1413(a)(12)]).

(e) Civil action; jurisdiction. (1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) who does not have the right to an appeal under subsection (c), and any party aggrieved by the findings and decision under subsection (c), shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing

its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) During the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

(4) (A) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a child or youth with a disability who is the prevailing party.

/\* Another important section since the right to obtain fees will assist parents in obtaining counsel.  
\*/

(C) For the purpose of this subsection, fees awarded under this subsection shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) No award of attorneys' fees and related costs may be made in any action or proceeding under this subsection for services performed subsequent to the time of a written offer of settlement to a parent or guardian, if:

(i) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure [U SC Federal Rules of Civil Procedure, Rule 68] or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

(ii) the offer is not accepted within ten days; and

(iii) the court or administrative officer finds that the relief finally obtained by the parents or guardian is not more favorable to the parents or guardian than the offer of settlement.

(E) Notwithstanding the provisions of subparagraph (D), an award of attorneys' fees and related costs may be made to a parent or guardian who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Whenever the court finds that:

(i) the parent or guardian, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, experience, and reputation; or

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding, the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this subsection.

(G) The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of this Act [this section].

(f) Effect on other laws. Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973 [29 USC 790 et seq.], or other Federal statutes protecting the rights of children and youth with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (b)(2) and (c) shall be exhausted to the same extent as would be required had the action been brought under this part.

#### Section 1416. Withholding of payments; judicial review

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds:

(1) that there has been a failure to comply substantially with any provision of section 612 or section 613 [20 USC 1412 or 1413], or

(2) that in the administration of the State plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan, the Secretary:

(A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) [20 USC 1413(a)(2)] within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities.

If the Secretary withholds further payments under clause (A) or clause (B) the Secretary may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or intermediate

educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in clause (1) or clause (2), no further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) [20 USC 1413(a)(2)] within the Secretary's jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children, or payments by the State educational agency under this part shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b)

(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 613 [20 USC 1413], such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code [28 USC 2112].

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code [28 USC 1254].

#### Section 1417. Administration

(a) Duties of Secretary. (1) In carrying out the Secretary's duties under this part, the Secretary shall:

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of children with disabilities and the execution of the provisions of this part;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children

within the States; and

(D) assure that each State shall, within one year after the date of the enactment of the Education for All Handicapped Children Act of 1975 [enacted Nov. 29, 1975] and every year thereafter, provide certification of the actual number of children with disabilities receiving special education and related services in such State.

(2) As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975 [enacted Nov. 29, 1975], the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting State plans under this part in order to assure equity among the States.

(b) Rules and regulations. In carrying out the provisions of this part, the Secretary shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) Protection of rights and privacy of parents and students. The Secretary shall take appropriate action, in accordance with the provisions of section 438 of the General Education Provisions Act [20 USC 1232g], to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part

(d) Hiring of qualified personnel. The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 618 [20 USC 1418(b)- (d)] and to carry out the Secretary's duties under subsection (a)(1) of this subsection without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title [5 USC 5101 et seq., 5331 et seq.] relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

#### Section 1418. Evaluation and program information

(a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations:

(1) to assess progress in the implementation of this Act;

(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide:

(A) free appropriate public education to children and youth with disabilities; and

(B) early intervention services to infants and toddlers with disabilities; and

(3) to provide:

(A) Congress with information relevant to policymaking; and

(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

(b)

(1) In carrying out subsection (a), the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under part H [20 USC 1471 et seq.] (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including:

(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services- -

(i) in age groups 0-2 and 3-5, and

(ii) in age groups 6-11, 12-17, and 18-21, by disability category;

(B) the number of children and youth with disabilities in each State, by disability category, who:

(i) are participating in regular educational programs (consistent with the requirements of section 612(5)(B) and 614(a)(1)(C)(iv) [20 USC 1412(5)(B) and 1414(a)(1)(C)(iv)]);

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

(iii) have been otherwise removed from the regular education environment;

(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

(D) the number and type of personnel that are employed in the provision of:

(i) special education and related services to children and youth with disabilities, by disability category served; and

(ii) early intervention services to infants and toddlers with disabilities; and



(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12-17 and 18-21 who have left the educational system.

(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 613(a)(3)(A) [20 USC 1413(a)(3)(A)], including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs (1) and (2) to achieve accurate and comparable information.

(c)

(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private non-profit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including:

(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children

and youth leave special education;

(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

(2) (A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this Act. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under section 618 [this section] every 3 years.

(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this Act, and in a form for inclusion in the annual report to Congress authorized under subsection (g).

(d)

(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this Act.

(2) The agreements referred to in paragraph (1) shall:

(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by

a participating State agency to assess the impact and effectiveness of this Act; and

(B) be developed in consultation with the State Advisory Panel established under section 613(a)(12) [20 USC 1413(a)(12)], local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

(e)

(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this Act, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to:

(A) completing a longitudinal study of a sample of students with disabilities, examining:

(i) the full range of disabling conditions;

(ii) the educational progress of students with disabilities while in special education; and

(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this Act, and examines the current disparity among States in the percentage of children so

classified.

(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

(f) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

(g)

(1) (A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of:

(i) a free appropriate public education to all children and youth with disabilities; and

(ii) early intervention services for infants and toddlers with disabilities.

(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

/\* The 1993 FY report will be reproduced in the next update. \*/

(2) The Secretary shall include in each annual report under paragraph (1):

(A) a compilation and analysis of data gathered under subsection (b) and under part H [20 USC 1471 et seq.]; and

(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this part.

(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report:

(A) an index of all current projects funded under parts C through G; and

(B) data reported under sections 622 and 634 [20 USC 1422, 1434].

(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under part E [20 USC 1441 et seq.] that the Secretary determines are relevant to the effective implementation of this Act.

(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

(h) There are authorized to be appropriated \$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.

#### Section 1419. Preschool grants

(a) Grants for fiscal years 1987 through 1989; amount of grants.(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which:

(A) has met the eligibility requirements of section 612 [20 USC 1412],

(B) has a State plan approved under section 613 [20 USC 1413], and

(C) provides special education and related services to children with disabilities aged three to five, inclusive.

(2) (A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed:

(i) \$300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3) [20 USC 1411(a)(3)], or

(ii) if the amount appropriated under subsection (e) exceeds the product of \$300 and the total number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) [20 USC 1411(a)(3)]:

(I) \$300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3) [20 USC 1411(a)(3)], plus

(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of children with disabilities aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated increase in the number of such children in such State.

(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be \$400 instead of \$300.

(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be \$500 instead of \$300.

(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed \$1,000 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3) [20 USC 1411(a)(3)].

(E) If the actual number of additional children served in a fiscal year differs from the estimate made under subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

(F) (i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed \$3,800 per estimated child with a disability aged three to five, inclusive, who will be receiving or child with a disability, age three to five, inclusive, who is receiving special education and related services in such State.

(ii) If the amount appropriated under subsection (e) for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Grants for fiscal year 1990 and thereafter; amount of grants.(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which:

(A) has met the eligibility requirements of section 612 [20 USC 1412], and

(B) has a State plan approved under section 613 [20 USC 1413] which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive, and for any two-year-old children provided services by the State under subsection (c)(2)(B)(iii) or by a local educational agency or intermediate educational unit under subsection (f)(2).

(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if:

(A) the aggregate amount that was appropriated under subsection (e) for fiscal years 1987, 1988, and 1989 was less than \$656,000,000, or

(B) the amount appropriated for fiscal year 1990 under subsection (e) is less than \$306,000,000, the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) for fiscal year 1990.

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed \$1,500 for each child with a disability in such State aged three to five, inclusive.

(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) Distribution by State of funds. (1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall:

(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) [20 USC 1423(b)] in effect through fiscal year 1987 and for direct and support services for children with disabilities, and

(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall:

(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 20 percent of such grant:

- (i) for planning and development of a comprehensive delivery system,
- (ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive, and
- (iii) at the State's discretion, to provide a free appropriate public education, in accordance with this Act, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H [20 USC 1471 et seq.], and
- (C) use not more than 5 percent of such grant for administrative expenses related to the grant.
- (3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to:
- (A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) or subsection (a)(2)(A)(ii)(I), as the case may be, as the number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) [20 USC 1411(a)(3)] in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and
- (B) to the extent funds are available under subsection (a)(2)(A)(ii)(II), an amount which bears the same ratio to the amount of such funds as the estimated number of additional children with disabilities aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of such children.
- (d) Insufficiency of appropriated amounts; reduction of maximum amounts receivable by States. If the sums appropriated under subsection (e) for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) are not sufficient to pay in full the maximum amounts which all States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II). If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.
- (e) Authorization of appropriations. For grants under subsections (a)(1) and (b)(1) there are authorized to be appropriated such sums as may be necessary.
- (f) Each local educational agency or intermediate educational unit receiving funds under this section:
- (1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive, and



(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this part, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H [20 USC 1471 et seq.].

(g) Inapplicability to child receiving free public education. Part H of this Act [20 USC 1471 et seq.] does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this part [20 USC 1411 et seq.], with funds received under this section.

#### Section 1420. Payments

(a) The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this part. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this part after the State educational agency has approved applications of such agencies or units for payments in accordance with section 614(b) [20 USC 1414(b)].

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

### CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES

#### Section 1421. Regional resource and federal centers

(a) Establishment; functions. The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers that focus on special education and related services and early intervention services. Each regional resource center shall provide consultation, technical assistance, and training, as requested, to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate public agencies providing special education and related services and early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center. Each regional resource center established or operated under this section shall:

(1) assist in identifying and solving persistent problems in providing quality special education and related services for children and youth with disabilities and early intervention services to infants and toddlers with disabilities and their families,

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to children and youth with disabilities and

their families and early intervention services to infants and toddlers with disabilities and their families,

(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant programs and projects conducted under parts C through G and by the Department of Education,

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of infants, toddlers, children, and youth with disabilities, and

(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G.

(b) Considerations governing approval of application. In determining whether to approve an application for a project under subsection (a), the Secretary shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f), and, to the extent appropriate, consistent with requirements under section 610 [20 USC 1410], and shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

(c) Annual report; summaries. Each regional resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 618 [20 USC 1418].

(d) Coordinating technical assistance center. The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities. Such coordinating technical assistance center is authorized to:

(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part [20 USC 1421 et seq.] and parts D through G [20 USC 1431 et seq.], and shall make such information available to the regional resource centers on request;

(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.

(e) Amounts available for centers. Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d), not less than the amount made available in the

previous fiscal year for regional resource centers under subsection (a) shall be made available for such centers and in no case shall more than \$500,000 be made available for the center under subsection (d).

(f) Guidelines for operation of Centers. (1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

(2) Such guidelines and criteria shall include:

(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

(B) a description of the geographic region each Center is expected to serve;

(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

(E) a description of how a Center will be evaluated; and

(F) other guidelines and criteria deemed necessary.

(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.

#### Section 1422. Services for deaf-blind children and youth

(a) Grant and contract authority; types and scope of programs; governing considerations. (1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies, local educational agencies, and designated lead agencies under part H [20 USC 1471 et seq.] to:

(A) assure deaf-blind infants, toddlers, children and youth provision of special education, early intervention, and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.

(2) For purposes of this section, the term "deaf-blind", with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.

(3) (A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing:

(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

(iv) pilot projects that are designed to:

(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

(II) encourage eventual assumption of funding responsibility by State and local authorities;

(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

(B) The programs described in subparagraph (A) may include:

(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.

(4) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations that

are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, supervised, semisupervised, or independent living programs.

(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf- blindness and their families.

(b) Contract authority for regional programs of technical assistance. The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

(c) Annual report to Secretary; examination of numbers and services and revision of numbers; annual report to Congress: summary of data. (1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, sex, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly served by each activity; (C) the types of services provided and the setting in which the services are provided; and (D) student outcomes, where appropriate.

(2) The Secretary shall examine the number of deaf- blind children and youth (A) reported under subparagraph (c)(1)(A) and by the States; (B) served by the programs under part B of this Act and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [20 USC 2791 et seq.]; and (C) the Deaf-Blind Registry of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

(3) The Secretary shall summarize these data for submission in the annual report required under section 618 [20 USC 618].

(d) National clearinghouse for children and youth with deaf- blindness. The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness:

(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

(3) to maintain a computerized data base on local, regional, and national resources; and

(4) to respond to information requests from professionals, parents, and members of the community.

(e) Consideration of existing services; availability to all parts of the country. In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.

(f) Grants to, or contracts and cooperative agreements with, appropriate organizations or institutions. The Secretary may make grants to, or enter into contracts or cooperative agreements with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf- blindness, for:

(1) research to identify and meet the full range of special needs of such children and youth; and

(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.

#### Section 1423.

(a) Contracts, grants, and cooperative agreements; purpose; coordination with community programs; national dispersion in urban and rural areas; Federal share; non-Federal contributions; arrangements with Indian tribes. (1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities, including individuals who are at risk of having substantial developmental delays if early intervention services are not provided, which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to:

(A) facilitate the intellectual, emotional, physical, mental, social, speech or other communication mode, language development, and self-help skills of such children,

(B) provide family education and include a parent or their representative of such child, as well as encourage the participation of the parents of such children in the development and operation of any such program,

(C) acquaint the community to be served by any such program with the special needs and potentialities of such children,

(D) offer training about exemplary models and practices, including interdisciplinary models and practices, to State and local personnel who provide services to children with disabilities from birth through age 8 and to the parents of such children,

(E) support the adoption of exemplary models and practices in States and local communities,

including the involvement of adult role models with disabilities at all levels of the program,

(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under part H [20 USC 1471 et seq.] is not the State educational agency),

(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities,

(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H [20 USC 1411 et seq., 1471 et seq.],

(J) support statewide projects in conjunction with a State's application under part H [20 USC 1471 et seq.] and a State's plan under part B [20 USC 1411 et seq.], to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments, and

(K) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

(b) The Secretary shall fund up to 5 grants to States for 3 years for the purpose of establishing an inter-agency, multi-disciplinary, and coordinated statewide system for the identification, tracking, and referral to appropriate services for all categories of children who are biologically and/or environmentally at-risk of having developmental delays. To the extent feasible, such grants shall be geographically dispersed throughout the Nation in urban and rural areas. Each grantee must:

(1) create a data system within the first year to document the numbers and types of at-risk children in the State and that develops linkages with all appropriate existing child data and tracking systems that assist in providing information;

(2) coordinate activities with the child find component required under parts B and H of this Act [20 USC 1411 et seq., 1471 et seq.];

(3) demonstrate the involvement of the lead agency and the State interagency coordinating council under part H [20 USC 1471 et seq.] as well as the State educational agency under part B [20 USC 1411 et seq.];

(4) coordinate with other relevant prevention activities across appropriate services agencies, organizations, councils, and commissions;

(5) define an appropriate service delivery system based on children with various types of at-risk factors;

(6) document the need for additional services as well as barriers; and

(7) disseminate findings and information in the manner prescribed in section 610(g) [20 USC 1409(g)].

(c) Technical assistance development system. The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to children with disabilities. This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H [20 USC 1471 et seq.] State agencies on procedures for use by primary referral sources in referring in a child to the appropriate agency within the system for evaluation, assessment, or service.

(d) Early childhood research institute. The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for children with disabilities and their families. Such institutes shall disseminate this information in the manner prescribed in section 610(g) [20 USC 1410(g)].

(e) Grants or contracts with organizations to identify needs of children with disabilities and for training of personnel. The Secretary may make grants to, or enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of children with disabilities and for training of personnel for programs specifically designed for children with disabilities, including programs to integrate children with disabilities into regular preschool programs.

(f) Notice in Federal Register of intent to accept application for grants, contracts, etc. At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (c) and (d), the Secretary shall publish in the Federal Register a notice of



intent to accept applications for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

(g) "Children with disabilities" defined. For purposes of this section the term "children with disabilities" includes children from birth through eight years of age, including infants and toddlers with disabilities.

(h) Presentation of knowledge gained to persons providing early intervention services. The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.

#### Section 1424. Programs for children with severe disabilities

(a) Grant and contract authority. The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through:

(1) research to identify and meet the full range of special education, related services, and early intervention needs of such children and youth with disabilities, including their need for transportation to and from school, transportation to and from school of such children and youth with disabilities,

(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of such children and youth with disabilities,

(3) training of special and regular education, related services, and early intervention personnel for programs specifically designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,

(4) dissemination of materials and information about practices found effective in working with such children and youth by utilizing existing networks as prescribed in section 610(g) [20 USC 1410(g)] and

(5) statewide projects, in conjunction with the State's plan under part B [20 USC 1411 et seq.], to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.

(b) Development of extended school year demonstration programs. The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private

nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.

(c) Coordination of activities with similar activities under 20 USC 1400 et seq. In making grants and entering into contracts and cooperative agreements under subsection (a), the Secretary shall ensure that the activities funded under such grants, contracts, or cooperative agreements will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

(d) National geographic dispersion of programs in urban and rural areas. To the extent feasible, programs authorized by subsection (a) shall be geographically dispersed throughout the Nation in urban and rural areas.

(e) Priority on programs aimed at educating disabled children and youth with nondisabled peers. In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.

#### Section 1424a. Postsecondary education

(a) Grant and contract authority; development and operation of vocational, technical, postsecondary, or adult education programs. (1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities. Such model programs may include joint projects that coordinate with special education and transition services.

(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for individuals with disabling conditions other than deafness:

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of individuals with disabilities,

(B) for programs that coordinate, facilitate, and encourage education of individuals with disabilities with their nondisabled peers; and

(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities.

(3) Persons operating programs for persons with disabilities under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 633(b) [20

USC 1433(b)].

(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept applications for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

(6) Of the sums made available for programs under paragraph (1), not less than \$4,000,000 shall first be available for the 4 regional centers for the deaf. The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C; G of the Act [20 USC 1424 et seq.] is extended by September 30, 1994.

(b) "Individuals with disabilities" defined. For purposes of subsection (a), the term "individuals with disabilities" means individuals:

(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(2) who, by reason thereof, need special education and related services.

## Section 1425

(a) Grant and contract authority; statement of purpose; national geographic dispersion in urban and rural areas. The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act to:

(1) strengthen and coordinate special education and related services for youth with disabilities currently in school or who recently left school to assist them in the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, independent and community living, or adult services,

(2) stimulate the improvement and development of programs for secondary special education, and

(3) stimulate the improvement of the vocational and life skills of students with disabilities to enable them to be better prepared for transition to adult life and services.

To the extent feasible, such programs shall be geographically dispersed throughout the Nation in urban and rural areas.

(b) Description of specific projects. Projects assisted under subsection (a) may include:

- (1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for youth with disabilities,
- (2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, independent living, transitional services, and placement for youth with disabilities,
- (3) conducting demographic studies which provide information on the numbers, age levels, types of disabling conditions, and services required for youth with disabilities in need of transitional programs,
- (4) specially designed vocational programs to increase the potential for competitive employment for youth with disabilities,
- (5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models,
- (6) initiating cooperative models among educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, and public employment, and employers, which facilitate the planning and developing of transitional services for youth with disabilities to postsecondary education, vocational training, employment, continuing education, and adult services,
- (7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for youth with disabilities,
- (8) conducting studies which provide information on the numbers, age levels, types of disabling conditions and reasons why some youth with disabilities remain to complete school programs while others drop out,
- (9) developing curriculum and instructional techniques in special education and related services that will improve the acquisition of skills by students with disabilities necessary for transition to adult life and services,
- (10) specially designed or adapted physical education and therapeutic recreation programs to facilitate the full participation of youths with disabilities in community programs, and
- (11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.

(c) Coordination of noneducational agency applicant with State educational agency. For purposes of paragraphs (1) and (2) of subsection (b), if an applicant is not an educational agency, such applicant shall coordinate its activities with the State educational agency.

(d) Applications for assistance; contents. Applications for assistance under subsection (a) other than for the purpose of conducting studies or evaluations shall:

(1) describe the procedures to be used for disseminating relevant findings and data to regional resource centers, clearinghouses, and other interested persons, agencies, or organizations,

(2) describe the procedures that will be used for coordinating services among agencies for which youth with disabilities are or will be eligible, and

(3) provide for the direct participation of students with disabilities and the parents of students with disabilities in the planning, development, and implementation of such projects.

(e) Transition services for certain disabled youth. (1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational agency and one other State agency that provides transition services to individuals who are leaving programs under this Act.

(3) States that receive grants shall use grant funds to:

(A) Increase the availability, access, and quality of transition assistance through the development and improvement of policies, procedures, systems, and other mechanisms for youth with disabilities and their families as such youth prepare for and enter adult life.

(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from "student" to "adult".

(C) Improve working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA), and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

(D) Create an incentive for accessing and using the expertise and resources of programs,

projects, and activities related to transition funded through this section and with other sources.

(4) (A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include:

(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from "student" to "adult";

(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

(iv) a description of how the State will use grant funds as an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will:

(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services--professionals, parents, youth with disabilities, including self-

advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

(vi) provide access to training for eligible youth that matches labor market needs in their communities;

(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973.

(f) Development or demonstration of new or improved methods, approaches, or techniques.(1) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of children and youth with disabilities and the dissemination of materials and information concerning practices found effective in working with such children and youth. Such organizations and institutions shall disseminate such materials and information as prescribed under section 610(g) [20 USC 1410(g)].

(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate:

(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities."; and

(3) (A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the

projects funded under subsection (e). The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies.

(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) shall include an evaluation of:

(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 602(a)(20)(D) [20 USC 1401(a)(20)(D)]);

(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

(v) the extent to which the transition services have been provided in a cost-effective manner.

(C) The evaluation carried out pursuant to subparagraph (A) shall include recommendations on the manner in which the program under subsection (e) can be improved.

(D) In the annual report required under section 618(g) [20 USC 1418(g)], the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).

(g) Coordination of educational programs with vocational rehabilitation projects. The Secretary, as appropriate, shall coordinate programs described under subsection (a) with projects developed under section 311 of the Rehabilitation Act of 1973, the Job Training Partnership Act (JTPA) [29 USC 1501 et seq.], and the Carl D. Perkins Vocational and Applied Technology Education Act [20 USC 2301 et seq.].

#### Section 1426. Programs for children and youth with serious emotional disturbance

(a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and related services to children and youth with serious emotional disturbance. Such projects may include:

(1) studies regarding the present state of special education and related services to such children



and youth and their families, including information and data to enable assessments of the status of such services over time;

(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

(b) (1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall:

(A) increase the availability, access, and quality of community services for such children and youth and their families;

(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

(D) take into account the needs of minority children and youth in all phases of project activity.

(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth.

(c) Each project assisted under this section shall:

(1) apply existing research outcomes from multi-disciplinary fields;

(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

(3) report on the effectiveness of such project; and

(4) disseminate the findings of such project, where appropriate, in accordance with section 610(g) [20 USC 1409(g)].

#### Section 1427. Authorization of appropriations

(a) There are authorized to be appropriated to carry out section 621 [20 USC 1421] \$8,525,000 for fiscal year 1991, \$9,300,000 for fiscal year 1992, \$10,140,000 for fiscal year 1993, and \$11,052,000 for fiscal year 1994.

(b) There are authorized to be appropriated to carry out section 622 [20 USC 1422] \$21,900,000 for fiscal year 1991, \$24,100,000 for fiscal year 1992, \$26,500,000 for fiscal year 1993, and \$29,200,000 for fiscal year 1994.

(c) There are authorized to be appropriated to carry out section 623 [20 USC 1423] \$31,400,000 for fiscal year 1991, \$34,235,000 for fiscal year 1992, \$37,325,000 for fiscal year 1993, and \$40,705,000 for fiscal year 1994.

(d) There are authorized to be appropriated to carry out section 624 [20 USC 1424] \$9,500,000 for fiscal year 1991, \$10,500,000 for fiscal year 1992, \$11,600,000 for fiscal year 1993, and \$12,700,000 for fiscal year 1994.

(e) There are authorized to be appropriated to carry out section 625 [20 USC 1424a] \$9,470,000 for fiscal year 1991, \$10,230,000 for fiscal year 1992, \$11,050,000 for fiscal year 1993, and \$11,930,000 for fiscal year 1994.

(f) There are authorized to be appropriated to carry out section 626 [20 USC 1425] (except subsection (e)) \$9,800,000 for fiscal year 1991, \$10,800,000 for fiscal year 1992, \$11,900,000 for fiscal year 1993, and \$13,050,000 for fiscal year 1994.

(g) There are authorized to be appropriated to carry out section 626(e) [20 USC 1425(e)] \$27,500,000 for fiscal year 1991, \$30,250,000 for fiscal year 1992, \$33,275,000 for fiscal year 1993, and \$36,602,000 for fiscal year 1994.

(h) There are authorized to be appropriated to carry out section 627 [20 USC 1426] \$6,500,000 for fiscal year 1991, \$8,000,000 for fiscal year 1992, \$9,500,000 for fiscal year 1993, and \$11,500,000 for fiscal year 1994.

#### Section 1431. Grants for personnel training

(a) Careers in special education; personnel training standards; costs of courses, fellowships, and traineeships; contract authority for areas of personnel shortages.(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act [42 USC 6061 et seq.]) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education, related services, and early intervention, including:

(A) special education teaching, including speech- language pathology and audiology, and adapted physical education and instructional and assistive technology services,

(B) related services to children and youth with disabilities in educational settings, and other settings,

(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

(D) special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), and

(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for children with disabilities.