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## PART I—THE EDUCATION DIVISION

### GENERAL PROVISIONS CONCERNING EDUCATION<sup>1</sup>

#### SHORT TITLE; APPLICABILITY; DEFINITIONS; APPROPRIATIONS

SEC. 400. (a) This title may be cited as the "General Education Provisions Act."

(b) Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law.

(c) (1) For the purposes of this title, the term—

(A) "applicable program" means any program to which this title is, under the terms of subsection (b), applicable;

(B) "applicable statute" means—

(i) the Act or the title, part or section of an Act, as the case may be, which authorizes the appropriation for an applicable program;

(ii) this title; and

(iii) any other statute which under its terms expressly controls the administration of an applicable program;

(C) "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education;

(D) "Commissioner" means the Commissioner of Education;

(E) "Director" means the Director of the National Institute of Education; and

(F) "Secretary" means the Secretary of Health, Education, and Welfare.

(2) Nothing in this title shall be construed to affect the applicability of the Civil Rights Act of 1964 to any program subject to the provisions of this title.

(3) No Act making appropriations to carry out an applicable program shall be considered an applicable statute.

(d) Except as otherwise limited in this title, there are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this title.

(e) (1) The aggregate of the appropriations to the agencies in the Education Division and to the Office of the Assistant Secretary for any fiscal year shall not exceed the limitations set forth for that fiscal year in subparagraph (2).

(2) (A) Except as is provided in subparagraph (B), the appropriations to which paragraph (1) applies—

(i) shall not exceed \$7,500,000,000 for the fiscal year ending June 30, 1975, \$8,000,000,000 for the fiscal year ending June 30, 1976, and \$9,000,000,000 for the fiscal year ending June 30, 1977; and

<sup>1</sup> Title IV of P.L. 90-247 as amended by P.L. 91-230, P.L. 92-318 and P.L. 93-380.

(ii) shall not exceed such amounts as may be authorized by the law and limited by this subparagraph.

(B) The limitations set forth in subparagraph (A) shall not apply—

(i) to uncontrollable expenditures under obligations created under part B of title IV of the Higher Education Act of 1965, parts C and D of title VII of such Act, and the Emergency Insured Student Loan Act of 1969; and

(ii) to any other expenditure under an obligation determined by the Commissioner pursuant to, or in accordance with, law to be an uncontrollable expenditure of the Office of Education.

(20 U.S.C. 1221) Enacted Jan. 2, 1968, P.L. 90-247, Title IV, sec. 401, 81 Stat. 814; amended Oct. 16, 1968, P.L. 90-576, Title III, sec. 301(a), 82 Stat. 1094; amended April 13, 1970, P.L. 91-230, Title IV, sec. 401(a)(2), 84 Stat. 164; renumbered June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 326; amended August 21, 1974, P.L. 93-380, sec. 505(a)(1), 88 Stat. 561, 562.

## PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### THE EDUCATION DIVISION

SEC. 401. (a) There shall be, within the Department of Health, Education, and Welfare, an Education Division, composed of the agencies listed in subsection (b), which shall be headed by the Assistant Secretary.

(b)(1) The Education Division shall be composed of the following agencies:

(A) The Office of Education; and

(B) The National Institute of Education.

(2) In the Office of the Assistant Secretary there shall be a National Center for Education Statistics.

(20 U.S.C. 1221(a) Enacted June 23, 1972, P.L. 92-318, sec. 301(a)(2), 86 Stat. 327; amended August 21, 1974, P.L. 93-380, sec. 504(a), 88 Stat. 561.

### ASSISTANT SECRETARY FOR EDUCATION

SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division.

(20 U.S.C. 1221b) Enacted June 23, 1972, P.L. 92-318, sec. 301(a)(2), 86 Stat. 327; amended August 21, 1974, P.L. 93-380, sec. 501(a)(2)(A), 88 Stat. 560.

### THE OFFICE OF EDUCATION

SEC. 403. (a) There shall be an Office of Education (hereinafter in this section referred to as the 'Office') which shall be the primary

agency of the Federal Government responsible for the administration of programs of financial assistance to educational agencies, institutions, and organizations. The Office shall have such responsibilities and authorities as may be vested in the Commissioner by law or delegated to the Commissioner in accordance with law.

(b) The Office shall be headed by the Commissioner of Education who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be subject to the direction and supervision of the Secretary.

(c) (1) The Office shall, consistent with such organization thereof which is provided by law, be divided into bureaus, and such bureaus shall be divided into divisions as the Commissioner determines appropriate.

(2) (A) There shall be regional offices of the Office established in such places as the Commissioner, after consultation with the Assistant Secretary, shall determine. Such regional offices shall carry out such functions as are specified in subparagraph (B).

(B) The regional offices shall serve as centers for the dissemination of information about the activities of the agencies in the Education Division and provide technical assistance to State and local educational agencies, institutions of higher education, and other educational agencies, institutions, and organizations and to individuals and other groups having an interest in Federal education activities.

(C) The Commissioner shall not delegate to any employee in any regional office any function which was not carried out, in accordance with regulations effective prior to June 1, 1973, by employees in such offices unless the delegation of such function to employees in regional offices is expressly authorized by law enacted after the enactment of the Education Amendments of 1974.<sup>1</sup>

(3) The Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than November 1 of each year a report on the personnel needs and assignments of the Office. Such report shall include a description (A) of the manner in which the Office is organized and the personnel of the Office are assigned to the various functions of that agency and (B) of personnel needs of that agency in order to enable it to carry out its functions, as authorized by law.

(20 U.S.C. 1221c) Enacted June 23, 1972, P.L. 92-318, sec. 301(a)(2), 86 Stat. 327; amended August 21, 1974, P.L. 93-380, sec. 503(a), 88 Stat. 560, 561.

#### SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve

<sup>1</sup> Sec. 503(b) of P.L. 93-380 provides that the provisions of limitation set forth in this subsection shall be retroactive to June 1, 1973.

postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary.

(c) For the purposes of this section, the authority granted to the Commissioner in part D of this Act shall apply to the Secretary.

(d) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) There are authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1973, \$50,000,000 for the fiscal year ending June 30, 1974, and \$75,000,000 for the fiscal year ending June 30, 1975, for the purposes of this section.

(20 U.S.C. 1221d) Enacted June 23, 1972, P.L. 92-318, sec. 301(a)(2), 86 Stat. 327.

#### NATIONAL INSTITUTE OF EDUCATION

SEC. 405. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American

educational system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

(B) advancing the practice of education, as an art, science, and profession;

(C) the strengthening of the scientific and technological foundations of education; and

(D) building an effective educational research and development system.

(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

(3) The Council shall—

(A) establish general policies for, and review the conduct of, the Institute;

(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

(G) meet at the call of the Chairman, except that it shall meet (i) a least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

(d) (1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

(2) There shall be a Deputy Director of the Institute (referred to in this section as the "Deputy Director") who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall



be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

(e) (1) In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research; collection, dissemination, or training through grant, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term "educational research" includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

(2) Not less than 90 per centum of the funds appropriated pursuant to subsection (h) for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

(g) Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

(h) There are hereby authorized to be appropriated, without fiscal year limitations, \$550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended.

(20 U.S.C. 1221e) Enacted June 23, 1972, P.L. 92-318, sec. 301(a) (2), 86 Stat. 328, 332; amended August 21, 1974, P.L. 93-380, sec. 502(b) (2) (B), 88 Stat. 560.

#### NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 406. (a) There is established, within the Office of the Assistant Secretary, a National Center for Education Statistics (hereafter in this section referred to as the 'Center'). The Center shall be headed by an Administrator who shall be appointed by the Assistant Secretary in accordance with the provisions of title 5, United States Code, relating to appointments in the competitive service.

(b) The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies in improving and automating their statistical and data collection activities; and

(4) review and report on educational activities in foreign countries.

(c) (1) There shall be an Advisory Council on Education Statistics which shall be composed of 7 members appointed by the Secretary and such ex officio members as are listed in subparagraph (2). Not more than 4 of the appointed members of the Council may be members of the same political party.

(2) The ex officio members of the Council shall be—

(A) the Commissioner of Education,

(B) the Director of the National Institute of Education,

(C) the Director of the Census, and

(D) the Commissioner of Labor Statistics.

(3) Appointed members of the Council shall serve for terms of 3 years, as determined by the Secretary, except that in the case of initially appointed members of the Council, they shall serve for shorter terms to the extent necessary that the terms of office of not more than 3 members expire in the same calendar year.

(4) The Assistant Secretary shall serve as the non-voting presiding officer of the Council.

(5) (A) The Council shall meet at the call of the presiding officer, except that it shall meet—

(i) at least four times during each calendar year; and

(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

(B) Six members of the Council shall constitute a quorum of the Council.

(6) The provisions of section 448(b) of part D of this title shall not apply to the Council established under this subsection.

(7) The Council shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

(d) (1) The Assistant Secretary shall, not later than March 1 of each year, submit to the Congress an annual report which—

(A) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

(B) sets forth estimates of the cost of the projected activities for such succeeding fiscal year; and

(C) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States.

(2) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

(e) In order to carry out the objectives of the Center, the Assistant Secretary is authorized, either directly or by grant or contract, to carry out the purposes set forth in subsection (b), and for that purpose the Assistant Secretary is authorized to make grants to, and contracts with public and private institutions, agencies, organizations and individuals.

(f) (1) (A) The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office of Education, the Assistant Secretary, and the National Institute of Education to, and to make special statistical compilations and surveys for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Public Welfare and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Assistant Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Assistant Secretary: *Provided*, That the purposes of such projects are otherwise authorized by law.

(B) All funds received in payment for work or services enumerated under subparagraph (A) shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

(2) (A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress, General Accounting Office, and the Committees on Labor and Public Welfare and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

(B) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for purposes of research and acquiring statistical information.

(3) The Commissioner and the National Institute of Education are directed to cooperate with the Center and make such records and data available to the Center as may be necessary to enable the Center to carry out its functions under this subsection.

(g) (1) The amount available for salaries and expenses of the Center shall not exceed \$5,000,000 for the fiscal year ending June 30, 1975,

\$10,000,000 for the fiscal year ending June 30, 1976, and \$14,000,000 for the fiscal year ending June 30, 1977.

(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) shall not exceed \$20,000,000 for the fiscal year ending June 30, 1975, \$25,000,000 for the fiscal year ending June 30, 1976, and \$30,000,000 for the fiscal year ending June 30, 1977.

(3) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (2) of this subsection shall be appropriated apart from appropriations which are so limited, as separate line items.

(20 U.S.C. 1221-1) enacted August 21, 1974, P.L. 93-380, sec. 501(a), 88 Stat. 556, 558.

#### RULES FOR EDUCATION OFFICERS OF THE UNITED STATES

SEC. 407. (a) For the purposes of this section, the term "education officer of the United States" means any person appointed by the President pursuant to this part, except members of commissions, councils, and boards.

(b) Each education officer of the United States shall serve at the pleasure of the President.

(c) No education officer of the United States shall engage in any other business, vocation, or employment while serving in the position to which he is appointed; nor may he, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have any financial interest in, any organization, agency, or institution to which an agency in the Education Division makes a grant or with which any such agency makes a contract or any other financial arrangement.

(d) No person shall hold, or act for, more than one position as an education officer of the United States for more than a 30 day period.

(20 U.S.C. 1221e-2) enacted August 21, 1974, P.L. 93-380, sec. 502(a)(1), 88 Stat. 559.

#### GENERAL AUTHORITY OF ADMINISTRATIVE HEADS OF EDUCATION AGENCIES

SEC. 408. (a) Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law, is, subject to limitations as may be otherwise imposed by law, authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency of which he is head;

(2) in accordance with those provisions of title 5, United States Code, relating to the appointment and compensation of personnel and subject to such limitations as are imposed in this part, to appoint and compensate such personnel as may be necessary to enable such agency to carry out its functions;

(3) to accept unconditional gifts or donations of services, money, or property (real, personal, or mixed; tangible or intangible);

(4) without regard for section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of such agency;

(5) with funds expressly appropriated for such purpose, to construct such facilities as may be necessary to carry out functions vested in him or in the agency of which he is head, and to acquire and dispose of property; and

(6) to use the services of other Federal agencies and reimburse such agencies for such services.

(b) Any administrative head of an education agency is, subject to any other limitations on delegations of authority provided by law, authorized to delegate any of his functions under this section to an officer or employee of that agency.

(c) For the purposes of this section, the term 'administrative head of an education agency' means the Commissioner and the Director of the National Institute of Education. To the extent that the Assistant Secretary is directly responsible for the administration of a program and to the extent that the Assistant Secretary is responsible for the supervision of the National Center for Education Statistics, the Assistant Secretary shall, for such purposes, be considered within the meaning of such term.

(20 U.S.C. 1221e-3) Enacted August 21, 1974, P.L. 93-380, sec. 502(a) (1), 88 Stat. 559, 560.

## PART B—APPROPRIATIONS AND EVALUATIONS

### Subpart I—Appropriations

#### ADVANCE FUNDING

SEC. 411. To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under such program will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(20 U.S.C. 1223) Enacted Jan. 2, 1968, P.L. 90-247, Title IV, sec. 403, 81 Stat. 814; amended April 13, 1970, P.L. 92-230, Title IV, sec. 401(a) (4), 84 Stat. 165; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; redesignated, August 21, 1974, P.L. 93-380, sec. 506(a) (1) (C), 88 Stat. 562.

#### AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL YEAR BASIS

SEC. 412. (a) Appropriations for any fiscal year for grants, loans, contracts, or other payments to educational agencies or institutions under any applicable program may, in accordance with regulations of the Secretary, be made available for expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from

appropriations to carry out any programs to which this title is applicable during any fiscal year, ending prior to July 1, 1978, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year of which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(c) If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 3679(d)(2) of the Revised Statutes and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.

(20 U.S.C. 1225) Enacted Jan. 2, 1968, P.L. 90-247, Title I, sec. 405 81 Stat. 815; amended April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (5), (7), (8), 84 Stat. 165; renumbered June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 326, redesignated and amended, August 21, 1974, P.L. 93-380, sec. 506(a)(1), 88 Stat. 562, 563.

#### AVAILABILITY OF APPROPRIATIONS

SEC. 413. Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this title, funds appropriated for any fiscal year to carry out any of the programs to which this title is applicable shall remain available for obligation and expenditure until the end of such fiscal year.

(20 U.S.C. 1226) Enacted Oct. 16, 1968, P.L. 90-576, Title III, sec. 301(b), 82 Stat. 1094; amended April 13, 1970, P.L. 91-230, Title IV, sec. 401(a)(9), 84 Stat. 166; renumbered June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 326; amended August 21, 1974, P.L. 93-380, sec. 506(a)(2), 88 Stat. 563.

#### CONTINGENT EXTENSION OF PROGRAMS

SEC. 414. (a) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

(1) of the authorization of appropriations for an applicable program; or

(2) of the duration of an applicable program;

either—

(A) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program;

such authorization or duration is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

(b)(1) For the purposes of clause (A) of subsection (a), the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(2) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determina-

tions which are necessary for the continuation of an applicable program, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of subsection (a) which follows clause (B) thereof is in operation.

(20 U.S.C. 1226a) Enacted August 21, 1974, P.L. 93-380, Sec. 506(a) (2), 88 Stat. 563.

## Subpart 2—Planning and Evaluation of Federal Education Activities

### PROGRAM PLANNING EVALUATION

SEC. 416. Sums appropriated pursuant to section 400(d) may include for any fiscal year for which appropriations are otherwise authorized under any applicable program not to exceed \$25,000,000 which shall be available to the Secretary, in accordance with regulations prescribed by him, for expenses, including grants, contracts, or other payments, for (1) planning for the succeeding year for any such program, and (2) evaluation of such programs.

(20 U.S.C. 1226b) Enacted August 21, 1974, P.L. 93-380, sec. 506(a) (3) (C), 88 Stat. 563, 564.

### ANNUAL EVALUATION REPORTS

SEC. 417. (a) (1) Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes. In the case of any evaluation report evaluating specific programs and projects, such report shall—

(A) set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted under the applicable program concerned and relate those goals and objectives to the purposes of such program;

(B) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

(C) describe the cost and benefits of the applicable program being evaluated during the previous fiscal year and identify which sectors of the public receive the benefits of such program and bear the costs of such program;

(D) contain plans for implementing corrective action and recommendations for new or amended legislation where warranted;

(E) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations in the report; and

(F) be prepared in concise summary form with necessary detailed data and appendices.

(2) In the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report under this subsection shall include a survey of how many of the children counted under section 103(c) of such Act participate in such

programs and projects, and how many of such children do not, and a survey of how many educationally disadvantaged children participate in such programs and projects, and how many educationally disadvantaged children do not. For purposes of the preceding sentence, the term 'educationally disadvantaged children' refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children.

(b) Each evaluation report submitted pursuant to subsection (a) shall contain: (1) a brief description of each contract or grant for evaluation of any program (whether or not such contract or grant was made under section 416) any part of the performance of which occurred during the preceding year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

(20 U.S.C. 1226c) Enacted August 21, 1974, P.L. 93-380, sec. 506(a) (3) (C), 88 Stat. 564.

#### RENEWAL EVALUATION REPORTS

SEC. 418. (a) In the case of any applicable program for which—

- (1) the authorization of appropriations expires; or
- (2) the time during which payments or grants are to be made expires;

not later than one year prior to the date of such expiration, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a comprehensive evaluation report on such program.

(b) Any comprehensive evaluation report submitted pursuant to subsection (a) shall contain—

- (1) a history of the program concerned, including—

- (A) a history of authorizations of appropriations, budget requests, appropriations, and expenditures for such programs;

- (B) a history of legislative recommendations with respect to such program made by the President and the disposition of such recommendations, and

- (C) a history of legislative changes made in applicable statutes with respect to such program;

- (2) assuming a continuation of such program, recommendations for improvements (including legislative changes and funding levels) in such program with a view toward achieving the legislative purposes of such program;

- (3) a compilation and summary of all evaluations of such program; and

- (4) a recommendation with respect to whether such program should be continued, and the date of its expiration, and the reasons for such recommendations."

(20 U.S.C. 1226d) Enacted August 21, 1974, P.L. 93-380, sec. 506(a) (3) (C), 88 Stat. 564, 565.



## EVALUATION BY THE COMPTROLLER GENERAL

SEC. 419. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

(b) In carrying out his responsibilities as provided in subsection (a), the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

(c) In addition to the sums authorized to be appropriated under section 400(d), there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(20 U.S.C. 1227) Enacted June 23, 1972, P.L. 92-318, sec. 304, Stat. 333.

## PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act.

(20 U.S.C. 1228) Enacted August 21, 1974, P.L. 93-380, sec. 252, 88 Stat. 519.

PART C—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING THE  
OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS; GENERAL  
AUTHORITY OF THE COMMISSIONER OF EDUCATION

APPLICABILITY

SEC. 421. The provisions of this part shall apply to any program for which the Commissioner has administrative responsibility, as specified by law or by delegation of authority pursuant to law.

(20 U.S.C. 1230) Enacted August 21, 1974, P.L. 93-380, sec. 507(a), 88 Stat. 565.

SUBPART 1—GENERAL AUTHORITY

ADMINISTRATION OF EDUCATION PROGRAMS

SEC. 421A (a) The Commissioner is authorized to delegate any of his functions under any applicable program, except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) (1) (A)<sup>1</sup> Except in the case of a law which—

(i) authorizes appropriations for carrying out, or controls the administration of, an applicable program, or

(ii) is enacted in express limitation of the provisions of this paragraph,

no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program. Where the provisions of law governing the administration of an applicable program permit the packaging or consolidation of applications for grants or contracts to attain simplicity or effectiveness of administration, nothing in this subparagraph shall be deemed to interfere with such packaging or consolidation.

(B) No provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an applicable program shall be construed to authorize the consolidation of any such program with any other program unless provision for such a consolidation is expressly made thereby.

(C) For the purposes of this subsection, the term “consolidation” means any agreement, arrangement, or the other procedure which results in—

(i) the commingling of funds derived from one appropriation with those derived from another appropriation,

<sup>1</sup> Section 302(c) of P.L. 92-318 provides as follows:

(c) The provisions of section 421(c) of the General Education Provisions Act shall be effective upon the date of enactment of this Act. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act.

(ii) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation,

(iii) the use of practices or procedures which have the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations according to any criteria other than those for which provision is made (either expressly or implicitly) in the law which authorizes the appropriation of such funds, or this title, or

(iv) as a matter of policy the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

(2) (A) No requirement or condition imposed by a law authorizing appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless such a waiver or modification is expressly authorized by such law or by a provision of this title or by a law expressly limiting the applicability of this paragraph.

(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

(3) No person holding office in the executive branch of the Government shall exercise any authority which would authorize or effect any activity prohibited by paragraph (1) or (2).

(4) The transfer of any responsibility, authority, power, duty, or obligation subject to this title, from the Commissioner to any other officer in the executive branch of the Government, shall not affect the applicability of this title with respect to any applicable program.

(20 U.S.C. 1231) Enacted April 13, 1970, P.L. 91-230, sec. 401(a)(10), 84 Stat. 166; renumbered June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 321; subsection (c) added June 23, 1972, P.L. 92-318, sec. 302(a), 86 Stat. 332, 333; heading of sec. 421 redesignated June 23, 1972, P.L. 92-318, sec. 302(b), 86 Stat. 333; redesignated August 21, 1974, P.L. 93-380, sec. 507(a), 88 Stat. 565.

#### COLLECTION AND DISSEMINATION OF INFORMATION

SEC. 422. (a) The Commissioner shall—

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

(2) inform the public on federally supported education programs;

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; and

(4) prepare and publish an annual report (to be referred to as "the Commissioner's annual report") on (A) the condition of education in the nation, (B) developments in the administration, utilization, and impact of applicable programs, (C) results of investigations and activities by the Office of Education, and (D) such facts and recommendations as will serve the purpose for which the Office of Education is established (as set forth in section 403 of this Act).

(b) The Commissioner's annual report shall be submitted to the Congress not later than March 31 of each calendar year. The Commissioner's annual report shall be made available to State and local educational agencies and other appropriate agencies and institutions and to the general public.

(c) The Commissioner is authorized to enter into contracts with public or private agencies, organizations, groups, or individuals to carry out the provisions of this section.

(20 U.S.C. 1231a) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 166; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; amended June 23, 1972, P.L. 92-318, sec. 301(b) (2) (B), 86 Stat. 332.

#### CATALOG OF FEDERAL EDUCATION ASSISTANCE PROGRAMS

SEC. 423. The Commissioner shall prepare and make available in such form as he deems appropriate a catalog of all Federal education assistance programs whether or not such programs are administered by him. The catalog shall—

(1) identify each such program, and include the name of the program, the authorizing statute, the specific Federal administering officials, and a brief description of such program;

(2) set forth the availability of benefits and eligibility restrictions in each such program;

(3) set forth the budget requests for each such program, past appropriations, obligations incurred, and pertinent financial information indicating (A) the size of each such program for selected fiscal years, and (B) any funds remaining available;

(4) set forth the prerequisites, including the cost to the recipient of receiving assistance under each such program, and any duties required of the recipient after receiving benefits;

(5) identify appropriate officials, in Washington, District of Columbia, as well as in each State and locality (if applicable), to whom application or reference for information for each such program may be made;

(6) set forth the application procedures;

(7) contain a detailed index designed to assist the potential beneficiary in identifying all education assistance programs related to a particular need or category of potential beneficiaries;

(8) contain such other program information and data as the Commissioner deems necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal education assistance program; and

(9) be transmitted to Congress with the Commissioner's annual report.

(20 U.S.C. 1231b) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 167; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

## COMPILATION OF ASSISTED INNOVATIVE PROJECTS

SEC. 424. The Assistant Secretary shall publish annually a compilation of all innovative projects assisted under programs administered in the Education Division, including title III and part C of title IV of the Elementary and Secondary Education Act of 1965, in any year funds are used to carry out such programs. Such compilation shall be indexed according to subject, descriptive terms, and locations.

(20 U.S.C. 1231b-1) Enacted August 21, 1974, P.L. 93-380, sec. 508(a), 88 Stat. 565, 566.

## REVIEW OF APPLICATIONS

SEC. 425. (a) In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law; rules, regulations, or guidelines governing the applicable program, in (1) disappearing or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, or (3) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines, governing such applicable program it shall rescind such final action.

(b) Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under such subsection (a) may appeal such action to the Commissioner. An appeal under this subsection may be taken only if notice of such appeal is filed with the Commissioner within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a). If, on such appeal, the Commissioner determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Commissioner may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Commissioner under subsection (b), the Commissioner shall forthwith terminate all assistance to the State educational agency under the applicable program affected.

(20 U.S.C. 1231b-2) Enacted August 21, 1974, P.L. 93-380, sec. 508(a), 88 Stat. 566.

#### TECHNICAL ASSISTANCE

SEC. 426. (a) For the purpose of carrying out more effectively Federal education programs, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) The Commissioner shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

(20 U.S.C. 1231c) Enacted April 13, 1970 P.L. 91-230, Title IV sec. 401(a) (10), 84 Stat. 167; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326, redesignated August 21, 1974, P.L. 93-380, sec. 508(a), 88 Stat. 565.

#### PARENTAL INVOLVEMENT AND DISSEMINATION

SEC. 427. In the case of any applicable program in which the Commissioner determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, he shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with,

and with the involvement of parents of, the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(20 U.S.C. 1231d) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 168; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; redesignated August 21, 1974, P.L. 93-380, sec. 508(a), 88 Stat. 565.

#### USE OF FUNDS WITHHELD FOR FAILURE TO COMPLY WITH OTHER PROVISIONS OF FEDERAL LAW

SEC. 428. At any time that the Commissioner establishes an entitlement, or makes an allotment or reallocation to any State, under any applicable program, he shall reduce such entitlement, allotment, or reallocation by such amount as he determines it would have been reduced, had the data on which the entitlement, allotment, or reallocation is based excluded all data relating to local educational agencies of the State which on the date of the Commissioner's action are ineligible to receive the Federal financial assistance involved because of a failure to comply with title VI of the Civil Rights Act of 1964. Any appropriated funds which will not be paid to a State as a result of the preceding sentence may be used by the Commissioner for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964.

(20 U.S.C. 1231e) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 168; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; redesignated August 21, 1974, P.L. 93-380, sec. 508(a), 88 Stat. 565.

#### AUTHORIZATION TO FURNISH INFORMATION

SEC. 429. The Commissioner is authorized to transfer transcripts or copies of other records of the Office of Education to State and local officials, public and private organizations, and individuals.

(20 U.S.C. 1231f) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 168; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; amended August 21, 1974, P.L. 93-380, sec. 501(b), 88 Stat. 558; redesignated August 21, 1974, P.L. 93-380, sec. 508(a), 88 Stat. 565.

### SUBPART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

#### RULES: REQUIREMENTS AND ENFORCEMENT

SEC. 431. (a) Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(b) (1) No standard, rule, regulation, or requirement of general applicability prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

(2) (A) During the thirty-day period prior to the date upon which such standard, rule, regulation, or general requirement is to be effective, the Commissioner shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If neither committee disagrees with the determination of the Commissioner within 10 days after such notice, the Commissioner may waive such requirement with respect to such regulation.

(c) All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

(d) (1) Concurrently with the publication in the Federal Register of any standard, rule, regulation, or requirement of general applicability as required in subsection (b) of this section, such standard, rule, regulation, or requirement shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such standard, rule, regulation, or requirement shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the standard, rule, regulation, or requirement is inconsistent with the Act from which it derives its authority, and disapprove such standard, rule, regulation, or requirement.

(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Public Welfare of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the appropriate department or agency head a formal statement of objection to the proposed standard, rule, regulation, or requirement. Such letter shall suspend the effective date of the stand-



ard, rule, regulation, or requirement until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the standard, rule, regulation, or requirement go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

(e) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the agency which issued such standard, rule, regulation, or requirement may thereafter issue a modified standard, rule, regulation, or requirement to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the proposed standard, rule, regulation, or requirement of general applicability earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

(f) For the purposes of subsections (d) and (e) of this section, activities under sections 404, 405, and 406 of this title, and under title IX of the Education Amendments of 1972 shall be deemed to be applicable programs.

(g) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a schedule in accordance with which the Commissioner has planned to promulgate rules, regulations, and guidelines implementing such Act or part of such Act. Such schedule shall provide that all such rules, regulations, and guidelines shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such rules, regulations, and guidelines shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforeseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such findings and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such rules, regulations, and guidelines shall be promulgated in accordance with such new schedule.

(20 U.S.C. 1232) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 169; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326, amended August 21, 1974, P.L. 93-380, sec. 509(a), 88 Stat. 566, 568.

#### PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 432. No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; the Emer-

gency School Aid Act; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(20 U.S.C. 1232a) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 169; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; amended June 23, 1972, P.L. 92-318, sec. 717(b), 86 Stat. 369.

#### LABOR STANDARDS

SEC. 433. Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laboreres and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(20 U.S.C. 1232b) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 169; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

#### ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS

SEC. 434. (a) (1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of five years after the completion of the project or undertaking to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, sub-

contracts, loans, or other arrangements to which reference is made in paragraph (1).

(b)(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. Such general application shall (i) provide for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provide assurances—

(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the States under any applicable program;

(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (B).

(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall—

(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

(ii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

(iii) comply in all other respects with the specific requirements of the appropriate applicable statutes.

(2) In accordance with determinations and regulations of the Commissioner, the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans in applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such

manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

(C) provide for making such reports as the Commissioner may require to carry out his functions.

(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d) (1) If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1) of subsection (c), that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

(2) (A) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commissioner's action, such State may, within sixty days 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 such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of title 28, United States Code.

(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modi-

fied findings of fact shall likewise be conclusive if supported by substantial evidence.

(C) The court shall have jurisdiction to affirm the action of the Commissioner 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.

(e) For the purposes of this section, the term "application" includes—

- (1) an application for a grant;
- (2) an offer to make a contract;
- (3) a State plan for the administration of an applicable program;
- (4) State assurances with respect to the administration of such a program; and
- (5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds.

(20 U.S.C. 1232c) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a)(10), 84 Stat. 169; renumbered June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 326; subsection (b) added June 23, 1972, P.L. 92-318, sec. 501, 86 Stat. 345; amended August 21, 1974, P.L. 93-380, sec. 510, 88 Stat. 568, 571.

#### PAYMENTS

SEC. 435. Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(20 U.S.C. 1232d) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a)(10), 84 Stat. 170; renumbered June 23, 1972, P.L. 92-318, sec. 301(a)(1), 86 Stat. 326.

#### AUTHORITY TO VEST TITLE TO EQUIPMENT

SEC. 436. The authority of the Commissioner of Education to make a grant to or contract with a local educational agency or State educational agency as such agencies are defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, under any applicable program, shall include discretionary authority, whenever he determines that it would be in the public interest, to vest title to equipment purchased with grant or contract funds in such agency (or waive accountability to the United States for such equipment) without further obligation to the Government or on such terms or conditions as the Commissioner deems appropriate. The authority provided by this section shall be applicable to equipment purchased with funds provided by grants or contracts made on, before, or after the date of the enactment of this section.

(20 U.S.C. 1232e) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a)(10), 84 Stat. 170; renumbered June 23, 1972, P. L. 92-318, sec. 301(a)(1), 86 Stat. 326.

## RESPONSIBILITY OF STATES TO FURNISH INFORMATION

SEC. 437. (a) The Commissioner shall require that each State submit to him, within sixty days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall—

(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets for the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) with respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) On or before October 15 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom.

(20 U.S.C. 1232f) Enacted August 21, 1974, P.L. 93-380, sec. 512(a), 88 Stat. 571.

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS<sup>1</sup>

SEC. 438. (a) (1) (A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the educational records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

<sup>1</sup> This section may be cited as the "Family Educational Rights and Privacy Act of 1974".

(B) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

- (i) financial records of the parents of the student or any information contained therein;
- (ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;
- (iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations—

- (I) respecting admission to any educational agency or institution.
- (II) respecting an application for employment, and
- (III) respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (B), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purposes for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's educational records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4) (A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials, which—

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution, or by a person acting for such agency or institution.

(B) The term "education records" does not include—

- (i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) if the personnel of a law enforcement unit do not have access to education records under subsection (b) (1), the records and documents of such law enforcement unit which (I), are kept apart from records described in subparagraph (A); (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5) (A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(b) (1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if



desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section 408(c), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of the Internal Revenue Code of 1954; and

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection.

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education program, or in connection with the enforcement of the Federal legal requirements which

relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4) (A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1) (A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of post-secondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of post-secondary education, of the rights accorded them by this section.

(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for

the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(20 U.S.C. 1232g) Enacted August 21, 1974, P.L. 93-380, sec. 513(a), 88 Stat. 571, 574; amended December 31, 1974, P.L. 93-568, sec. 2, 88 stat. 1858, 1860.

#### PROTECTION OF PUPIL RIGHTS

SEC. 439. All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

(20 U.S.C. 1232h) Enacted August 21, 1974, P.L. 93-380, sec. 514(a), 88 Stat. 574.

#### LIMITATION ON WITHHOLDING OF FEDERAL FUNDS

SEC. 440. Except as provided in section 438(b) (1) (D) of this Act, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a pre-school program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(20 U.S.C. 1232i) Enacted August 21, 1974, P.L. 93-380, sec. 515(a), 88 Stat. 574.

### PART D—ADVISORY COUNCILS

#### DEFINITIONS

SEC. 441. As used in this part, the term—

(1) "advisory council" means any committee, board, commission, council, or other similar group (A) established or organized pursuant to any applicable statute, or (B) established under the authority of section 442; but such term does not include State advisory councils or commissions established pursuant to any such statute;

(2) "statutory advisory council" means an advisory council established by, or pursuant to, statute to advise and make recom-

mendations with respect to the administration or improvement of an applicable program or other related matter;

(3) "nonstatutory advisory council" means an advisory council which is (A) established under the authority of section 442, or (B) established to advise and make recommendations with respect to the approval of applications for grants or contracts as required by statute;

(4) "Presidential advisory council" means a statutory advisory council, the members of which are appointed by the President;

(5) "Secretarial advisory council" means a statutory advisory council, the members of which are appointed by the Secretary;

(6) "Commissioner's advisory council" means a statutory advisory council, the members of which are appointed by the Commissioner;

(7) "applicable statute" means any statute (or title, part, or section thereof) which authorizes an applicable program or controls the administration of any such program.

(20 U.S.C. 1233) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 170; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

#### AUTHORIZATION FOR NECESSARY ADVISORY COUNCILS

SEC. 442. (a) The Commissioner is authorized to create, and appoint the members of, such advisory councils as he determines in writing to be necessary to advise him with respect to—

(1) the organization of the Office of Education and its conduct in the administration of applicable programs;

(2) recommendations for legislation regarding education programs and the means by which the educational needs of the Nation may be met; and

(3) special problems and areas of special interest in education.

(b) Each advisory council created under the authority of subsection (a) shall terminate not later than one year from the date of its creation unless the Commissioner determines in writing not more than thirty days prior to the expiration of such one year that its existence for an additional period, not to exceed one year, is necessary in order to complete the recommendations or reports for which it was created.

(c) The Commissioner shall include in his report submitted pursuant to section 448 a statement on all advisory councils created or extended under the authority of this section and their activities.

(20 U.S.C. 1233a) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 171; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

#### MEMBERSHIP AND REPORTS OF STATUTORY ADVISORY COUNCILS

SEC. 443. (a) Notwithstanding any other provision of law unless expressly in limitation of the provisions of this section, each statutory advisory council—

(1) shall be composed of the number of members provided by statute who may be appointed, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and shall serve for terms of not to exceed three

years, which in the case of initial members, shall be staggered; and

(2) shall make an annual report of its activities, findings and recommendations to the Congress not later than March 31 of each calendar year, which shall be submitted with the Commissioner's annual report.

The Commissioner shall not serve as a member of any such advisory council.

(b) Where the President fails to appoint a member to fill a vacancy in the membership of a Presidential advisory council within sixty days after it occurs (or after the effective date of the statute creating such council), then the Secretary shall immediately appoint a member to fill such vacancy.

(20 U.S.C 1233b) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 171; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; amended August 21, 1974, P.L. 93-380, sec. 516(a), 88 Stat. 575.

#### COMPENSATION OF MEMBERS OF ADVISORY COUNCILS

SEC. 444. Members of all advisory councils to which this part is applicable who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the advisory council or otherwise engaged in the business of the advisory council, be entitled to receive compensation at a rate fixed by the Commissioner, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the advisory council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(20 U.S.C. 1233c) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 171; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

#### PROFESSIONAL, TECHNICAL, AND CLERICAL STAFF; TECHNICAL ASSISTANCE

SEC. 445. (a) Presidential advisory councils are authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions, as prescribed by law.

(b) The Assistant Secretary shall engage such personnel and technical assistance as may be required to permit Secretarial and Assistant Secretary's advisory councils to carry out their function as prescribed by law.

(c) Subject to regulations of the Assistant Secretary, Presidential advisory councils are authorized to procure temporary and intermittent services of such personnel as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title.

(d) No employee of an advisory council, appointed and compensated pursuant to this section, shall be compensated at a rate in excess of that which such employee would receive if such employee were appointed subject to the appropriate provisions of title 5, United States Code, regarding appointments to, and compensation with respect to, the competitive service, except that—

(1) executive directors of Presidential advisory councils shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of such title 5;

(2) executive directors of all other statutory advisory councils shall be compensated at the rate provided for employees in grade 15 of such General Schedule; and

(3) in accordance with regulations promulgated by the Assistant Secretary, other employees of advisory councils shall be compensated at such rates as may be necessary to enable such advisory councils to accomplish their purposes.

(20 U.S.C. 1233d) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 171; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; amended August 21, 1974, P.L. 93-380, sec. 517(a), 88 Stat. 575.

#### MEETINGS OF ADVISORY COUNCILS

SEC. 446. (a) Each statutory advisory council shall meet at the call of the chairman thereof but not less than two times each year. Nonstatutory advisory councils shall meet in accordance with regulations promulgated by the Commissioner.

(b) Minutes of each meeting of each advisory council shall be kept and shall contain a record of the persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory council. The accuracy of all minutes shall be certified to by the chairman of the advisory council.

(20 U.S.C. 1233e) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 172; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

#### AUDITING AND REVIEW OF ADVISORY COUNCIL ACTIVITIES

SEC. 447. (a) Each statutory advisory council shall be subject to such general regulations as the Commissioner may promulgate respecting the governance of statutory advisory councils and shall keep such records of its activities as will fully disclose the disposition of any funds which may be at its disposal and the nature and extent of its activities in carrying out its functions.

(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of each advisory council which is subject to the operation of this part.

(20 U.S.C. 1233f) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 172; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326; amended August 21, 1974, P.L. 93-380, sec. 517(b), 88 Stat. 575.

## REPORT BY THE COMMISSIONER OF EDUCATION

SEC. 448. (a) Not later than March 31 of each calendar year after 1970, the Commissioner shall submit, as a part of the Commissioner's annual report, a report on the activities of the advisory councils which are subject to this part to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and affiliations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each such advisory council.

(b) If the Commissioner determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined. Unless there is an objection to such action by either the Senate or the House of Representatives within ninety days after the submission of such report, the Commissioner is authorized to abolish such advisory council or combine the functions of two or more advisory councils as recommended in such report.

(20 U.S.C. 1233g) Enacted April 13, 1970, P.L. 91-230, Title IV, sec. 401(a) (10), 84 Stat. 172; renumbered June 23, 1972, P.L. 92-318, sec. 301(a) (1), 86 Stat. 326.

## RELATION TO OTHER LAWS

SEC. 449. (a) No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of this part shall apply to any advisory council to which this part applies.

(b) The provisions of subsections (e) and (f) of section 10 of the Federal Advisory Committee Act shall not apply to Presidential advisory councils (as defined in section 441).

(20 U.S.C. 1233h) Enacted August 21, 1974, P.L. 93-380, sec. 518(a), 88 Stat. 575.

## CIVIL RIGHTS ACT OF 1964

(P.L. 88-352)

## TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

## DEFINITIONS

SEC. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, sex, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary

school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

#### SURVEY AND REPORT OF EDUCATIONAL OPPORTUNITIES

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

#### TECHNICAL ASSISTANCE

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

#### TRAINING INSTITUTES

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

#### GRANTS

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

- (1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and
- (2) employing specialists to advise in problems incident to desegregation.



(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

#### PAYMENTS

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

#### SUITS BY THE ATTORNEY GENERAL

SEC. 407. (a) Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, sex, or national origin

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or

organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

SEC. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, sex, or national origin.

(42 U.S.C. 2000c-2000c-9) Enacted July 2, 1964, P.L. 88-352, Title IV, 78 Stat. 246; amended June 23, 1972, P.L. 92-318, sec. 906(a), 86 Stat. 375.

## CIVIL RIGHTS ACT OF 1964

(P.L. 88-352)

### TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

SEC. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

SEC. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(42 U.S.C. 2000d-2000d-4) Enacted July 2, 1964, P.L. 88-352, Title VI, 78 Stat. 252.

## EDUCATION AMENDMENTS OF 1972

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### TITLE VIII—GENERAL PROVISIONS RELATING TO THE ASSIGNMENT OR TRANSPORTATION OF STUDENTS<sup>1</sup>

#### PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

SEC. 801. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(20 U.S.C. 1651) Enacted June 23, 1972, P.L. 92-318, sec. 801, 86 Stat. 371.

#### PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 802(a). No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or

<sup>1</sup> Title VIII of P.L. 92-318.

for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) An applicable program means a program to which the General Education Provisions Act applies.

(20 U.S.C. 1652) Enacted June 23, 1972, P.L. 92-318, sec. 802, 86 Stat. 371, 372.

#### PROVISION RELATING TO COURT APPEALS

SEC. 803. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transport of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are

taken, until the time for such appeals has expired. This section shall expire at midnight on January 1, 1974.

(20 U.S.C. 1653) Enacted June 23, 1972, P.L. 92-318, sec. 803, 86 Stat. 372.

#### PROVISION AUTHORIZING INTERVENTION IN COURT ORDERS

SEC. 804. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(20 U.S.C. 1654) Enacted June 23, 1972, P.L. 92-318, sec. 804, 86 Stat. 372.

#### PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 805. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(20 U.S.C. 1655) Enacted June 23, 1972, P.L. 92-318, sec. 805, 86 Stat. 372.

#### APPLICATION OF PROVISIO OF SECTION 407 (a) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 806. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(20 U.S.C. 1656) Enacted June 23, 1972, P.L. 92-318, sec. 806, 86 Stat. 373.

### TITLE IX—PROHIBITION OF SEX DISCRIMINATION <sup>1</sup>

#### SEX DISCRIMINATION PROHIBITED

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

<sup>1</sup> Title IX of P.L. 92-318.

(2) in regard to admissions to educational institutions, this section shall not apply (A) for one year from the date of enactment of this Act, nor for six years after such date in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education, whichever is the later;

(3) this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

(4) this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine; and

(5) in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(20 U.S.C. 1681) Enacted June 23, 1972, P.L. 92-318, sec. 901, 86 Stat. 373, 374.

#### FEDERAL ADMINISTRATIVE ENFORCEMENT

SEC. 902. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program of activity, by way of grant, loan, or contract other than a contract of

insurance or guaranty, is authorized and directed to effectuate the provisions of section 901 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(20 U.S.C. 1682) Enacted June 23, 1972, P.L. 92-318, sec. 902, 86 Stat. 374.

#### JUDICIAL REVIEW

SEC. 903. Any department or agency action taken pursuant to section 1002<sup>1</sup> shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 902, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

(20 U.S.C. 1683) Enacted June 23, 1972, P.L. 92-318, sec. 903, 86 Stat. 374, 375.

#### PROHIBITION AGAINST DISCRIMINATION AGAINST THE BLIND

SEC. 904. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any

<sup>1</sup> Apparent error; should be 902.

educational program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

(20 U.S.C. 1684) Enacted June 23, 1972, P.L. 92-318, sec. 904, 86 Stat. 375.

#### EFFECT ON OTHER LAWS

SEC. 905 Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(20 U.S.C. 1685) Enacted June 23, 1972, P.L. 92-318, sec. 905, 86 Stat. 375.

(SEC. 906 makes conforming amendments to other provisions of law.)

#### INTERPRETATION WITH RESPECT TO LIVING FACILITIES

SEC. 907. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

(20 U.S.C. 1686) Enacted June 23, 1972, P.L. 92-318, sec. 907, 86 Stat. 375.

### ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966

(P.L. 89-750)

AN ACT To strengthen and improve programs of assistance for elementary and secondary schools, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Elementary and Secondary Education Amendments of 1966".

#### TITLE I—AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

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#### PART H—RACIAL IMBALANCE AND COMPLIANCE WITH CIVIL RIGHTS ACT OF 1964

\* \* \* \* \*

#### COMPLIANCE WITH CIVIL RIGHTS ACT OF 1964

SEC. 182. The Commissioner of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be appropriated by this Act, by the Elementary and Secondary Education Act of 1965, by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), or by



the Cooperative Research Act, on the basis of alleged noncompliance with the provisions of title VI of the Civil Rights Act of 1964 for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 602 of title VI of the Civil Rights Act of 1964, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Commissioner, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of title VI of the Civil Rights Act of 1964: *Provided*, That, for the purpose of determining whether a local educational agency is in compliance with title VI of the Civil Rights Act of 1964 (Public Law 88-352), compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with such title VI, insofar as the matters covered in the order or judgment are concerned.

(42 U.S.C. 2000d-5) Enacted Nov. 3, 1966, P.L. 89-750, 80 Stat. 1209; amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 112, 81 Stat. 1787.

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## ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

(P.L. 91-230)

AN ACT To extend programs of assistance for elementary and secondary education and for other purposes

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

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 2. (a) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by title VI of the Civil Rights Act of 1964.

(d) It is the sense of the Congress that the Department of Justice and the Department of Health, Education, and Welfare should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

Enacted April 13, 1970, P.L. 91-230, sec. 2, 84 Stat. 121.

TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES AND  
THE TRANSPORTATION OF STUDENTS<sup>1</sup>

SHORT TITLE

SEC. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".

PART A—EQUAL EDUCATIONAL OPPORTUNITIES

Subpart 1—Policy and Purpose

DECLARATION OF POLICY

SEC. 202. (a) The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this part to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

(20 U.S.C. 1701) Enacted August 21, 1974, P.L. 93-380, sec. 202, 88 Stat. 514.

FINDINGS

SEC. 203. (a) The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amount of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried

<sup>1</sup> Title II of P.L. 93-380.

out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, "incomplete and imperfect," and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this title are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

(20 U.S.C. 1702) Enacted August 21, 1974, P.L. 93-380, sec. 203, 88 Stat. 514, 515.

### Subpart 2—Unlawful Practices

#### DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY PROHIBITED

SEC. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with subpart 4 of this title, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

(20 U.S.C. 1703) Enacted August 21, 1974, P.L. 93-380, sec. 204, 88 Stat. 515.

#### BALANCE NOT REQUIRED

SEC. 205. The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

(20 U.S.C. 1704) Enacted August 21, 1974, P.L. 93-380, sec. 205, 88 Stat. 515.

#### ASSIGNMENT ON NEIGHBORHOOD BASIS NOT A DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

SEC. 206. Subject to the other provisions of this part, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

(20 U.S.C. 1705) Enacted August 21, 1974, P.L. 93-380, sec. 206, 88 Stat. 515, 516.

### Subpart 3—Enforcement

#### CIVIL ACTIONS

SEC. 207. An individual denied an equal educational opportunity, as defined by this part may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this title referred to as the "Attorney General"), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

(20 U.S.C. 1706) Enacted August 21, 1974, P.L. 93-380, sec. 207, 88 Stat. 516.

#### EFFECT OF CERTAIN POPULATION CHANGES ON CERTAIN ACTIONS

SEC. 208. When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

(20 U.S.C. 1707) Enacted August 21, 1974, P.L. 93-380, sec. 208, 88 Stat. 516.

## JURISDICTION OF DISTRICT COURTS

SEC. 209. The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 207.

(20 U.S.C. 1708) Enacted August 21, 1974, P.L. 93-380, sec. 209, 88 Stat. 516.

## INTERVENTION BY ATTORNEY GENERAL

SEC. 210. Whenever a civil action is instituted under section 207 by an individual, the Attorney General may intervene in such action upon timely application.

(20 U.S.C. 1709) Enacted August 21, 1974, P.L. 93-380, sec. 210, 88 Stat. 516.

## SUITS BY THE ATTORNEY GENERAL

SEC. 211. The Attorney General shall not institute a civil action under section 207 before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of subpart 2 of this part; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

(20 U.S.C. 1710) Enacted August 21, 1974, P.L. 93-380, sec. 211, 88 Stat. 516.

## Subpart 4—Remedies

## FORMULATING REMEDIES; APPLICABILITY

SEC. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

(20 U.S.C. 1712) Enacted August 21, 1974, P.L. 93-380, sec. 213, 88 Stat. 516.

## PRIORITY OF REMEDIES

SEC. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 215;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 215 and 216 of this part.

(20 U.S.C. 1713) Enacted August 21, 1974, P.L. 93-380, sec. 214. 88 Stat. 517.

#### TRANSPORTATION OF STUDENTS

SEC. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

(20 U.S.C. 1714) enacted August 21, 1974, P.L. 93-380, sec. 215, 88 Stat. 517.

#### DISTRICT LINES

SEC. 216. In the formulation of remedies under section 213 or 214 of this part the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where

it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

(20 U.S.C. 1715) Enacted August 21, 1974, P.L. 93-380, sec. 216, 88 Stat. 518.

#### VOLUNTARY ADOPTION OF REMEDIES

SEC. 217. Nothing in this part prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this part nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this part, if such plan is voluntarily proposed by the appropriate educational agency.

(20 U.S.C. 1716) Enacted August 21, 1974, P.L. 93-380, sec. 217, 88 Stat. 518.

#### REOPENING PROCEEDINGS

SEC. 218. A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 in effect on the date of the enactment of this part and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(20 U.S.C. 1717) Enacted August 21, 1974, P.L. 93-380, sec. 218, 88 Stat. 518.

#### LIMITATION ON ORDERS

SEC. 219. Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

(20 U.S.C. 1718) Enacted August 21, 1974, P.L. 93-380, sec. 219, 88 Stat. 518.

## Subpart 5—Definitions

SEC. 221. For the purposes of this part—

(a) The term “educational agency” means a local educational agency or a “State educational agency” as defined by section 801(k) of the Elementary and Secondary Education Act of 1965.

(b) The term “local educational agency” means a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965.

(c) The term “segregation” means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term “desegregation” means desegregation as defined by section 401(b) of the Civil Rights Acts of 1964.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student’s transportation is paid by such agency.

(20 U.S.C. 1720) Enacted August 21, 1974, P.L. 94-380, sec. 221, 88 Stat. 518, 519.

## Subpart 6—Miscellaneous Provisions

## REPEALER

SEC. 222. Section 709(a) (3) of the Emergency School Aid Act is hereby repealed.

## SEPARABILITY OF PROVISIONS

SEC. 223. If any provision of this part or of any amendment made by this part, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this part and the amendments made by this part and the application of such provision to other persons or circumstances shall not be affected thereby.

(20 U.S.C. 1721) Enacted August 21, 1974, P.L. 93-380, sec. 223, 88 Stat. 519.

## PART B—OTHER PROVISIONS RELATING TO THE ASSIGNMENT AND TRANSPORTATION OF STUDENTS

## PROHIBITION AGAINST ASSIGNMENT OR TRANSPORTATION OF STUDENTS TO OVERCOME RACIAL IMBALANCE

SEC. 251. No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(20 U.S.C. 1751) Enacted August 21, 1974, P.L. 93-380, sec. 251, 88 Stat. 519.  
(Sec. 252 is an amendment to sec. 420 of the General Education Provisions Act, 20 U.S.C. 1228).



## PROVISION RELATING TO COURT APPEALS

SEC. 253. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

(20 U.S.C. 1752) Enacted August 21, 1974, P.L. 93-380, sec. 253, 88 Stat. 519, 520.

## PROVISION REQUIRING THAT RULES OF EVIDENCE BE UNIFORM

SEC. 254. The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(20 U.S.C. 1753) Enacted August 21, 1974, P.L. 93-380, sec. 254, 88 Stat. 520.

## APPLICATION OF PROVISIO OF SECTION 407 (a) OF THE CIVIL RIGHTS ACT OF 1964 TO THE ENTIRE UNITED STATES

SEC. 255. The proviso of section 407(a) of the Civil Rights Act of 1964 providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV, under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(20 U.S.C. 1754) Enacted August 21, 1974, P.L. 93-380, sec. 255, 88 Stat. 520.

## ADDITIONAL PRIORITY OF REMEDIES

SEC. 256. Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(20 U.S.C. 1755) Enacted August 21, 1974, P.L. 93-380, sec. 256, 88 Stat. 520.

## REMEDIES WITH RESPECT TO SCHOOL DISTRICT LINES

SEC. 257. In the formulation of remedies under this title the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

(20 U.S.C. 1756) Enacted August 21, 1974, P.L. 93-380, sec. 257, 88 Stat. 520.

## PROHIBITION OF FORCED BUSING DURING SCHOOL YEAR

SEC. 258. (a) The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) For the purpose of this section, the term "academic school year" means, pursuant to regulations promulgated by the Commissioner, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) The provisions of this section apply to any order which was not implemented at the beginning of the 1974-1975 academic year.

(20 U.S.C. 1757) Enacted August 21, 1974, P.L. 93-380, sec. 258, 88 Stat. 520, 521.

## REASONABLE TIME FOR DEVELOPING VOLUNTARY PLAN FOR DESEGREGATING SCHOOLS

SEC. 259. Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

(20 U.S.C. 1758) Enacted August 21, 1974, P.L. 93-380, sec. 259, 88 Stat. 521.

## PART II—ELEMENTARY AND SECONDARY PROGRAMS

### Elementary and Secondary Education Act of 1965

#### TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

##### DECLARATION OF POLICY

SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

(20 U.S.C. 241a) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 27; redesignated and amended January 2, 1968, P.L. 90-247, Title I, secs. 108(a) (2), 110, 81 Stat. 786, 787; amended April 13, 1970, P.L. 91-230, sec. 113(b) (2), 84 Stat. 126.

##### DURATION OF ASSISTANCE

SEC. 102. During the period beginning July 1, 1973, and ending June 30, 1978, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

(20 U.S.C. 241b) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 27; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 101, 80 Stat. 1191; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a) (2), 110, Title III, sec. 301(a), 81 Stat. 786, 787, 813; amended April 13, 1970, P.L. 91-230, secs. 101(a), 113(b) (3), 84 Stat. 121, 126; amended August 21, 1974, P.L. 93-380, sec. 101(a) (1), 88 Stat. 488.

### PART A—BASIC GRANTS <sup>1</sup>

#### Subpart 1—Grants to Local Educational Agencies

##### GRANTS—AMOUNT AND ELIGIBILITY

SEC. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 124), and there shall be authorized to be appro-

<sup>1</sup> Sec. 101(a) (10) of P.L. 93-380 provides as follows:

"(10) There is authorized to be appropriated for each fiscal year a sum not to exceed \$15,700,000 to be allocated at the discretion of the Commissioner to assist those local education agencies whose total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 is 90 per centum or less than such allocation under such part A during the preceding fiscal year."

priated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for Guam, American Samoa, the Virginia Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agent is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

(C) The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection (c):

(1) In any case (except as provided in paragraph (3) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2) (A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) (1) From the amount allotted for payments to the Secretary of the Interior under clause (B) (i) in the second sentence of subsection (a) (1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the

State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B) (ii) in the second sentence of subsection (a) (1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141 (a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141 (a) and 142 (a) (3).

(20 U.S.C. 241c) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 28; amended July 21, 1965, P.L. 89-77, sec. 3, 79 Stat. 243; amended Nov. 1, 1965, P.L. 89-313, sec. 6(a), 79 Stat. 1161; amended Nov. 3, 1966, P.L. 89-750, Title I, secs. 102, 103(a), 104-108, 113(b), 117, 80 Stat. 1191-1198; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 101, 103(a), 104, 105, 107, 108(a), 81 Stat. 783-787; amended Oct. 16, 1968, P.L. 90-576, Title III, sec. 307, 82 Stat. 1097; amended April 13, 1970, P.L. 91-230, secs. 101(b), 103, 104, 105, 106, 107, 113, 84 Stat. 121-124, 126; amended and subsection 103(a)(1)(C) added June 23, 1972, P.L. 92-318, sec. 411(b), 86 Stat. 338; amended August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 488, 491.

## Subpart 2—State Operated Programs

### PROGRAMS FOR HANDICAPPED CHILDREN

SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

(b) Except as provided in sections 124 and 125, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United

NOTE.—Sec. 843(d) of P.L. 93-380 provides as follows:

“(d) Notwithstanding any provision of part A of title I of the Elementary and Secondary Education Act of 1965, the amount which the Commonwealth of Puerto Rico is eligible to receive under subpart 1 of such part A or under sections 121, 122, or 123 for the fiscal year ending June 30, 1975, shall not exceed 50 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection, and for the fiscal years ending June 30, 1976, June 30, 1977, and June 30, 1978, such amount shall not exceed 75 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection.”

States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

(20 U.S.C. 241c-2) Enacted August 21, 1974; P.L. 93-380, sec. 101, 88 Stat. 491, 492.

#### PROGRAMS FOR MIGRATORY CHILDREN

SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate



these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1) (B) and (3) through (12) of section 141(a); and

(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of

the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

(20 U.S.C. 241c-2) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 492, 494.

#### PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

(b) Except as provided in sections 124 and 125, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

(20 U.S.C. 241c-3) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 494.

#### RESERVATION OF FUNDS FOR TERRITORIES

SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of section 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

(20 U.S.C. 241c-4) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 494.

#### MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

SEC. 125. Except as provided in section 843 of the Education Amendments of 1974, no State agency shall receive in any fiscal year prior to July 1, 1978, pursuant to sections 121, 122, or 123 an amount which is less than 100 per centum of the amount which that State agency received in the prior fiscal year pursuant to such section 121, 122, or 123, respectively.

(20 U.S.C. 241c-5) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 495.

### PART B—SPECIAL INCENTIVE GRANTS

#### MAXIMUM ENTITLEMENT

SEC. 126. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of \$1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 103(a), except that no State shall be eligible to receive a special incentive grant under this part, in an amount in excess of 15 per centum of the total amount available for grants under this part.

(20 U.S.C. 241d) Enacted Sept. 30, 1950, c. 1124, Title I, § 121, formerly Title II, § 221, as added and redesignated Jan. 2, 1968, P.L. 90-247, Title I, secs. 108 (a) (5), 110, 81 Stat. 786, 787; amended April 13, 1970, P.L. 91-230, Title I, sec. 113(b) (6), 84 Stat. 126; redesignated August 21, 1974, P.L. 93-380, sec. 101 (a) (3), 85 Stat. 495.

## APPLICATION; USE OF FUNDS

SEC. 127. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirements set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

(20 U.S.C. 241d-1) Enacted Sept. 30, 1950, c. 1124, Title I, § 121, formerly Title II, § 221, as added and redesignated Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a) (5), 110, 81 Stat. 786, 787; amended April 13, 1970, P.L. 91-230, Title I, sec. 113(b) (6), 84 Stat. 126; redesignated August 21, 1974, P.L. 93-380, sec. 101(a) (3), 88 Stat. 495.

## DEFINITIONS

SEC. 128. For the purpose of this part the term "effort index" when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term "national effort index" means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term "State" means the fifty States and the District of Columbia.

(20 U.S.C. 241d-2) Enacted Sept. 30, 1950, c. 1154, Title I, § 121, formerly Title II, § 221, as added and redesignated Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a) (5), 110, 81, Stat. 786, 787; amended April 13, 1970, P.L. 91-230, Title I, sec. 113(b) (6), 84 Stat. 127; redesignated August 21, 1974, P.L. 93-380, sec. 101(a) (3), 88 Stat. 495.

PART C—SPECIAL GRANTS<sup>1</sup>

## ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

SEC. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

(b) (1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

(A) the number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

(B) the number of children so described in such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

<sup>1</sup> Section 101(a) (4) (B) of P.L. 93-380 repeals Part C, effective July 1, 1975.

(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be those children in the such county who are—

(A) in families having an annual income of \$3,000 or less; or

(B) in families receiving an annual income in excess of \$3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

(3) (A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

(B) (i) The number of children determined with respect to one or more counties shall be allocated by the Commissioner, for the purposes of paragraph (2), among the local educational agencies with school districts located in such county or counties.

(ii) In any case where—

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

(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this section.

(C) (i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of \$3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of \$3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

(A) the number of children determined with respect to such agency under subsection (b);  
multiplied by—

(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

(d) Notwithstanding any other provision of this section, no payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate payments to all local educational agencies in that year under this part.

(e) (1) The aggregate of the amount for which all local educational agencies are eligible under this part shall not exceed \$75,000,000 for any fiscal year. If, for any fiscal year, such aggregate, as computed without regard to the preceding sentence, exceeds \$75,000,000, the amount for which each local educational agency is eligible shall be reduced ratably until such aggregate does not exceed such limitation.

(2) For the purpose of making payments under this part there are authorized to be appropriated not in excess of \$75,000,000 for the fiscal year ending June 30, 1975.

(f) For the purposes of this section, the term—

(1) "State" means the fifty States and the District of Columbia; and

(2) "children" includes all children aged 5 through 17, inclusive.

(20 U.S.C. 241 d-11) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 495, 496.

## PART D.—GENERAL PROVISIONS

### APPLICATION

SEC. 141 (a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

(1) that payment under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families (and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency) and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than \$2,500, except that the State educational agency may with respect to any applicant reduce the \$2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational

agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 103 or \$2,000, whichever is greater;

(2) that the local educational agency has provided satisfactory assurance that section 141A will be complied with;

(3) That (A) the total educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and *Provided further*, That each local educational agency receiving funds under this title shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;<sup>1</sup>

(4) In the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 433 of the General Education Provisions Act will be complied with on all such construction projects;

(5) In the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result in a program or project which will be carried out under this title, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of

<sup>1</sup> Sec. 109(b) of Public Law 91-230 reads as follows:

"(b) The amendment made by subsection (a) shall be effective with respect to all applications submitted to State educational agencies after thirty days after the date of enactment of this Act. Nothing in this section shall be construed to authorize the supplanting of State and local funds with Federal funds prior to the effective date of the amendment made by this section."

the programs in meeting the special educational needs of educationally deprived children;

(7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs carried out under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) That the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

(9) In the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

(10) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(11) In the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project);

(12) In the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

(13) That, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 140, where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and



(14) That the local educational agency shall establish an advisory council for the entire school district and shall establish an advisory council for each school of such agency served by a program or project assisted under section 143(a)(2), each of which advisory councils—

(A) has as a majority of its members parents of the children to be served,

(B) is composed of members selected by the parents in each school attendance area,

(C) has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

(D) is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.

(b) It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child.

(c) The State educational agency shall not finally disapprove in whole or in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

(20 U.S.C. 241e) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 30; amended Nov. 3, 1966, P.L. 89-750, Title I, secs. 103(b), 108(b)(1), (2), 110, 111(a)-(e), 80 Stat. 1192, 1195, 1196; redesignated and amended Jan 2, 1968, P.L. 90-247, Title I, secs. 103(b), 106, 108(a)(2), 109, 110, 81 Stat. 783, 784, 786, 787; redesignated and amended April 13, 1970, P.L. 91-230, Title I, secs. 108, 109(a), 110, 111(b), 113(b)(3), (4), (7), 84 Stat. 124-126, 128; amended June 23, 1972, P.L. 92-318, sec. 507(a) and (b), 86 Stat. 352; amended August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 496, 497.

#### PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 141A. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 141, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 141.

(b) (1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 141(a)(2), and shall arrange

for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of paragraph (a) and section 141 (a) (2) shall be waived.

(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

(4) (A) the Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it 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 Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his 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.

(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner 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.

(20 U.S.C. 241e-1) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 497, 498.

#### ASSURANCES FROM STATES

SEC. 142. (a) Any State desiring to participate under this title (except with respect to the program provided for in section 122 relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

(1) that, except as provided in section 143(b), payments under this title will be used only for programs and projects which have been approved by the State educational agency pursuant to section 141(a) and which meet the applicable requirements of that section and of section 121 and that such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon a local educational agency under section 141(a);

(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

(3) that the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 141(a)(6) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

(20 U.S.C. 241f) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 31; amended Nov. 1, 1965, P.L. 89-313, sec. 6(b), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 103(c)(1), 80 Stat. 1193; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787; redesignated and amended April 13, 1970, P.L. 91-230, Title I, secs. 111(a), 113(b)(3), (4), 84 Stat. 125, 126.

#### PAYMENT

SEC. 143. (a) (1) The Commissioner shall, subject to the provisions of section 144, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 141(a) the amount for which such application has been approved ex-

cept that this amount shall not exceed the amount determined for that agency pursuant to section 103.

(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title (including technical assistance for the measurements and evaluations required by section 141(a) (6), except that the total of such payments in any fiscal year shall not exceed—

(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or

(2) \$150,000, or \$25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is the greater.

(c) (1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

(20 U.S.C. 241g) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 32; amended Nov. 1, 1965, P.L. 89-313, sec. 7(a), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, Title I, secs. 103(c) (2), 108(b) (3), 112, 113(a), 80 Stat. 1193, 1195, 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 102, 103(c), 108(a) (2), 110, 81 Stat. 783, 786, 787; redesignated and amended April 13, 1970, P.L. 91-230, Title I, secs. 113(b) (3), (4), (8), 114, 84 Stat. 126, 129, 130.

#### ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

SEC. 144. If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under part A of this title for such year, the allocations to such agencies and allocations under part B shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated, except that entitlements under such part B shall be taken into consideration only to the extent that appropriations for such title I (excluding part C thereof) exceed \$1,396,975,000

for any fiscal year and such entitlements shall not exceed \$50,000,000 in any fiscal year. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. If the aggregate of the amounts to which all States are entitled under such part B exceeds \$50,000,000 the entitlement of each State shall be reduced ratably until such aggregate does not exceed \$50,000,000 in such fiscal year.

In case additional funds become available for making payments under this title or that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 122 must file applications. If the maximum grant a local educational agency or an agency referred to in section 122 would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

(20 U.S.C. 241h) Enacted April 11, 1965, P.L. 89-10, sec. 2, 79 Stat. 33; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 114, 80 Stat. 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 107(b), 110, 81 Stat. 785, 787; redesignated and amended April 13, 1970, P.L. 91-230, Title I, sec. 113(b)(3), (4)(c), and (d), 84 Stat. 126, 129; amended August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 498, 499.

## WITHHOLDINGS

SEC. 146. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 122 or 142(b) the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

(20 U.S.C. 241j) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 33; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 103(c) (3), 80 Stat. 1193; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a) (4), (b), 110, 81 Stat. 786, 787; amended and redesignated April 13, 1970, P.L. 91-230, Title I, sec. 113(b) (4), (9), 84 Stat. 126, 129.

## JUDICIAL REVIEW

SEC. 147. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 122 or 142(b) or with his final action under section 146, 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 Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his 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.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner 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.

(20 U.S.C. 241k) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 33; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 103(c) (4), 80 Stat. 1193; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a) (4), (b), 110, 81 Stat. 786, 787; amended and redesignated April 13, 1970, P.L. 91-230, Title I, sec. 113(b) (4), (10), 84 Stat. 125, 129.

## NATIONAL ADVISORY COUNCIL

SEC. 148. (a) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

(b) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(c) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until July 1, 1978.

(20 U.S.C. 2411) Enacted April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 34; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 115, 80 Stat. 1197; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a)(4), 110, 114, 81 Stat. 786-788; amended and redesignated April 13, 1970, P.L. 91-230, Title I, secs. 112, 113(b)(4), 84 Stat. 125, 126; amended August 21, 1974, P.L. 93-380, sec. 845(a), 88 Stat. 612.

TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH  
DEPENDENT CHILDREN

SEC. 149. (a) Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first \$85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall

not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan.

(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

(20 U.S.C. 241m) Enacted Nov. 3, 1966, P.L. 89-750, Title I, sec. 109, 80 Stat. 1195; redesignated Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a)(4), 110, 81 Stat. 786, 787; redesignated April 13, 1970, P.L. 91-230, Title I, sec. 113(b)(4), 84 Stat. 126.

#### ALLOCATION OF FUNDS WITHIN THE SCHOOL DISTRICT OF A LOCAL EDUCATIONAL AGENCY

SEC. 150. (a) For any fiscal year not more than 20 local educational agencies selected for the purpose of section 821(a)(5) of the Education Amendments of 1974 may elect, with the approval of the district-wide parent advisory council which is required to be established under section 141(a)(14) of this title, to allocate funds received from payments under this title on the basis of a method or combination of methods other than the method provided under section 141(a)(1)(A). Any method selected pursuant to this section shall be so designed and administered as to be free from racial or cultural discrimination.

(b) Any local educational agency to which this section applies shall submit such reports to the Director of the National Institute of Education at such time and in such manner as the Director may reasonably require to carry out his responsibilities under section 821(a)(5) of the Education Amendments of 1974.

(20 U.S.C. 241n) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 499.

#### PROGRAM EVALUATION

SEC. 151. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving with objectives of this title.

(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

(d) The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for



their use in carrying out their functions under section 143(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency in the evaluation of such programs.

(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than January 31, 1975, and thereafter he shall report to such committees no later than January 31 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related findings and evaluations, and his recommendations with respect to legislation.

(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such program, of which \$5,000,000 for each fiscal year ending prior to July 1, 1977, shall be available only for the surveys and studies authorized by section 821 of the Education Amendments of 1974.

(20 U.S.C. 241o) Enacted August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 499, 500:

#### SHORT TITLE

SEC. 152. This title may be cited as "Title I of the Elementary and Secondary Education Act of 1965."

Enacted Nov. 3, 1966, P.L. 89-750, Title I, sec. 116, 80 Stat. 1198; redesignated Jan. 2, 1968, P.L. 90-247, Title I, secs. 108(a)(4), 110, 81 Stat. 786, 787; redesignated April 13, 1970, P.L. 91-230, sec. 113(b)(4), 84 Stat. 126; redesignated August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 499.

## TITLE IV (P.L. 81-874)—GENERAL

## ADMINISTRATION

SEC. 401.<sup>1</sup> (a) (Repealed).

(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursement.

(20 U.S.C. 242) Enacted Sept. 30, 1950, c. 1124, P.L. 874. 81st Cong., sec. 7, 64 Stat. 1107; redesignated as Title III, sec. 301. April 11, 1965, P.L. 89-10. Title I, sec. 3(c) (1), 79 Stat. 35; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 205, 80 Stat. 1212; subsection (a) repealed April 13, 1970, P.L. 91-230, Title IV, sec. 401(f) (1) and superseded by sec. 422 of P.L. 90-247, Title IV, as amended (20 U.S.C. 1232a); redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF  
APPROPRIATIONS

SEC. 402. (a) In carrying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

(c) Such portion of the appropriations of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the Bureau of the Budget determines to be available for the same purposes as title I, shall, except to the extent necessary to carry out during such year contracts made prior to the enactment of title I, be transferred to the Commissioner for use by him in carrying out such purposes.

(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the avail-

<sup>1</sup> Title IV and section 401 of the Act of Sept. 30, 1950, P.L. 81-874. References in this title to Title I of the Elementary and Secondary Education Act of 1965, are to its original designation on enactment. "Title II" of Public Law 81-874.

Provisions of this title (as well as provisions of other acts) repealed by P.L. 91-230 are superseded by provisions of the General Education Provisions Act, as added by Title IV of P.L. 91-230, amendments to Title IV of P.L. 90-247.

ability of appropriations for the maintenance and operation of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C., sec. 452).

(20 U.S.C. 243) Enacted Sept. 30, 1950, c. 1124, P.L. 874, 81st Cong., Title III, sec. 302, formerly sec. 8, 64 Stat. 1108; amended Aug. 8, 1953, c. 402, P.L. 248, 83d Cong., sec. 9, 67 Stat. 536; amended Aug. 4, 1955, c. 543, c. 11, P.L. 221, 84th Cong., sec. 202, 69 Stat. 485; amended Aug. 12, 1955, c. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 3, 1956, c. 915, P.L. 949, 84th Cong., Title II, sec. 210, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 204, 72 Stat. 560; redesignated and amended April 11, 1965, P.L. 89-10, Title I, sec. 3(c), 79 Stat. 35, amended April 13, 1970, P.L. 91-230, Title IV, sec. 401(c)(1), 84 Stat. 173. Repealed provision superseded by sec. 411 of P.L. 90-247, Title IV, as amended (20 U.S.C. 1231(a)); redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

#### DEFINITIONS

SEC. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this act, (C) any low-rent housing whether or not owned by the United States which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services.

(2) The term "child," except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the Elementary and Secondary Education Act of 1965.

(6) (A) For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The terms "Commissioner of Education" and "Commissioner" means the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(16) For purposes of title II, the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available, of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures

by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(17) For the purposes of title II, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures for any comparable State or local special programs, for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual education and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in title I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas).

(20 U.S.C. 244) Enacted Sept. 30, 1950, c. 1124, P.L. 874, 81st Cong., Title III, sec. 303, formerly sec. 9, 64 Stat. 1108; amended Aug. 8, 1953, c. 402, P.L. 248, 83d Cong., sec. 10, 67 Stat. 536; amended Aug. 1, 1956, c. 852, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended Aug. 3, 1956, c. 915, P.L. 949, 84th Cong., Title II, sec. 211, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 205, 72 Stat. 560; amended June 25, 1959, P.L. 86-70, sec. 18(d) (4), 73 Stat. 145; amended July 12, 1960, P.L. 86-624, sec. 14(d) (4), 74 Stat. 414; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1102(b), 78 Stat. 1109; redesignated, and amended April 11, 1965, P.L. 89-10, Title I, secs. 3(c) (1), 4(a)-(c), (d) (1), (e), 79 Stat. 35; amended Nov. 1, 1965, P.L. 89-313, sec. 6(c), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 117(a) (1), (b), Title II, sec. 206, 80 Stat. 1198, 1199, 1213; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 201, 81 Stat. 806; amended April 13, 1970, P.L. 91-230, Title II, sec. 203(b), 84 Stat. 156. Amendment effective after June 30, 1970; redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334; amended August 21, 1974, P.L. 93-380, sec. 101, 88 Stat. 501.

## Elementary and Secondary Education Act of 1965

(P.L. 89-10)

### TITLES II, III, V, VII, AND VIII

AN ACT To strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Elementary and Secondary Education Act of 1965".*

#### TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES AND EXTENSION OF PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

\* \* \* \* \*

(NOTE.—Title I is an amendment to P.L. 874, 81st Cong., and is included herein on p. 57 as a separate program.)

## TITLE II—SCHOOL LIBRARY RESOURCES, TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS <sup>1</sup>

### APPROPRIATIONS AUTHORIZED

SEC. 201. (a) The Commissioner shall carry out a program for making grants for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools.

(b) For the purpose of making grants under this title, there are hereby authorized to be appropriated the sum of \$100,000,000 for the fiscal year ending June 30, 1966, \$125,000,000 for the fiscal year ending June 30, 1967, \$150,000,000 for the fiscal year ending June 30, 1968, \$162,500,000 for the fiscal year ending June 30, 1969, \$200,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, \$210,000,000 for the fiscal year ending June 30, 1972, and \$220,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part B of title IV.

(20 U.S.C. 821) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 201, 79 Stat. 36; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 121, 80 Stat. 1199; amended Jan. 2, 1968, P.L. 90-247, Title III, sec. 301(b), 81 Stat. 813; amended April 13, 1970, P.L. 91-230, Title I, sec. 121(a), 84 Stat. 130; amended Aug. 21, 1974, P.L. 93-380, sec. 102(a), 88 Stat. 501.

### ALLOTMENT TO STATES

SEC. 202. (a) (1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 201(b). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of Interior and the Secretary of Defense

<sup>1</sup> Section 519 of P.L. 93-380 provides as follows:

SEC. 519. (a) There is established, in the Office of Education, an Office of Libraries and Learning Resources (hereafter in this section referred to as the "Office"), through which the Commissioner shall administer all programs in the Office of Education related to assistance for, and encouragement of, libraries and information centers and education technology.

(b) The Office shall be headed by a Director, to whom the Commissioner shall delegate his delegable functions with respect to the programs administered through the Office.

shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

(2) From the sums appropriated for carrying out this title for any fiscal year pursuant to section 201(b), the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallocation from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amounts reallocated to a State under this subsection during a year from funds appropriated pursuant to section 201 shall be deemed part of its allotment under section (a) for such year.

(20 U.S.C. 822) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 202, 79 Stat. 36; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 122, 80 Stat. 1199; amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 121, 81 Stat. 788; amended April 13, 1970, P.L. 91-230, Title I, sec. 121(b), 84 Stat. 130; amended June 23, 1972, P.L. 92-318, sec. 421(b) (1) (A), 86 Stat. 341; amended August 21, 1974, P.L. 93-380, sec. 102(b), 88 Stat. 502.

#### STATE PLANS

SEC. 203 (a) Any State which desires to receive grants under this title shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

(1) designates a State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotment under section 202 will be expended solely for (A) acquisition of library resources (which for the purposes of this title means books, periodicals, documents, audio-visual materials, and other related library materials), textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools in the State, and (B) administration of the State plan, including (i) the development and revision of standards relating to library resources, textbooks, and other printed and published instructional materials furnished for the use of children and teachers in the public elementary and secondary schools of



the State, and (ii) the distribution and control by a local educational agency of such library resources, textbooks, and other instructional materials in carrying out such State plan for the use of children and teachers in schools referred to in clause (A), except that the amount used for administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of the amount paid to the State under this title for that year or \$50,000, whichever is greater;

(3) sets forth the criteria to be used in allocating library resources, textbooks, and other printed and published instructional materials provided under this title among the children and teachers of the State, which criteria shall—

(A) take into consideration the relative need, as determined from time to time, of the children and teachers of the State for such library resources, textbooks, or other instructional materials,

(B) provide assurance that to the extent consistent with law such library resources, textbooks, and other instructional materials will be provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the State,

(C) provide assurance that, in order to secure the effective and efficient use of Federal funds, there will be appropriate coordination at both State and local levels between the program carried out under this title with respect to library resources and the program (if any) carried out under the Library Services and Construction Act (20 U.S.C. ch. 16), and

(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education.

(4) sets forth the criteria to be used in selecting the library resources, textbooks, and other instructional materials to be provided under this title and for determining the proportions of the State's allotment for each fiscal year which will be expended for library resources, textbooks, and other printed and published instructional materials, respectively, and the terms by which such library resources, textbooks, and other instructional materials will be made available for the use of children and teachers in the schools of the State;

(5) sets forth policies and procedures designed to assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private school funds that would in the absence of such Federal funds be made available for library resources, textbooks, and other printed and published instructional materials, and in no case supplant such State, local, and private school funds;

(6) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any such funds paid by the State to any other public agency) under this title; and

(7) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

(20 U.S.C. 823) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 203, 79 Stat. 37; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 123, 80 Stat. 1200; amended June 23, 1972, P.L. 92-318, sec. 509(a)(1), 86 Stat. 353.

#### PAYMENTS TO STATES

SEC. 204. (a) From the amounts allotted to each State under section 202 the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(b) In any State which has a State plan approved under section 203(b) and in which no State agency is authorized by law to provide library resources, textbooks, or other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary school in such State, the Commissioner shall arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for such use and shall pay the cost thereof for any fiscal year ending prior to July 1, 1973, out of that State's allotment.

(20 U.S.C. 824) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 204, 79 Stat. 38; amended April 13, 1970, P.L. 91-230, Title I, sec. 121(c), 84, Stat. 130.

#### PUBLIC CONTROL OF LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIAL AND TYPES WHICH MAY BE MADE AVAILABLE

SEC. 205. (a) Title to library resources, textbooks, and other printed and published instructional materials furnished pursuant to this title, and control and administration of their use, shall vest only in a public agency.

(b) The library resources, textbooks, and other printed and published instructional materials made available pursuant to this title for use of children and teachers in any school in any State shall be limited to those which have been approved by an appropriate State or local educational authority or agency for use, or are used, in a public elementary or secondary school of that State.

(20 U.S.C. 825) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 205, 79 Stat. 38.

## ADMINISTRATION OF STATE PLANS

SEC. 206. (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State agency administering the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

(1) that the State plan has been so changed that it no longer complies with the provisions of section 203(a), or

(2) that in the administration of the plan there is a failure to comply substantially with any such provisions, the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

(20 U.S.C. 826) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 206, 79 Stat. 39.

## JUDICIAL REVIEW

SEC. 207. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 203(a) or with his final action under section 206(b), 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 Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

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

(c) The court shall have jurisdiction to affirm the action of the Commissioner 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.

(20 U.S.C. 827) Enacted April 11, 1965, P.L. 89-10, Title II, sec. 207, 79 Stat. 39.

### TITLE III—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING

#### APPROPRIATIONS AUTHORIZED

SEC. 301. (a) The Commissioner shall carry out a program for making grants for supplementary educational centers and services, to stimulate and assist in the provision of vitally needed educational

services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs, and to assist the States in establishing and maintaining programs of testing and guidance and counseling.

(b) For the purpose of making grants under this title, there is hereby authorized to be appropriated the sum of \$550,000,000 for the fiscal year ending June 30, 1971, \$575,000,000 for the fiscal year ending June 30, 1972, and \$605,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. In addition, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the succeeding fiscal years, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this title.

(20 U.S.C. 841) Enacted April 11, 1965, P.L. 89-10, Title III, sec. 301, 79 Stat. 39; amended Nov 3, 1966, P.L. 89-750, Title I, sec. 131, 80 Stat. 1201; amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 788; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a)(1), 84 Stat. 130; amended August 21, 1974, P.L. 93-380, sec. 103(a), 88 Stat. 502.

#### ALLOTMENT AMONG STATES

SEC. 302. (a) (1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for grants under this title. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary to provide programs and projects for the purpose of this title for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) From the sums appropriated for making grants under this title for any fiscal year pursuant to section 301(b), the Commissioner shall allot \$200,000 to each State and shall allot the remainder of such sums among the States as follows:

(A) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States, and

(B) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population of the State bears to the population of all the States.

For the purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of children aged five to seventeen, inclusive, and the total population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) The amount allotted to any State under subsection (a) for any fiscal year, which the Commissioner determines will not be required for the period for which that amount is available, shall be available for grants pursuant to section 306 in such State, and if not so needed may be reallocated or used for grants pursuant to section 306 in other States. Funds available for reallocation may be reallocated from time to time, on such dates during that period as the Commissioner may fix, among other States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that period; and the total of these reductions may be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount reallocated to a State under this subsection from funds appropriated pursuant to section 301 for any fiscal year shall be deemed to be a part of the amount allotted to it under subsection (a) for that year.

(d) The amounts made available under the first sentence of subsection (c) for any fiscal year shall remain available for grants during the next succeeding fiscal year.

(20 U.S.C. 842) Enacted April 11, 1965, P.L. 89-10, Title III, sec. 302, 79 Stat. 40; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 132, 80 Stat. 1201; amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 789; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a)(1), 84 Stat. 131; amended June 23, 1972, P.L. 92-318, sec. 421(b)(1)(B), 86 Stat. 341.

#### USES OF FEDERAL FUNDS

SEC. 303. (a) It is the purpose of this title to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs formerly authorized by this title and title V-A of the National Defense Education Act of 1958, and except as expressly modified by this title, Federal funds may be used for the same purposes and the funding of the same types of programs previously authorized by those titles.

(b) Funds appropriated pursuant to section 301 shall be available only for grants in accordance with applications approved pursuant to this title for—

(1) planning for and taking other steps leading to the development of programs or projects designed to provide supplementary educational activities and services described in paragraphs (2) and (3), including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment or expansion of exemplary and innovative educational programs (including dual-enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs (including those described in section 503(4) and special programs for handicapped children) in the schools of the State; and

(3) the establishment, maintenance, operation, and expansion of programs or projects, including the lease or construction of necessary facilities and the acquisition of necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as—

(A) remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;

(B) comprehensive academic services and, where appropriate, vocational guidance and counseling, for continuing adult education;

(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;

(D) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

(E) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;

(F) developing, producing, and transmitting radio and television programs for classroom and other educational use;

(G) in the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;

(H) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study

courses, radio, television, and related forms of instruction, bilingual education methods and visiting teachers' programs;

(I) encouraging community involvement in educational programs;

(J) providing programs for gifted and talented children; and

(K) other specially designed educational programs or projects which meet the purposes of this title; and

(4) programs for testing students in the public and private elementary and secondary schools and in junior colleges and technical institutes in the State, and programs designed to improve guidance and counseling services at the appropriate levels in such schools.

(c) In addition to the uses specified in subsection (b), funds appropriated for carrying out this title may be used for—

(1) proper and efficient administration of State plans;

(2) obtaining technical, professional, and clerical assistance and the services of experts and consultants to assist the advisory councils authorized by this title in carrying out their responsibilities; and

(3) evaluation of plans, programs, and projects, and dissemination of the results thereof.

(20 U.S.C. 843) Enacted April 11, 1965, P.L. 89-10, Title III, sec. 303, 79 Stat. 40; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 152(b), 80 Stat. 1203, amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 790; amended April 13, 1970, Title I, P.L. 91-230, sec. 131(a)(1), 84 Stat. 132; renumbered and clause (c) added June 23, 1972, P.L. 92-318, sec. 509(a)(2), 86 Stat. 353.

#### APPLICATION FOR GRANTS; CONDITIONS FOR APPROVAL

Sec. 304. (a) A grant under this title pursuant to an approved State plan or by the Commissioner for a supplementary educational center or service program or project may be made only to a local educational agency or agencies, and then only if there is satisfactory assurance that, in the planning of that program or project there has been, and in the establishment and carrying out thereof there will be, participation of persons broadly representative of the cultural and educational resources of the area to be served. The term "cultural and educational resources" includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources. Such grants may be made only upon application to the appropriate State educational agency or to the Commissioner, as the case may be, at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes set forth in section 303(b) and provide for such methods of administration as are necessary for the proper and efficient operation of the programs;

(3) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 303 (b), and in no case supplant such funds;

(4) provide, in the case of an application for assistance under this title which includes a project for the construction of necessary facilities, satisfactory assurance that—

(A) reasonable provision has been made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities,

(B) upon completion of the construction, title to the facilities will be in a State or local educational agency, and

(C) in developing plans for such facilities (i) due consideration will be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and (ii) there will be compliance with such standards as the Secretary may prescribe or approve in order to insure that, to the extent appropriate in view of the uses to be made of the facilities, such facilities are accessible to and usable by handicapped persons;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(6) provide for making an annual report, and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) An application by a local educational agency for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources and will substantially increase the educational opportunities in the area to be served by the applicant, and

(B) to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type provided by the program or project, makes provision for the participation of such children; and

(3) has been reviewed by a panel of experts.



(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

(20 U.S.C. 844) Enacted April 11, 1965, P.L. 89-10, Title III, sec. 304, 79 Stat. 41; amended Nov. 3, 1966, P.L. 89-750, Title I, secs. 133, 134, 80 Stat. 1201, 1202; amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 791; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a)(1), 84 Stat. 133.

#### STATE PLANS

SEC. 305. (a) (1) Any State desiring to receive payments for any fiscal year to carry out a State plan under this title shall (A) establish within its State educational agency a State advisory council (hereinafter referred to as the State advisory council) which meets the requirements of this subsection, (B) set dates before which local educational agencies must have submitted applications for grants to the State educational agency, and (C) submit to the Commissioner, through its State educational agency, a State plan at such time and in such detail as the Commissioner may deem necessary. The Commissioner may, by regulation, set uniform dates for the submission of State plans and applications.

(2) The State advisory council, established pursuant to paragraph (1) shall—

(A) be appointed by the State educational agency, and be broadly representative of the cultural and educational resources of the State (as defined in section 304(a)) and of the public, including persons representative of—

- (i) elementary and secondary schools,
- (ii) institutions of higher education, and
- (iii) areas of professional competence in dealing with children needing special education because of physical or mental handicaps;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for approval of applications under such State plan;

(C) review, and make recommendations to the State educational agency on the action to be taken with respect to, each application for a grant under the State plan;

(D) evaluate programs and projects assisted under this title; and

(E) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council, established pursuant to this title, at such times, in such form, and in such detail, as the Secretary may prescribe.

(3) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this title, such State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

(4) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and select from its membership a chairman. The time, place, and manner of meeting shall be as provided by such council, except that such council shall have not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of this title.

(5) State advisory councils shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

(b) The Commissioner shall approve a State plan, or modification thereof, if he determines that the plan submitted for that fiscal year—

(1) (A) except in the case of funds available for the purpose described in paragraph (4) of section 303(b),<sup>1</sup> sets forth a program (including educational needs, and their basis, and the manner in which the funds paid to the State under this title shall be used in meeting such educational needs) under which funds paid to the State under section 307(a) will be expended solely for the improvement of education in the State through grants to local educational agencies for programs or projects in accordance with sections 303 and 304: *Provided*, That, in the case of a State educational agency that also is a local educational agency, its approval of a program or project to be carried out by it in the latter capacity shall, for the purposes of this title, be deemed an award of a grant by it upon application of a local educational agency if the State plan contains, in addition to the provisions otherwise required by this section, provisions and assurances (applicable to such programs or project) that are fully equivalent to those otherwise required of a local educational agency;

(B) in the case of funds available for the purpose described in paragraph (4) of section 303(b), sets forth—

(i) a program for testing students in the public elementary and secondary schools of such State or in the public junior colleges and technical institutes of such State, and, if authorized by law, in other elementary and secondary schools and in other junior colleges and technical institutes in such State, to identify students with outstanding aptitudes and ability, and the means of testing which will be utilized in carrying out such program; and

(ii) a program of guidance and counseling at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of such State, (A) to advise students of courses of study best suited to their ability, aptitudes and skills, (B) to advise students in

<sup>1</sup> Sec. 131(b) of Public Law 91-230 provides as follows:  
 “(b) In the case of any fiscal year ending prior to July 1, 1973, each State submitting a State plan under title III of the Elementary and Secondary Education Act of 1965 shall assure the Commissioner of Education that it will expend for the purpose described in paragraph (4) of section 303(b) of such title III an amount at least equal to 50 per centum of the amount expended by that State for the purposes of title V-A of the National Defense Education Act of 1958 from funds appropriated pursuant to such title V-A for the fiscal year ending June 30, 1970.”

their decisions as to the type of educational program they should pursue, the vocation they train for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions and such programs may include, at the discretion of such State agency, short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in such State;

(2) sets forth the administrative organization and procedures, including the qualifications for personnel having responsibilities in the administration of the plan in such detail as the Commissioner may prescribe by regulation;

(3) sets forth criteria for achieving an equitable distribution of assistance under this title, which criteria shall be based on consideration of (A) the size and population of the State, (B) the geographic distribution and density of the population within the State, and (C) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities described in section 303, and the financial ability of the local educational agencies serving such persons to provide such services and activities;

(4) provides for giving special consideration to the application of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs, including preschool education for four- and five-year-olds and including where appropriate bilingual education, because some or all of its schools are seriously overcrowded (as a result of growth or shifts in enrollment or otherwise), obsolete, or unsafe;

(5) provides that, in approving applications for grants for programs or projects, applications proposing to carry out programs or projects planned under this title will receive special consideration;

(6) provides for adoption of effective procedures (A) for the evaluation, at least annually, of the effectiveness of the programs and projects, by the State advisory council, supported under the State plan in meeting the purposes of this title (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for adopting, where appropriate, promising educational practices developed through such programs or projects;

(7) provides that not less than 50 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for purposes of paragraphs (1) and (2) of section 303(b);

(8) provides that not less than 15 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for special programs or projects for the education of handicapped children;

(9) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the fiscal effort (determined in accordance with criteria prescribed by the Commissioner, by regulation) that would, in the absence of such Federal funds, be made by the applicant for educational purposes;

(10) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title;

(11) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the areas served by the programs or projects supported under the State plan and in the State as a whole, including reports of evaluations made in accordance with objective measurements under the State plan pursuant to paragraph (6), and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(12) provides that final action with respect to any application (or amendment thereof) regarding the proposed final disposition thereof shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing; and

(13) contains satisfactory assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under this title shall not be taken into consideration.

(c) The Commissioner may, if he finds that a State plan for any fiscal year ending prior to July 1, 1978, is in substantial compliance with the requirements set forth in subsection (b), approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 307) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: *Provided*, That the amount made available to a State pursuant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

(d)<sup>1</sup> A State which has had a State plan approved for any fiscal year may receive for the purpose of carrying out such plan, an amount not in excess of 85 per centum of its allotment pursuant to section 302.

<sup>1</sup> Repealed effective July 1, 1975 (sec. 402(c)(2), P.L. 93-380).

(e) (1) The Commissioner shall not finally disapprove any plan submitted under subsection (a), or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearings to any State educational agency, finds that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 305 or with any requirement set forth in the application of a local educational agency approved pursuant to section 304, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

(3) (A) If any State is dissatisfied with the Commissioner's final action with respect to the approval of a plan submitted under subsection (a) or with his final action under paragraph (2), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings.

(C) The court shall have jurisdiction to affirm the action of the Commissioner 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.

(f) (1) If any local educational agency is dissatisfied with the final action of the State educational agency with respect to approval of an application of such local agency for a grant pursuant to this title, such local agency may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the 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 State educational agency. The State educational agency thereupon shall file in the court the record of the proceedings on which the State educational agency based its action as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the State educational agency, if supported by substantial evidence shall be conclusive; but the court, for good cause shown, may remand the case to the State educational agency to take further evidence, and the State educational agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

(3) The court shall have jurisdiction to affirm the action of the State educational agency 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.

(20 U.S.C. 844a) Enacted Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 792; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a) (1) 84 Stat. 135.

#### SPECIAL PROGRAMS AND PROJECTS <sup>1</sup>

SEC. 306. (a) From the amount allotted to any State pursuant to section 302 which is not available to that State under a State plan approved pursuant to section 305, the Commissioner is authorized, subject to the provisions of section 304, to make grants to local educational agencies in such State for programs or projects which meet the purposes of section 303 and which, in the case of a local educational agency in a State which has a State plan approved, hold promise of making a substantial contribution to the solution of critical educational problems common to all or several States. The Commissioner may not approve an application under this section unless the application has been submitted to the appropriate State educational agency for comment and recommendation with respect to the action to be taken by the Commissioner regarding the disposition of the application.

(b) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of handicapped children.

(20 U.S.C. 844b) Enacted Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 796; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a) (1), 84 Stat. 139.

#### PAYMENTS

SEC. 307. (a) From the allotment to each State pursuant to section 302, for any fiscal year, the Commissioner shall pay to each State, which has had a plan approved pursuant to section 305 for that fiscal year, the amount necessary to carry out its State plan as approved.

(b) The Commissioner is authorized to pay to each State amounts necessary for the activities described in section 303(c), during any fiscal year, except that (1) the total of such payments shall not be in excess of an amount equal to 7½ per centum of its allotment for that fiscal year or, \$150,000 (\$50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, and (2) in such payment, the amount paid for

<sup>1</sup> Section 306 is repealed, effective July 1, 1975 (sec. 402(c) (2), P.L. 93-380).

the administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of its allotment for that fiscal year or \$100,000 (\$35,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater.

(c)<sup>1</sup> The Commissioner shall pay to each applicant which has an application approved pursuant to section 306 the amount necessary to carry out the program or project pursuant to such application.

(d) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(e) No payments shall be made under this title to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort of that State for State aid (as defined by regulation) with respect to the provision of free public education in that State for the preceding fiscal year was not less than such fiscal effort for State aid for the second preceding fiscal year.

(f) (1) In any State which has a State plan approved under section 305(c) and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, for effective participation on an equitable basis in programs authorized by this title by children enrolled in any one or more private elementary or secondary schools of such State in the area or areas served by such programs, the Commissioner shall arrange for the provision, on an equitable basis, of such programs and shall pay the costs thereof for any fiscal year out of that State's allotment. The Commissioner may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

(2) In determining the amount to be withheld from any State's allotment for the provision of such programs, the Commissioner shall take into account the number of children and teachers in the area or areas served by such programs who are excluded from participation therein and who, except for such exclusion, might reasonably have been expected to participate.

(g) (1) The Commissioner shall not take any final action under subsection (f) until he has afforded the State educational agency and the local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under paragraph (1) of this paragraph, it 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 Commissioner. The Commissioner thereupon shall file in the court

<sup>1</sup> Subsection (c) repealed, effective July 1, 1975 (sec. 402(c) (2), P.L. 93-380).

the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his 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.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner 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.

(20 U.S.C. 845) Enacted April 11, 1965, P.L. 89-10, Title III, sec. 307, formerly sec. 305, 79 Stat. 43; redesignated and amended Jan. 2, 1968, P.L. 90-247, Title I, sec. 131 81 Stat. 796; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a)(1), 84 Stat. 139; amended August 21, 1974, P.L. 93-380, sec. 103(d), 88 Stat. 502.

#### RECOVERY OF PAYMENTS

SEC. 308. If within twenty years after completion of any construction for which Federal funds have been paid under this title—

(a) the owner of the facility shall cease to be a State or local educational agency, or

(b) the facility shall cease to be used for the educational and related purposes for which it was constructed, unless the Commissioner determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(20 U.S.C. 847) Enacted April 11, 1965, P.L. 89-10, Title III, sec. 308, formerly sec. 307, 79 Stat. 44; redesignated Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 797; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a)(1), 84 Stat. 140.

#### NATIONAL ADVISORY COUNCIL

SEC. 309. (a) The President shall appoint a National Advisory Council on Supplementary Centers and Services which shall—

(1) review the administration of, general regulations for, and operation of this title, including its effectiveness in meeting the purposes set forth in section 303;

(2) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to section 305(a)(2) (E);



(3) evaluate programs and projects carried out under this title and disseminate the results thereof; and

(4) make recommendations for the improvement of this title, and its administration and operation.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of twelve members, a majority of whom shall be broadly representative of the educational and cultural resources of the United States including at least one person who has professional competence in the area of education of handicapped children. Such members shall be appointed for terms of 3 years except that (1) in the case of the initial members, four shall be appointed for terms of 1 year each and four shall be appointed for terms of 2 years each, and (2) appointments to fill the unexpired portion of any terms shall be for such portion only. When requested by the President, the Secretary of Health, Education, and Welfare shall engage such technical and professional assistance as may be required to carry out the functions of the Council, and shall make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare as it may require to carry out its functions.

(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until July 1, 1978, except that the Council shall not exist during any year for which funds are available for obligation by the Commissioner for carrying out title IV.

(20 U.S.C. 847a) Enacted Jan. 2, 1968, P.L. 90-247, Title I, sec. 131, 81 Stat. 797; amended April 13, 1970, P.L. 91-230, Title I, sec. 131(a) (1), 84 Stat. 140; amended August 21, 1974, P.L. 93-380, sec. 845(b), 88 Stat. 612.

## TITLE IV—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

### PART A—GENERAL PROVISIONS

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 401. (a) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of \$395,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part B (Libraries and Learning Resources) of this title.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A) (i) aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appro-

appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title II and so much of title III as relates to testing, guidance, and counseling of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(b) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of \$350,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part C (Educational Innovation and Support) of this title.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A) (i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the first year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(c) (1) In the first fiscal year in which appropriations are made pursuant to part B, 50 per centum of the funds so appropriated shall be available to the States to carry out part B of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title II and so much of title III as relates to testing, guidance, and counseling under this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the

fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amounts made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

(2) In the first fiscal year in which appropriations are made pursuant to part C, 50 per centum of the funds so appropriated shall be available to carry out part C of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amount made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

(20 U.S.C. 1801) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 535, 537.

#### ALLOTMENT TO THE STATES

SEC. 402. (a) (1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under subsections (a) or (b), or both, of section 401. The Commissioner shall allot each of the amounts appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B or part C, or both, of this title. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) From the amounts appropriated to carry out part B or part C, or both, of this title for any fiscal year pursuant to subsections (a) and (b) of section 401, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to such amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subsection, the term 'State' shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a

State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out part B or C which the Commissioner determines will not be required for such fiscal year to carry out such part shall be available for reallocation from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amounts reallocated to a State under this subsection during a year from funds appropriated pursuant to section 401 shall be deemed a part of its allotment under subsection (a) for such year.

(20 U.S.C. 1802) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 537, 538.

#### STATE PLANS

SEC. 403. (a) Any State which desires to receive grants under this title shall establish an advisory council as provided by subsection (b) and shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotments under section 402 will be expended solely for the programs and purposes authorized by parts B and C of this title, and for administration of the State plan;

(3) provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in nonpublic elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

(4) provides assurances that (A) funds such agency receives from appropriations made under section 401(a) will be distributed among local educational agencies according to the enrollments in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided to (i) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (ii) local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language; and (B) funds such agency receives from appropriations made under section 401(b) will be distrib-

uted among local educational agencies on an equitable basis recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources; and the State plan shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this paragraph;

(5) provides that each local educational agency will be given complete discretion (subject to the provisions of section 406) in determining how the funds it receives from appropriations made under section 401(a) will be divided among the various programs described in section 421, except that, in the first year in which appropriations are made pursuant to part B, each local educational agency will be given complete discretion with respect to 50 per centum of the funds appropriated for that part attributable to that local educational agency;

(6) provides for the adoption of effective procedures (A) for an evaluation by the State advisory council, at least annually, of the effectiveness of the program and projects assisted under the State plan, (B) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for the adoption, where appropriate, of promising educational practices developed through innovative programs supported under part C;

(7) provides that local educational agencies applying for funds under any program under this title shall be required to submit only one application for such funds any one fiscal year;

(8) provides—

(A) that, of the funds the State receives under section 401 for the first fiscal year for which such funds are available, such agency will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received (\$50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) the amount it received for the fiscal year ending June 30, 1973, for administration of the programs referred to in sections 421(b) and 431(b), and that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B and C, respectively; and that, of the funds the State receives under section 401 for fiscal years thereafter, it will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received (\$50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) \$225,000, and that the remainder of such funds shall be made available to local educational agencies to be used for purposes of parts B and C, respectively.

(B) that not less than 15 per centum of the amount received pursuant to section 401(b) in any fiscal year (not including any amount used for purposes of section 431(a)(3)) shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and

(C) that more than the greater of (i) 15 per centum of the amount which such State receives pursuant to section 401(b) in any fiscal year, or (ii) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 431(a)(3), shall be used for purposes of section 431(a)(3) (relating to strengthening State and local educational agencies);

(9) provides assurances that in the case of any project for the repair, remodeling, or construction of facilities, that the facilities shall be accessible to and usable by handicapped persons;

(10) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds; and

(11) gives satisfactory assurance that the aggregate amount to be expended by the State and its local educational agencies from funds derived from non-Federal sources for programs described in section 421(a) for a fiscal year will not be less than the amount so expended for the preceding fiscal year.

(b)(1) The State advisory council, established pursuant to subsection (a), shall—

(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State (as defined in section 432) and of the public, including persons representative of—

(i) public and private elementary and secondary schools,

(ii) institutions of higher education, and

(iii) fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantage, and limited English-speaking ability or because they are gifted or talented, and of professional competence in guidance and counseling;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this title;

(C) evaluate all programs and projects assisted under this title; and

(D) prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

(2) Not less than ninety days prior to the beginning of any fiscal year for which funds will be available for carrying out this title, each

State shall certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this title.

(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this title, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

(c) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section.

(20 U.S.C. 1803) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 538, 540.

#### ADMINISTRATION OF STATE PLANS

SEC. 404. The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

(20 U.S.C. 1804) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 540.

#### PAYMENTS TO STATES

SEC. 405. From the amounts allotted to each State under section 402 for carrying out the programs authorized by parts B and C, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406(f)).

(20 U.S.C. 1805) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 541.

#### PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 406. (a) To the extent consistent with the number of children in the school district of a local educational agency (which is a recipient of funds under this title or which serves the area in which a program or project assisted under this title is located) who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not

feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors (pursuant to criteria supplied by the Commissioner) which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c) (1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

(2) The provisions of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(f) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allotment of the State under this title.

(g) (1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.



(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it 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 Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his 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.

(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner 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.

(20 U.S.C. 1806) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 541, 542.

## PART B—LIBRARIES AND LEARNING RESOURCES

### PROGRAM AUTHORIZED

SEC. 421. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools;

(2) for the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment; and

(3) for (A) a program of testing students in the elementary and secondary schools, (B) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include

short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, and (C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title II and so much of title III as relates to testing, counseling, and guidance, of this Act, and title III (except for section 305 thereof) of the National Defense Education Act of 1958, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

(20 U.S.C. 1821) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 542, 543.

## PART C—EDUCATIONAL INNOVATION AND SUPPORT

### PROGRAMS AUTHORIZED

SEC. 431. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

(1) for supplementary educational centers and services to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling, lease, or construction of necessary facilities) to serve as models for regular school programs;

(2) for the support of demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of (A) coordinating nutrition and health service resources in the areas to be served by a project, (B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (D) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

(3) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts; and

(4) for making arrangements with local educational agencies for the carrying out by such agencies in schools which (A) are located in urban or rural areas, (B) have a high percentage of children from low-income families, and (C) have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education.

(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title III (except for programs of testing, counseling, and guidance) and title V, and sections 807 and 808 of this Act, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

(20 U.S.C. 1831) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 543, 544.

#### USE OF CULTURAL AND EDUCATIONAL RESOURCES

SEC. 432. Programs or projects supported pursuant to this part (other than those described in section 431(a)(3)) shall involve in the planning and carrying out thereof the participation of persons broadly representative of the cultural and educational resources of the area to be served. The term "cultural and educational resources" includes State educational agencies, local educational agencies, private nonprofit elementary and secondary schools, institutions of higher education, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(20 U.S.C. 1832) Enacted August 21, 1974, P.L. 93-380, sec. 401, 88 Stat. 544.

### TITLE V—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

#### PART A—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

##### APPROPRIATIONS AUTHORIZED

SECTION 501. (a) The Commissioner shall carry out a program for making grants to stimulate and assist States in strengthening the leadership resources of their State educational agencies, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of States.

(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of \$25,000,000 for the fiscal year ending June 30, 1966, \$30,000,000 for the fiscal year ending June 30, 1967, \$65,000,000 for the fiscal year ending June 30, 1968, \$80,000,000 each for the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971, \$85,000,000, for the fiscal year ending June 30, 1972, and \$90,000,000 for the fiscal year ending June 30, 1973 and each of the five succeeding fiscal years, except that no funds are authorized

to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

(20 U.S.C. 861) Enacted April 11, 1965, P.L. 89-10, Title V, Sec. 501, 79 Stat. 47; amended Nov. 3, 1966, P.L. 89-750, Title I, Sec. 141, 80 Stat. 1203; amended Jan. 2, 1968, P.L. 90-247, Title I, Sec. 141, 81 Stat. 799; amended April 13, 1970, P.L. 91-230, Title I, Sec. 141, 143 (a) (4) (B), 84 Stat. 141, 142; amended August 21, 1974, P.L. 93-380, Sec. 104 (a), 88 Stat. 503.

SEC. 502. (a) (1) From 95 per centum of the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such 95 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such per centum of such sums shall be apportioned by the Commissioner as follows:

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be reserved by the Commissioner for grants for special projects pursuant to section 505.

(b) (1) The amount apportioned to any State under paragraph (1) of subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a) (1) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this subsection from funds appropriated pursuant to section 501 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a) (1) for that year.

(2) In accordance with regulations of the Commissioner any State may file with him a request that a specified portion of the amount appropriated to it under subsection (a) (1) be added to the amount apportioned to another State under that subsection for the purpose of meeting a portion of the cost of carrying out one or more programs or activities under an approved application of that other State. If the Commissioner finds that the programs or activities with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of the amount appor-

tioned to that State, as requested by it, would assist in carrying out the purpose of this part, that portion shall be added to the amount apportioned to the other State under subsection (a) (1) to be used for the purpose referred to above.

(20 U.S.C. 862) Enacted April 11, 1965, P.L. 89-10, Title V, Sec. 502, 79 Stat. 48; amended Nov. 3, 1966, P.L. 89-750, Title I, Sec. 152(c), 80 Stat. 1203; amended Jan. 2, 1968, P.L. 90-247, Title I, Secs. 142(a), 143, 145, (b) (1), (2) 81 Stat. 799, 800; amended April 13, 1970, P.L. 91-230, Title I, Sec. 143(a) (4) (B), 84 Stat. 142.

#### GRANTS FROM APPORTIONED FUNDS

SEC. 503. From the amount apportioned to any State for any fiscal year under section 502 the Commissioner may, upon approval of an application or applications therefor submitted to him by such State through the State educational agency, make a grant or grants to such agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 501(a) and more particularly described in such application and for which such application is approved, such as—

(1) Educational planning on a statewide basis, including the identification of educational problems, issues, and needs in the State and the evaluation on a periodic or continuing basis of education programs in the State;

(2) Providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of State and local educational data, including the use of automated data systems;

(3) Dissemination or support for the dissemination of information relating to the condition, progress, and needs of education in the State;

(4) Programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, (B) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (C) discovering and testing new educational ideas (including new uses of printed and audio-visual media) and more effective educational practices, and putting into use those which show promise of success, and (D) studying ways to improve the legal and organizational structure for education and the management and administration of education in the State;

(5) Publication and distribution, or support for the publication and distribution, of curricular materials collected and developed at curriculum research centers and elsewhere;

(6) Programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and local educational agencies;

(7) Programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel

(such as teacher aides) in elementary and secondary schools on a permanent basis;

(8) Studies or support for studies concerning the financing of public education in the State;

(9) support for statewide programs designed to measure the educational achievement of pupils;

(10) training and otherwise developing the competency of individuals who serve State or local educational agencies and provide leadership, administrative, or specialist services throughout the State, or throughout the area served by a local educational agency, through the initiation, improvement, and expansion of activities such as (A) sabbatical leave programs, (B) fellowships and traineeships (including educational expenses and the cost of travel) for State educational agency personnel to pursue graduate studies, and (C) conducting institutes, workshops, and conferences (including related costs of operation and payment of the expenses of participants);

(11) providing local educational agencies and the schools of those agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, and gifted and talented children, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation; and

(12) evaluation and demonstration projects to insure that benefits obtained by children in Head Start and other preschool programs are not lost during their early elementary school years, but are instead enhanced so as to provide continuity in and accelerated development of the child's learning, academic and other social achievements.

(20 U.S.C. 863) Enacted April 11, 1965, P.L. 89-10, Title V, Sec. 503, 79 Stat. 49; amended Nov. 3, 1966, P.L. 89-750, Title I, Secs. 152(a), 154, 80 Stat. 1203, 1204; amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 144, 145(a), 81 Stat. 799, 800; amended April 13, 1970, P.L. 91-230, Title I, secs. 142(a), 143(a) (4) (C), 84 Stat. 142; amended June 23, 1972, P.L. 92-318, sec. 509(a) (3), 86 Stat. 353.

#### APPROVAL OF APPLICATIONS FOR GRANTS FROM APPORTIONED FUNDS

**SEC. 504.** An application for a grant under section 503 may be approved by the Commissioner only upon his determination that—

(a) each of the proposed projects, programs, and activities for which it is approved meets the requirements of section 503 and will make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of the State;

(b) the application contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State funds that would in the absence of such Federal funds be made available for projects and activities which met the requirements of section 503;

(c) the application sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the

State (including any such funds paid by the State to agencies, institutions, or organizations) under this part, and

(d) the application provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 864) Enacted April 11, 1965, P.L. 89-10, Title V, Sec. 504, 79 Stat. 50; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 152(d), 80 Stat. 1203; amended April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (B), 84 Stat. 142.

#### SPECIAL PROJECT GRANTS

SEC. 505. Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be used by the Commissioner to make grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership or for the establishment of special services which, in the judgment of the Commissioner, hold promise of making a substantial contribution to the solution of problems common to the State educational agencies of all or several States, and for grants to public regional interstate commissions or agencies for educational planning and research.

(20 U.S.C. 865) Enacted April 11, 1965, P.L. 89-10, Title V, sec. 505, 79 Stat. 51; amended Jan. 2, 1968, P.L. 90-247, Title I, secs. 145(b) (3), 146, 81 Stat. 800.

### PART B—LOCAL EDUCATIONAL AGENCIES

#### APPROPRIATIONS AUTHORIZED

SEC. 521. (a) The Commissioner shall carry out a program for making grants to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of \$10,000,000 for the fiscal year ending June 30, 1970, \$20,000,000 for the fiscal year ending June 30, 1971, \$30,000,000 for the fiscal year ending June 30, 1972, and \$40,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

(20 U.S.C. 866) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 142; amended August 21, 1974, P.L. 93-380, sec. 104(b), 88 Stat. 503.

#### APPORTIONMENT AMONG STATES

SEC. 522. (a) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, the

Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such sums shall be apportioned by the Commissioner as follows:

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The amount apportioned to any State under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this subsection from funds appropriated pursuant to section 521 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a) for that year.

(20 U.S.C. 866a) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a)  
(4) (D), 84 Stat. 143.

#### GRANTS FROM APPORTIONED FUNDS

SEC. 523. From the amount apportioned to any State for any fiscal year under section 522 the Commissioner may, upon approval of an application in accordance with section 524 submitted to him by a local educational agency of such State, after approval by the State educational agency in accordance with section 525, make a grant or grants to such local educational agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 521(a) and more particularly described in such application and for which such application is approved, such as—

(1) educational planning on a district basis, including the identification of educational problems, issues, and needs in the district and the evaluation on a periodic or continuing basis of educational programs in the district;

(2) providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing interpreting, storing, retrieving, and reporting of educational data including the use of automated data systems;



(3) programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (B) discovering and testing new educational ideas (including new uses of printed and audiovisual media) and more effective educational practices, and putting into use those which show promise of success, and (C) studying ways to improve the legal and organizational structure for education, and the management and administration of education in the district of such agency;

(4) programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and State educational agencies;

(5) programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as instructional assistants and teacher aides) in elementary and secondary schools on a permanent basis;

(6) providing such agencies and the schools of such agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, the gifted and talented, and the disadvantaged, vocational education, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

(7) training programs for the officials of such agencies; and

(8) carrying out any such activities or programs, where appropriate, in cooperation with other local educational agencies.

(20 U.S.C. 866b) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143 (a) (4) (D), 84 Stat. 143.

#### APPROVAL OF APPLICATIONS BY THE COMMISSIONER

SEC. 524. (a) An application for a grant under this part for each fiscal year shall set forth a plan under which Federal funds received by the applicant under this part for that fiscal year will be used solely for a program of activities specifically designed to strengthen the leadership resources of the applicant and to establish and improve programs to identify and meet the educational needs of the persons served by the applicant.

(b) The Commissioner may approve an application under this part only if the application for that year—

(1) contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State and local funds that would in the absence of such Federal funds be made available for projects and activities which meet the requirements of section 523;

(2) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part; and

(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 866c) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143 (a) (4) (D), 84 Stat. 144.

#### APPROVAL OF APPLICATIONS BY STATE EDUCATIONAL AGENCIES

SEC. 525. In approving applications for the purposes of this part a State educational agency shall—

(1) approve only such applications for proposed projects, programs, or activities as will—

(A) make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of its district, and

(B) involve an expenditure of at least \$2,500, and  
(2) provide for an equitable distribution on the basis of need of funds provided pursuant to this part, and, to the extent possible within such a distribution, give priority to exemplary projects, programs, or activities.

(20 U.S.C. 866d) enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D) 84 Stat. 144.

#### PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

##### AUTHORIZATION

SEC. 531. (a) The Commissioner is authorized to make comprehensive planning and evaluation grants to State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

(b) For the purpose of carrying out the provisions of this part, there are hereby authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1971, \$15,000,000 for the fiscal year ending June 30, 1972, and \$20,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

(c) (1) (A) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such per centum, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder shall be apportioned by the Commissioner as follows:

(i) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(ii) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the population of the State bears to the population of all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(B) For purposes of this paragraph (1), the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) The amount apportioned to any State under paragraph (1) of this subsection for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under such paragraph for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the State and local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this paragraph from funds appropriated pursuant to this section for any fiscal year shall be deemed part of the amount apportioned to it under paragraph (1) for that year.

(3) Grants for any fiscal year to a State agency and any local educational agency in such pursuant to this part shall be made from such State's apportionment for such year pursuant to this subsection.

(20 U.S.C. 867) enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84, Stat. 145; amended August 21, 1974, P.L. 93-380, sec. 104(c), 88 Stat. 503.

COMPREHENSIVE PLANNING AND EVALUATION GRANTS :  
ELIGIBLE AGENCIES

SEC. 532. (a) Any State desiring to receive a grant under this part for any fiscal year shall designate or establish within its State educational agency a single office or unit (hereinafter in this part referred to as the State planning and evaluation agency) as the sole agency for administering a comprehensive program of systematic planning and evaluation of elementary and secondary education in the State. The State planning and evaluation agency shall have the primary responsibility for planning and evaluating the education programs of the State and for the administration of funds received by the State under this part.

(b) Any local educational agency desiring to receive a grant under this part must provide the Commissioner with satisfactory assurance that—

(1) the local educational agency or agencies have a planning and evaluation office or unit which has or will have, as the result of assistance under this part, the capability of carrying out a comprehensive program of systematic planning and evaluation meeting the purposes of this part;

(2) the appropriate State educational agency or agencies have been consulted and have had the opportunity to comment on, and advise the local educational agencies and the Commissioner with regard to, the application; and

(3) the planning and evaluation activities of the local educational agency or agencies will be closely coordinated with such activities of the appropriate State agencies; and must further provide the Commissioner with satisfactory assurance that—

(4) the local educational agency serves, or, if two or more local educational agencies are making joint application, those agencies serve, an area with a population sufficient to merit a comprehensive planning and evaluation program in addition to that of the State or of other local educational agencies in the area or region to be served by the applicant; or

(5) the local educational agency or agencies will use the funds for demonstration projects to plan, develop, test, and improve planning and evaluation systems and techniques consistent with, and to further the purposes of, this part.

(c) In making grants pursuant to this section the Commissioner shall give special emphasis on developing coordinated and comprehensive plans for educational planning and evaluation between and among the Office of Education, State educational agencies, and local educational agencies, including projects on an interstate, regional, or metropolitan area basis.

(d) No grant shall be made by the Commissioner to a local educational agency or agencies under this part unless the application for such grant has been submitted to the State educational agency or agencies in the State or States in which it is to be carried out. If within sixty days of such submission or within such longer period of time as the Commissioner may determine pursuant to regulations, the State agency or agencies disapprove the proposed program or project, the Commissioner shall review the application with the appropriate State and local educational agencies before making a final decision.

(20 U.S.C. 867a) enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 146.

#### APPLICATION

SEC. 533. (a) An application for a grant under this part shall be submitted to the Commissioner at such time or times, in such form, and containing such information as he may deem necessary. Such application shall include—

(1) a statement of present and projected educational needs of persons residing in the area to be served;

(2) a description of a program for meeting those needs which includes—

(A) setting long-range areawide goals in meeting educational needs and establishing priorities among such goals,

(B) developing long-range plans for achieving such goals, taking into consideration the resources available and the educational effectiveness of each of the alternatives,

(C) planning new programs and improvements in existing programs based on the results of analyses of alternative means of achieving educational goals,

(D) objectively evaluating at intermediate stages the progress and effectiveness of programs in achieving such goals, and, when appropriate, adjusting goals, plans, and programs to maximize educational effectiveness, and

(E) utilizing available management information, planning, and evaluation systems and techniques;

(3) a plan for developing and strengthening the capabilities of the applicant to improve its planning capacity and to conduct, on a continuous basis, objective evaluations of the effectiveness of education programs and projects;

(4) a plan for utilizing the resources of, and coordinating with, programs affecting education of other Federal, State, and local agencies, organizations, and persons; and

(5) a statement of policies and procedures which have been, or will be, established and implemented for developing and maintaining a permanent system for obtaining and collecting significant information necessary for the assessment of education in the area to be served by the applicant, for consulting with and involving parents of children served by the applicant, and for making full and detailed information concerning the educational planning and evaluation activities and findings of the applicant and other agencies and persons receiving assistance under this part reasonably available to the public.

(b) Applications for grants under this section may be approved by the Commissioner only if he determines that the application—

(1) has been submitted only after interested parents have been given reasonable notice and an opportunity to express their views thereon;

(2) sets forth, in such detail as the Commissioner may determine necessary, such policies and procedures as will provide satisfactory assurance that—

(A) the assistance provided under this section, together with other available resources, will be so used for the purposes of this part as to result in the maximum possible effective progress toward the achievement of a high level of planning and evaluation competence, and

(B) assistance under this part will be used primarily in strengthening the capabilities of the planning and evaluation staff of the agency, office, or unit responsible for the administration of the application plan; and

(3) sets forth such policies and procedures as will insure that Federal funds made available under the application will be so used as to supplement, and to the extent practical, increase the amounts of State or local funds that would, in the absence of Federal funds, be made available for activities meeting the purposes of this title;

(4) in the case of applications from States, makes adequate provision (consistent with such criteria as the Commissioner shall

prescribe by regulation) for using funds granted under this section to make program planning and evaluation services available to local educational agencies in the State.

(c) A grant made pursuant to an application under this section may be used to pay not to exceed 75 per centum of the cost of the activities covered by the application.

(20 U.S.C. 867b). Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 147.

#### REPORTS

SEC. 534. Each recipient of a grant shall make an annual report on the activities carried out with the funds from such grant which includes such information as the Commissioner determines will permit an evaluation of the effectiveness of the program authorized by this part in achieving its purposes. Each such recipient shall also make such other reports, in such form and containing such information as the Commissioner may require to carry out his functions under this part.

(20 U.S.C. 867c) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 148.

### PART D—COUNCILS ON QUALITY IN EDUCATION

#### NATIONAL AND STATE ADVISORY COUNCILS

SEC. 541. (a) (1) There is hereby established a National Council on Quality in Education (hereafter referred to as the "National Council") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

(2) The National Council shall—

(A) review the administration of, general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such

programs and projects in achieving the purpose for which they are intended;

(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(ii) determinations of priorities among unmet needs and national goals; and

(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

(3) The National Council shall make an annual report, and such other reports as it deems appropriate, on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

(4) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

(b)(1) Any State receiving payments under this title for any fiscal year may establish a State advisory council (hereinafter referred to as "State council") which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to paragraph (7). The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency

are elected (including election by the State legislature), by such agency.

(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to, persons representative of—

(A) public and nonprofit private elementary and secondary schools;

(B) institutions of higher education,

(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

(D) areas of competence in dealing with children for whom special educational assistance is available under this Act.

(3) The State council shall—

(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of criteria for approval of applications for assistance under this title;

(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assessment of education in the State;

(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and

(E) evaluate programs and projects assisted under this title.

(4) Any such State shall certify the establishment of, and membership of its State council to, the Commissioner.

(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

(7) There are hereby authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.

(20 U.S.C. 868) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 148.



## PART E—GENERAL PROVISIONS

## ADMINISTRATION OF PLANS

SEC. 551. (a) The Commissioner shall not finally disapprove any application from a State or a local educational agency, submitted under part A or B of this title, or any modification thereof, without affording the applicant reasonable notice and an opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and an opportunity for a hearing to a State or a local educational agency administering a program under an application approved under this title, finds that there has been a failure to comply substantially with the appropriate provisions of this title or with the provisions of an application approved under this title, he shall notify the State or the local educational agency, as the case may be, that further payments will not be made to that State or that local educational agency under that application until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to that State or that local educational agency under the application. Whenever a local educational agency is given notice under the first sentence of this subsection, notice shall also be submitted to the appropriate State educational agency.

(20 U.S.C. 869) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 150.

## JUDICIAL REVIEW

SEC. 552. (a) If any State or any local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of an application submitted under part A or B of this title or with his final action under section 551(b), such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State or local educational agency 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 Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

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

(c) The court shall have jurisdiction to affirm the action of the Commissioner 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.

(20 U.S.C. 869a) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 143(a) (4) (D), 84 Stat. 151.

## INTERCHANGE OF PERSONNEL

SEC. 553. (Repealed by P.L. 91-648, Title IV, Sec. 403, 84 Stat. 1925. See 5 U.S.C. 3371 ff).

## TITLE VI—EDUCATION OF THE HANDICAPPED

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(Note.—Effective July 1, 1971, title VI of ESEA is repealed and replaced by Education of the Handicapped Act. See p. 605.)

## TITLE VII—BILINGUAL EDUCATION PROGRAMS

## SHORT TITLE

SEC. 701. This title may be cited as the "Bilingual Education Act."

## POLICY; APPROPRIATIONS

SEC. 702. (a) Recognizing—

(1) that there are large numbers of children of limited English-speaking ability;

(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

(4) that, therefore, large numbers of children of limited English-speaking ability have educational needs which can be met by the use of bilingual educational methods and techniques; and

(5) that, in addition, children of limited English-speaking ability benefit through the fullest utilization of multiple language and cultural resources.

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children: and to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.

(b) (1) Except as is otherwise provided in this title, for the purpose of carrying out the provisions of this title, there are authorized to be appropriated \$135,000,000 for the fiscal year ending June 30, 1974; \$135,000,000 for the fiscal year ending June 30, 1975; \$140,000,000 for the fiscal year ending June 30, 1976; \$150,000,000 for the fiscal year ending June 30, 1977; and \$160,000,000 for the fiscal year ending June 30, 1978.

(2) There are further authorized to be appropriated to carry out the provisions of section 721(b) (3) \$6,750,000 for the fiscal year ending June 30, 1974; \$7,250,000 for the fiscal year ending June 30, 1975; \$7,750,000 for the fiscal year ending June 30, 1976; \$8,750,000 for the fiscal year ending June 30, 1977; and \$9,750,000 for the fiscal year ending June 30, 1978.

(3) From the sums appropriated under paragraph (1) for any fiscal year—

(A) the Commissioner shall reserve \$16,000,000 of that part thereof which does not exceed \$70,000,000 for training activities carried out under clause (3) of subsection (a) of section 721, and shall reserve for such activities 33½ per centum of that part thereof which is in excess of \$70,000,000; and

(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.

(20 U.S.C. 880b) Enacted August 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 503, 504.

#### DEFINITIONS; REGULATIONS

SEC. 703. (a) The following definitions shall apply to the terms used in this title:

(1) The term "limited English-speaking ability," when used with reference to an individual, means—

(A) individuals who were not born in the United States or whose native language is a language other than English, and

(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations;

and, by reasons thereof, have difficulty speaking and understanding instruction in the English language.

(2) The term "native language," when used with reference to an individual of limited English-speaking ability, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965.

(4) (A) The term "program of bilingual education" means a program of instruction, designed for children of limited English-speaking ability in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to progress effectively through the educational system, the native language of the children of limited English-speaking ability, and such instruction is given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of

study which will allow a child to progress effectively through the educational system; and

(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

(B) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.

(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this title, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school student to be served.

(5) The term "Office" means the Office of Bilingual Education.

(6) The term "Director" means the Director of the Office of Bilingual Education.

(7) The term "Council" means the National Advisory Council on Bilingual Education.

(8) The term "other programs for persons of limited English-speaking ability" when used in sections 731 and 732 means the program authorized by section 708 (c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to section 122(a) (4) (C) and part J of the Vocational Education Act of 1963, and section 306(a) (11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 6 (b) (4) of the Library Services and Construction Act.

(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models

with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children of limited English-speaking ability, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

(20 U.S.C. 880 b-1) Enacted August 21, 1974, P.L. 93-380, sec. 105(a) (1), 88 Stat. 504, 505.

## PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS <sup>1</sup>

### BILINGUAL EDUCATION PROGRAMS

SEC. 721. (a) Funds available for grants under this part shall be used for—

(1) the establishment, operation, and improvement of programs of bilingual education;

(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

(3) (A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(b) (1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3) (A) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

<sup>1</sup> Sec. 105(a) (2) (A) of P.L. 93-380 provides as follows:

“(2) (A) The amendment made by this subsection shall be effective the date of enactment of this Act, except that the provisions of part A of title VII of the Elementary and Secondary Education Act of 1965 (as amended by subsection (a) of this section) shall become effective on July 1, 1975, and the provisions of title VII of the Elementary and Secondary Education Act of 1965 in effect immediately prior to the date of enactment of this Act shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by this section.”

(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

(2) An application for a grant under this part may be approved only if—

(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefitted by such programs;

(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended for auxiliary and supplementary training programs in accordance with the provisions of clause (3) (B) of such subsection and section 723;

(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children of limited English-speaking ability in the area to be served by the applicant, and (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children; and

(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner.

(3) (A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this

section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

(20 U.S.C. 880b-7) Enacted August 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 506, 507.

#### INDIAN CHILDREN IN SCHOOLS

SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by

the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

(20 U.S.C. 880 b-8) Enacted August 21, 1974, P.L. 93-380, sec. 105(a) (1), 88 Stat. 507, 508.

#### TRAINING

SEC. 723. (a) (1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

(A) (i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability. For each fiscal year after June 30, 1975, and prior to July 1, 1978, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated



competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

(5) An application for a grant or contract for preservice or inservice training activities described in clause (A) (i) (I) and clause (A) (ii) (I) and in subsection (a) (1) (B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a) (4) (E) of section 703.

(b) For the purposes of this section, the term "eligible applicants" means—

- (1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;
- (2) local educational agencies; and
- (3) State educational agencies.

(20 U.S.C. 880 b-9) Enacted August 21, 1974, P.L. 93-380, sec. 105(a) (1), 88 Stat. 508, 509.

## PART B—ADMINISTRATION

### OFFICE OF BILINGUAL EDUCATION

SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the "Office") through which the Commissioner shall carry out his functions relating to bilingual education.

(b) (1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

(c) The Commissioner, in consultation with the Council, shall prepare and, not later than November 1 of 1975, and of 1977, shall submit to the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English-speaking ability. Such report shall include—

- (1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than July 1, 1977, the results of a survey of the number of such children and persons in the States,<sup>1</sup> and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extend-

<sup>1</sup> Section 501(b) (4) of P.L. 93-380 provides as follows:

"(4) The National Center for Education Statistics shall conduct the survey required by section 731(c) (1) (A) of title VII of the Elementary and Secondary Education Act of 1965."

ing programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

(20 U.S.C. 880b-10) Enacted August 21, 1974, P.L. 93-380, sec. 105(a) (1), 88 Stat. 509, 510.

#### NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION<sup>1</sup>

SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least three members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside.

<sup>1</sup> Sec. 105(a) (2) (B) of P.L. 93-380 provides as follows:

"(B) The National Advisory Council on Bilingual Education, for which provision is made in section 732 of such Act, shall be appointed within ninety days after the enactment of this Act."

(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than November 1 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English-speaking ability.

(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

(20 U.S.C. 880b-11) Enacted August 21, 1974, P.L. 93-380, sec. 105 (c) (1), 88 Stat. 510, 511.

## PART C—SUPPORTIVE SERVICES AND ACTIVITIES

### ADMINISTRATION

SEC. 741 (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

(1) the Commissioner, through the Office of Bilingual Education; and

(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provision Act; in accordance with regulations.

(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

(20 U.S.C. 880b-12) Enacted August 21, 1974, P.L. 93-380, sec. 105(a) (1), 88 Stat. 511.

### RESEARCH AND DEMONSTRATION PROJECTS

SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and other programs for persons of limited English-speaking ability.

(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director and the Commissioner are authorized to make competitive contracts with public and private educational agencies, institutions, and organizations for such purpose.

(c) In carrying out their responsibilities under this section, the Commissioner and the Director shall, through competitive contracts with appropriate public and private agencies, institutions, and organizations—

(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children of limited English-speaking ability;

(2) develop, and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

(3) establish and operate a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

(d) In carrying out their responsibilities under this section, the Commissioner and the Director shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, \$5,000,000 to carry out the provisions of this section.

(20 U.S.C. 880 b-13) Enacted August 21, 1974, P.L. 93-380, sec. 105(a) (1), 88 Stat. 511, 512.

## TITLE VIII—GENERAL PROVISIONS

### DEFINITIONS

SECTION 801. As used in titles II, III, V, VI,<sup>1</sup> and VII of this Act, except when otherwise specified—

(a) The term “Commissioner” means the Commissioner of Education.

(b) The term “construction” means (1) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefore; or (2) acquisition of existing structures not owned by any agency or institution making application for assistance under this Act; or (3) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(c) The term “elementary school” means a day or residential school which provides elementary education, as determined under State law.

(d) The term “equipment” includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furni-

<sup>1</sup> Repealed effective July 1, 1971.

ture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(e) The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however*, That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such terms also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(i) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(j) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands and for purposes of titles II, III, VI, and VII, such terms also includes the Trust Territory of the Pacific Islands.

(k) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(l) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent the development of which requires special activities or services not ordinarily provided by local educational agencies.

(20 U.S.C. 881) Enacted April 11, 1965, P.L. 89-10, Title VIII, sec. 801, formerly Title VI, sec. 601, 79 Stat. 55; redesignated as Title VII, sec. 701, Nov. 3, 1966, P.L. 89-750, Title I, sec. 161, 80 Stat. 1204; amended and redesignated Jan. 2, 1968, P.L. 90-247, Titles I, VII, secs. 142(b), 152(c), 702, 703, 81 Stat. 799, 803, 816, 819; amended April 13, 1970, P.L. 91-230, Title I, sec. 162, 84 Stat. 152.

#### FEDERAL ADMINISTRATION

SEC. 803. (a) (Repealed).

(b) (Repealed).

(c) In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and to the extent practicable for the purposes of such Acts shall coordinate such programs on the Federal level with the programs being administered by such other departments and agencies. Federal departments and agencies administering programs which may be effectively coordinated with programs carried out under this Act or any Act amended by this Act, including community action programs carried out under title II of the Economic Opportunity Act of 1964, shall, to the fullest extent permitted by other applicable law, carry out such programs in such a manner as to assist in carrying out, and to make more effective, the programs under this Act or any Act amended by this Act.

(20 U.S.C. 883) Enacted April 11, 1965, P.L. 89-10, Title VIII, sec. 803, formerly Title VI, sec. 603, 79 Stat. 57; redesignated as Title VII, sec. 703, and amended Nov. 3, 1966, P.L. 89-750, Title I, secs. 111(f), 161, 80 Stat. 1196, 1204; redesignated Jan. 2, 1968, P.L. 90-247, Title VII, sec. 702, 81 Stat. 816; amended April 13, 1970, P.L. 91-230, Title I, sec. 163, Title IV, 401(c)(2), 84 Stat. 153, 173. Sections (a) and (b) superseded by sec. 411 of P.L. 90-247, as amended by P.L. 91-230 (20 U.S.C. 1231).

STATUTE OF LIMITATIONS ON REFUND OF PAYMENTS

SEC. 804. No State or local educational agency shall be liable to refund any payment made to such agency under this Act (including title I of this Act) which was subsequently determined to be unauthorized by law, if such payment was made more than five years before such agency received final written notice that such payment was unauthorized.

(20 U.S.C. 884) Enacted August 21, 1974, P.L. 93-380, sec. 106, 88 Stat. 512.

LIMITATION ON PAYMENTS UNDER THIS ACT

SEC. 805. Nothing contained in this Act shall be construed to authorize the making of any payment under this Act, or under any Act amended by this Act, for religious worship or instruction.

(20 U.S.C. 885) Enacted April 1965, P.L. 89-10, Title VIII, sec. 805, formerly Title VI, sec. 605, 79 Stat. 58; redesignated as Title VII, sec. 705, Nov. 3, 1966, P.L. 89-750, Title I, sec. 161, 80 Stat. 1204; redesignated Jan. 2, 1968, P.L. 90-247, Title VII, sec. 702, 81 Stat. 816.

DROPOUT PREVENTION PROJECTS

SEC. 807. (a) The Commissioner is authorized to arrange by contract grant, or otherwise, with local educational agencies for the carrying out by such agencies in schools which (1) are located in urban or rural areas, (2) have a high percentage of children from families with an income not exceeding the low-income factor, as defined in section 103(c), and (3) have a high percentage of such children who do not complete their education in elementary or secondary school, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their education in elementary and secondary schools.

(b) The Commissioner shall approve arrangements pursuant to this section only on application by a local educational agency and upon his finding:

- (1) that the project will be carried out in one or more schools described in subsection (a);
- (2) that the applicant has analyzed the reasons for such children not completing their education and has designed a program to meet this problem;
- (3) that effective procedures, including objective measurements of educational achievements, will be adopted for evaluating at least annually the effectiveness of the project; and
- (4) that the project has been approved by the appropriate State educational agency.

(c) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated \$30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, \$31,500,000 for the fiscal year ending June 30, 1972, and \$33,000,00 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

(20 U.S.C. 887) Enacted and redesignated Jan. 2, 1968, P.L. 90-247, Titles I, VII, secs. 172, 702, 81 Stat. 806, 816; amended April 13, 1970, P.L. 91-230, Title I, sec. 161, 84 Stat. 152; amended August 21, 1974, P.L. 93-380, sec. 107, 88 Stat. 512, 513.

GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL NUTRITION AND HEALTH SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

SEC. 808. (a) The Secretary shall carry out a program of making grants to local educational agencies and, where appropriate, nonprofit private educational organizations, to support demonstration projects designed to improve nutrition and health services in public and private schools serving areas with high concentrations of children from low-income families.

(b) Funds appropriated pursuant to subsection (d) shall be available for grants pursuant to applications approved under this section to pay the cost of (1) coordinating nutrition and health service resources in the areas to be served by a demonstration project supported under this section, (2) providing supplemental health, nutritional, mental health, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (3) nutrition and health education programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (4) the evaluation of projects assisted under this section with respect to their effectiveness in improving school nutrition and health services for such children.

(c) Applications for a grant under this section shall be submitted at such time, contain such information, and be consistent with such criteria as the Secretary may require by regulation. Such applications shall provide for—

(1) the use of funds available under this section and the coordination of health care facilities and resources and such nutrition resources as may be available to the applicant in order to insure that a comprehensive program of physical and mental health and nutrition services are available to children from low-income families in the area to be served;

(2) the development of health and nutrition curriculum materials related to the specific needs of persons involved with the project and to new and improved approaches to health services and food technology;

(3) the training of (A) school administrators, teachers, and school health and nutrition personnel in order to assist them in meeting the health and nutritional needs of children from low-income families, and (B) professional and subprofessional personnel for service in school nutrition and health programs; and

(4) adequate provision for evaluation of the project.

(d) For the purpose of making grants under this section there are hereby authorized to be appropriated \$2,000,000 for the fiscal year ending June 30, 1970, \$10,000,000 for the fiscal year ending June 30, 1971, \$16,000,000 for the fiscal year ending June 30, 1972, and \$26,000,000 for the fiscal year ending June 30, 1973, and each of the five



succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

(20 U.S.C. 887a) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 164, 84 Stat. 153; amended August 21, 1974, P.L. 93-380, sec. 108, 88 Stat. 513.

RESEARCH AND DEMONSTRATION PROJECTS IN CORRECTION EDUCATION SERVICES<sup>1</sup>

SEC. 809. (a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit research agencies and organizations for research or demonstration projects, relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders, including the development of criteria for the identification for specialized educational instruction of such persons from the general elementary and secondary school age population and special curriculums, and guidance and counseling programs. All projects shall include an evaluation component.

(b) The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to the education of persons intended to be benefited by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons, of the Director, Office of Juvenile Delinquency and Youth Development, the Director of the Teachers Corps, the head of the National Institute of Law Enforcement and Criminal Justice, the Administrator of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section.

(c) For the purpose of carrying out this section, there is authorized to be appropriated \$500,000 for the fiscal year ending June 30, 1974, and for the succeeding fiscal year.

(20 U.S.C. 887b) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 164, 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 109, 88 Stat. 513.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to

<sup>1</sup> Effective July 1, 1975, section 809 is repealed (sec. 402(c)(3), P.L. 93-380).

serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3) preference shall be given to the training of Indians.

(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity or quality, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped;

(F) preschool programs;

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preference shall be given to the training of Indians.

(e) The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has

been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(g) For the purpose of making grants under this section there are hereby authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1973, and \$35,000,000 for each of the succeeding fiscal years ending prior to July 1, 1978.

(20 U.S.C. 887(c) Enacted June 23, 1972, P.L. 92-318, Sec. 421(a); 86 Stat. 339, 341; amended August 21, 1974, P.L. 93-380, sec. 631(a), 88 Stat. 585; amended August 21, 1974, P.L. 93-380, sec. 632(a), 88 Stat. 586.

#### CONSUMERS' EDUCATION PROGRAMS<sup>1</sup>

SEC. 811. (a) (1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

(2) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

(b) (1) (A) The Director shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

<sup>1</sup>Note: Sec. 505(a) (1) and (2) of P.L. 92-318 read as follows:

"Sec. 505(a)(1) The Congress of the United States finds that there do not exist adequate resources for educating and informing consumers about their role as participants in the marketplace.

"(2) It is the purpose of the amendment made by this section to encourage and support the development of new improved curricula to prepare consumers for participation in the marketplace to demonstrate the use of such curriculums in model educational programs and to evaluate the effectiveness thereof; to provide support for the initiation and maintenance of programs in consumer education at the elementary and secondary and higher education levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community and labor leaders and employees, and government employees at State, Federal, and local levels; to provide for Community Consumer education programs; and to provide for the preparation and distribution of materials by mass media in dealing with consumer education."

(i) the development of curricula (including interdisciplinary curricula) in consumer education;

(ii) dissemination of information relating to such curricula;

(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

(iv) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

(C) Financial assistance under this subsection may be made available only upon application to the Director. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Director shall prescribe by regulation and shall be approved only if—

(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of subparagraph (B) which holds promise of making a substantial contribution toward attaining the purposes of this section;

(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of an accounting for Federal funds paid to the applicant under this section; and

(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Director only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemina-

tion of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

(d) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed \$15,000,000 for each fiscal year ending prior to July 1, 1978.<sup>1</sup>

(20 U.S.C. 887d) Enacted June 23, 1972, P.L. 92-318, sec. 505(a), 86 Stat. 349, 350; amended August 21, 1974, P.L. 93-380, sec. 407. 88 Stat. 553.

#### OPEN MEETINGS OF EDUCATIONAL AGENCIES

SEC. 812. No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section.

(20 U.S.C. 887e) Enacted August 21, 1974, P.L. 93-380, sec. 110. 88 Stat. 513.

### TITLE IX—ETHNIC HERITAGE PROGRAM

#### STATEMENT OF POLICY

SEC. 901. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

(20 U.S.C. 900) Enacted June 23, 1972, P.L. 92-318, sec. 504(a), 86 Stat. 346, 347.

#### ETHNIC HERITAGE STUDIES PROGRAMS

SEC. 902. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this title.

(20 U.S.C. 900a) Enacted June 23, 1972, P.L. 92-318, sec. 504(a), 86 Stat. 347.

<sup>1</sup> Sec. 402(a)(4) of P.L. 93-380 provides that no appropriation may be made for this section in any fiscal year during which funds are available for the purposes of this section under the provisions of subsection 402(a) (The Special Projects Act).

## AUTHORIZED ACTIVITIES

SEC. 903. Each program assisted under this title shall—

(1) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

(2) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(3) provide training for persons using, or preparing to use, curriculum materials developed under this title; and

(4) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

(20 U.S.C. 900a-1) Enacted June 23, 1972, P.L. 92-318, sec. 504(a), 86 Stat. 347; amended August 21, 1974, P.L. 93-380, sec. 111(b), 88 Stat. 513, 514.

## APPLICATIONS

SEC. 904. (a) Any public or private nonprofit agency, institution, or organization desiring assistance under this title shall make application therefor in accordance with the provisions of this title and other applicable law and with regulations of the Commissioner promulgated for the purposes of this title. The Commissioner shall approve an application under this title only if he determines that—

(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this title;

(2) such program will involve the activities described in section 903; and

(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

(b) In approving applications under this title, the Commissioner shall insure that there is cooperation and coordination of efforts among the programs assisted under this title, including the exchange of materials and information and joint programs where appropriate.

(20 U.S.C. 900a-2) Enacted June 23, 1972, P.L. 92-318, sec. 104(a), 86 Stat. 347.

## ADMINISTRATIVE PROVISIONS

SEC. 905. (a) In carrying out this title, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers

in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

(b) Funds appropriated to carry out this title may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purposes of this title. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

(20 U.S.C. 900a-3 Enacted June 23, 1972, P.L. 92-318, sec. 104(a), 86 Stat. 347, 348.

#### NATIONAL ADVISORY COUNCIL

SEC. 906. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part D of the General Education Provisions Act.

(20 U.S.C. 900a-4) Enacted June 23, 1972, P.L. 92-318, sec. 104(a), 86 Stat. 348.

#### APPROPRIATIONS AUTHORIZED

SEC. 907. For the purpose of carrying out this title, there are authorized to be appropriated \$15,000,000 for each of the fiscal years ending prior to July 1, 1978. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

(20 U.S.C. 900a-5) Enacted June 23, 1972, P.L. 92-318, sec. 104(a), 86 Stat. 348; amended August 21, 1974, P.L. 93-380, sec. 111(a) (1), 88 Stat. 513.

### INDIAN EDUCATION ACT

#### SHORT TITLE

SEC. 401. This title may be cited as the "Indian Education Act."  
Enacted June 23, 1972, P.L. 92-318, sec. 401, 86 Stat. 334.

#### PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

##### AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

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(NOTE.—These provisions are contained in Title III, P.L. 874 at p. 211)

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PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE  
EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY  
EDUCATION ACT OF 1965

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(NOTE.—These provisions are contained in Title VIII of the ESEA at p. 143)

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SEC. 421 (b) (2). For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 and part B of title VI of Public Law 91-230, the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles.

SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR  
TEACHERS OF INDIAN CHILDREN

SEC. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated \$2,000,000 for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 887c-1) Enacted August 21, 1974, P.L. 93-380, sec. 632(c), 88 Stat. 586.

FELLOWSHIPS FOR INDIAN STUDENTS

SEC. 423. (a) During the fiscal year ending June 30, 1975, and each of the three succeeding fiscal years, the Commissioner is authorized to award not to exceed two hundred fellowship to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to

award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

(20 U.S.C. 887c-2) Enacted August 21, 1974, P.L. 93-380, sec. 632(c), 88 Stat. 586, 587.

### PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

#### AMENDMENT TO THE ADULT EDUCATION ACT

NOTE.—These provisions are contained in section 314 of the Adult Education Act at p. 292.)

### PART D—OFFICE OF INDIAN EDUCATION

#### OFFICE OF INDIAN EDUCATION

SEC. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the Elementary and Secondary Education Amendments of 1966, as added by this Act. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(20 U.S.C. 1221f) Enacted June 23, 1972, P.L. 92-318, sec. 441, 86 Stat. 343.

## NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until July 1, 1978.

(b) The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency,

institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

(20 U.S.C. 1221g) Enacted June 23, 1972, P.L. 92-318, sec. 442, 86 Stat. 343, 344; amended August 21, 1974, P.L. 93-380, sec. 505(a)(2), 88 Stat. 562; amended August 21, 1974, P.L. 93-380, sec. 845(d), 88 Stat. 612.

#### PART E—MISCELLANEOUS PROVISIONS

SEC. 451. (This section is an amendment to Title V of the HEA of 1965 and is included at p. 375).

SEC. 452. (This section is an amendment to Title VII of the ESEA of 1965 and is included at p. 133).

#### DEFINITION

SEC. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

(20 U.S.C. 1221h) Enacted June 23, 1972, P.L. 92-318, sec. 453, 86 Stat. 345.

#### TITLE VII—EMERGENCY SCHOOL AID<sup>1</sup>

##### SHORT TITLE

SEC. 701. This title may be cited as the "Emergency School Aid Act."

Enacted June 23, 1972, P.L. 92-318, sec. 701, 86 Stat. 354.

##### FINDINGS AND PURPOSE

SEC. 702. (a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this title is to provide financial assistance—  
 (1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

<sup>1</sup> Title VII of P.L. 92-318.

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) to aid school children in overcoming the educational disadvantages of minority group isolation.

(20 U.S.C. 1601) Enacted June 23, 1972, P.L. 92-318, sec. 702, 86 Stat. 354.

**POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW**

SEC. 703. (a) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(20 U.S.C. 1602) Enacted June 23, 1972, P.L. 92-318, sec. 703 86 Stat. 356.

**APPROPRIATIONS**

SEC. 704. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b). There are authorized to be appropriated for the purpose of carrying out this title, \$1,000,000,000 for the fiscal year ending June 30, 1973, and \$1,000,000,000 for the period ending June 30, 1976.<sup>1</sup> Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

From the sums appropriated pursuant to subsection (a) for any fiscal year, the Assistant Secretary shall reserve an amount equal to 13 per centum thereof for the purposes of sections 708 (a) and (c), 711, and 713, of which—

(A) not less than an amount equal to 4 per centum of such sums shall be for the purposes of section 708(c); and

(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711.

(20 U.S.C. 1603) Enacted June 23, 1972, P.L. 92-318, sec. 704, 86 Stat. 355; amended August 21, 1974, P.L. 93-380, sec. 641(a) 88 Stat. 587; amended August 21, 1974, P.L. 93-380, sec. 642(a), 88 Stat. 587.

<sup>1</sup> Section 641(b) of P.L. 93-380 provides as follows:

“(b) With respect to the fiscal year ending June 30, 1976, the authorization level for the Emergency School Aid Act shall, for the purposes of section 414 of the General Education Provisions Act, be equal to the amount appropriated for the purposes of the Emergency School Aid Act for the fiscal year ending June 30, 1976.”

## APPORTIONMENT AMONG STATES

SEC. 705. (a) (1) From the sums appropriated pursuant to section 704(a) which are not reserved under section 704(b) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within that State \$75,000 plus an amount which bears the same ratio to such sums as to the number of minority group children aged 5-17, inclusive, in that State bears to the number of such children in all States except that the amount apportioned to any State shall not be less than \$100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recent available data satisfactory to him.

(2) The Assistant Secretary shall, in accordance with criteria established by regulation, reserve not in excess of 15 per centum of the sums appropriated pursuant to subsection 704(a) for grants to, and contracts with, local, educational agencies in each State pursuant to section 706(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

(3) The Assistant Secretary shall reserve 8 per centum of the sums appropriated pursuant to subsection 704(a) for the purpose of section 708(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

(b) (1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reapportionment to other States in proportion to the original apportionments to such States under subsection (a) for that year, but with such proportionate amount for any such State being reduced to the extent it exceeds the sum the Assistant Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amounts reapportioned to a State under this subsection during a fiscal year shall be deemed part of its apportionment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth

in sections 706, 707, and 710, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 702(b) that their approval is not warranted.

(20 U.S.C. 1604) Enacted June 23, 1972, P.L. 92-318, sec. 705, 86 Stat. 355, 356.

ELIGIBILITY FOR ASSISTANCE

SEC. 706. (a) (1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

(A) which is implementing a plan—

(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools; or

(ii) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates; or

(E) which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

(ii) has agreed to apply for an equal amount of assistance under section (b).

(2) (A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 709(a) (1).

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area:

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 720(6).

(b) The Assistant Secretary is authorized to make grants to, or contracts with, local educational agencies, which are eligible under subsection (a) (1), for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if he determines that the local educational agency had a number of minority group children enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools.

(c) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

(d) (1) No educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in



desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local education agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(3) Applications for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

(4) No application for assistance under this title shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing. The Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House

of Representatives shall each be given notice of an intention to grant any waiver under this subsection, which notice shall be accompanied by a copy of the proposed waiver for which notice is given and copies of all determinations relating to such waiver. The Assistant Secretary shall not approve an application by a local educational agency which requires a waiver under this subsection prior to 15 days after receipt of the notice required by the preceding sentence by the chairman of the Committee on Labor and Public Welfare of the Senate and the chairman of the Committee on Education and Labor of the House of Representatives.

(20 U.S.C. 1605) Enacted June 23, 1972, P.L. 92-318, sec. 706, 86 Stat. 356-358; amended August 21, 1974, P.L. 93-380, secs. 643(a) and (b), 88 Stat. 587.

#### AUTHORIZED ACTIVITIES

SEC. 707. (a) Financial assistance under this title (except as provided by sections 708, 709, and 711) shall be available for programs and projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 702(b):

(1) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 706 or a program described in section 708, when such services are deemed necessary to the success of such plan, activity, or program.

(2) The provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of minority group isolation) and the training and retraining of staff for such schools.

(3) Recruiting, hiring, and training of teacher aides, provided that in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under this title.

(4) Inservice teacher training designed to enhance the success of schools assisted under this title through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Assistant Secretary to have special competence for such purpose.

(5) Comprehensive guidance, counseling, and other personal services for such children.

(6) The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

(7) Educational programs using shared facilities for career education and other specialized activities.

(8) Innovative interracial educational programs or projects involving the joint participation of minority group children and other children attending different schools, including extracurric-

ular activities and cooperative exchanges or other arrangements between schools within the same or different school districts.

(9) Community activities, including public information efforts, in support of a plan, program, project, or activity described in this title.

(10) Administrative and auxiliary services to facilitate the success of the program, project, or activity.

(11) Planning programs, projects, or activities under this title, the evaluation of such programs, projects, or activities, and dissemination of information with respect to such programs, projects, or activities.

(12) Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

In the case of programs, projects, or activities involving activities described in paragraph (12), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this subsection or subsection (b), and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program, project, or activity. The Assistant Secretary shall by regulation define the term "repair or minor remodeling or alteration".

(b) Sums reserved under section 705(a)(2) with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 706(b) to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (12) of subsection (a), as they may be used to accomplish such purpose.

(20 U.S.C. 1606) Enacted June 23, 1972, P.L. 92-318, sec. 707, 86 Stat. 359, 360.

#### SPECIAL PROGRAMS AND PROJECTS

SEC. 708. (a) (1) Amounts reserved by the Assistant Secretary pursuant to section 704(b)(2), which are not designated for the purposes of clause (A) or (B) thereof, or for section 713 shall be available to him for grants and contracts under this subsection.

(2) The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title.

(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private, nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local

educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

(b) (1) From not more than one-half of the sums reserved pursuant to section 705(a) (3), the Assistant Secretary, in cases in which he finds that it would effectively carry out the purpose of this title stated in section 702(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706.

(2) From the remainder of the sums reserved pursuant to section 705(a) (3), the Assistant Secretary is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies and non-public elementary and secondary schools) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706.

(c) (1) The Assistant Secretary shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 704(b) (2) (A), the Assistant Secretary is authorized to make grants to, and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

(B) local educational agencies eligible for assistance under section 706 for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under section 706, for the purpose of carrying out activities authorized under section 707(a) of this title to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Assistant Secretary determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Assistant Secretary shall assure that sufficient funds from the amount reserved pursuant to section 704(b) (2) (A) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Assistant Secretary determines

meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Assistant Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary educational personnel.

(2) (A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Assistant Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706. The Assistant Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

(20 U.S.C. 1607) Enacted June 23, 1972, P.L. 92-318, sec. 708, 86 Stat. 360, 361, amended August 21, 1974, P.L. 93-380, sec. 644, 88 Stat. 588.

#### METROPOLITAN AREA PROJECTS

SEC. 709. (a) Sums available to the Secretary under section 708 for metropolitan area projects shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 706(a)(2) in order to assist them in establishing and maintaining integrated schools as defined in section 720(6).

(2) A program of any grant to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the

Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a).

(20 U.S.C. 1608) Enacted June 23, 1972, P.L. 92-318, sec. 709, 86 Stat. 361, 362; amended August 21, 1974, P.L. 93-370, sec. 642(b), 88 Stat. 587; amended August 21, 1974, P.L. 93-380, sec. 222, 88 Stat. 519.

#### APPLICATIONS

SEC. 710. (a) Any local educational agency desiring to receive assistance under this title for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year at such time, in such form, and containing such information as the Assistant Secretary shall require by regulation. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve such an application only if he determines that such application—

(1) in the case of applications under section 706, sets forth a program under which, and such policies and procedures as will assure that, (A) the applicant will use the funds received under this title only for the activities set forth in section 707 and (B) in the case of an application under section 706(b), the applicant will initiate or expand an innovative program specifically designed to meet the educational needs of children attending one or more minority group isolated schools;

(2) has been developed—

(A) in open consultation with parents, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(B) except in the case of applications under section 708(c), with the participation of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

(3) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in con-

sultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2) (B);

(4) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the plan, program, and activity described in the application;

(5) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(6) sets forth assurances that the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made;

(7) provides that the plan with respect to which such agency is seeking assistance (as specified in section 706(a) (1) (A)) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(8) provides assurances that for each academic year for which assistance is made available to the applicant under this title such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner;

(9) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, program, or activity as described in section 706 or section 708(c) upon which a determination of its eligibility for assistance under this title is based;

(10) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law;

(11) in the case of an application for assistance under section 706, provides that the program, project, or activity to be assisted will involve an additional expenditure per pupil to be served, determined in accordance with regulations prescribed by the Assistant Secretary, of sufficient magnitude to provide reasonable assurance that the desired funds under this title will not be dispersed in such a way as to undermine their effectiveness;

(12) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 702(b) provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 702(b) or, in the case of an application under section 708(c), would assist in meeting the needs described in that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(13) provides that the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance of the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year, and that the current expenditure per pupil which such agency makes from revenues derived from its local sources for the fiscal year for which assistance under this title will be made available to such agency is not less than such expenditure per pupil which such agency made from such revenues for (A) the fiscal year preceding the fiscal year during which the implementation of a plan described in section 706(a)(1)(A) was commenced, or (B) the third fiscal year preceding the fiscal year for which such assistance will be made available under this title, whichever is later;

(14) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

(15) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs, projects, or activities under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects; and

(16) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may require by regulation, which regulation may require at least—



(i) in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and

(ii) that the reports include information relating to educational achievement of children in the schools of the applicant, and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to assure the correctness of such reports and to verify them, and

(ii) will be necessary to assure the public adequate access to such reports and other written materials.

(b) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2) (B) of subsection (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

(c) In approving applications submitted under this title (except for those submitted under sections 708 (b) and (c) and 711), the Assistant Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of minority group isolation (including the number of minority group isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 706 or a program described in section 708(a) in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceeded those of other school districts within the State;

(2) the degree to which the plan or activity described in section 706(a), and the program or project to be assisted, or the program described in section 708(a) are likely to effect a decrease in minority group isolation in minority group isolated schools, or in the case of applications submitted under section 706 (a) (1) (C) (iii) or under section 706(a) (1) (E) the degree to which the plan or activity and the program or project, are likely to prevent minority group isolation from occurring or increasing (in the absence of assistance under this title);

(3) the extent to which the plan or activity described in section 706 constitutes a comprehensive districtwide approach to the elimination of minority groups isolation, to the maximum extent practicable, in the schools of such school district;

(4) the degree to which the program, project, or activity to be assisted affords promise of achieving the purpose of this title stated in section 702(b);

(5) that (except in the case of an application submitted under section 708(a)) the amount necessary to carry out effectively the

project or activity does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 706 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(d) (1) The Assistant Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

(2) The Assistant Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency an appropriate opportunity to modify its application.

(e) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

(f) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational agency described in section 706(a) or section 708 (a) or (c) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

(g) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

(20 U.S.C. 1609) Enacted June 23, 1972, P.L. 92-318, sec. 710, 86 Stat. 362-366; amended August 21, 1974, P.L. 93-380, sec 643(c), 88 Stat. 587.

#### EDUCATIONAL TELEVISION

SEC. 711. (a) The sums reserved pursuant to section 704(b) (2) (B) for the purpose of carrying out this section shall be available for grants and contracts in accordance with subsection (b).

(b) (1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and effective educational value.

(2) Television programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television techniques of research and production; and

(C) has adopted effective procedures for evaluating education and other change achieved by children viewing the program.

(20 U.S.C. 1610) Enacted June 23, 1972, P.L. 92-318, sec. 711, 86 Stat. 366.

#### PAYMENTS

SEC. 712. (a) Upon his approval of an application for assistance under this title, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

(b) The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c) (1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 710(a), the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 702(b) or in the case of an application under section 708(c) would assist in meeting the needs described in that subsection. The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 708(c), from the funds reserved under section 704(b) (2) (A), or in case of an application under section 708(a), from the sums available to the Assistant Secretary under section 704(b) (2) for the purpose of that subsection.

(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 710(a) he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the serv-

ices which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(20 U.S.C. 1611) Enacted June 23, 1972, P.L. 92-318, sec. 712, 86 Stat. 366, 367.

#### EVALUATIONS

SEC. 713. The Assistant Secretary is authorized to reserve not in excess of 1 per centum of the sums appropriated under this title, and reserved pursuant to section 704(b) (2), for any fiscal year for the purposes of this section. From such reservation, the Assistant Secretary is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 710(a) (2) for the purpose of evaluating specific programs and projects assisted under this title.

(20 U.S.C. 1612) Enacted June 23, 1972, P.L. 92-318, sec. 713, 86 Stat. 367.

#### REPORTS

SEC. 714. The Assistant Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 702(b). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequently reports shall be submitted no less often than two times annually.

(20 U.S.C. 1613) Enacted June 23, 1972, P.L. 92-318, sec. 714, 86 Stat. 368.

#### JOINT FUNDING

SEC. 715. Pursuant to regulations prescribed by the President, where funds are advanced under this title, and by one or more other Federal agencies for any project or activity funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases, any such

agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 704 or 705, or (3) waiver of any requirement set forth in sections 706 through 711.

(20 U.S.C. 1614) Enacted June 23, 1972, P.L. 92-318, sec. 715, 86 Stat. 368.

#### NATIONAL ADVISORY COUNCIL

SEC. 716. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

(1) advise the Assistant Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving its purpose as stated in section 702(b), and (B) with respect to the Assistant Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Assistant Secretary shall submit an estimate in the same manner provided under section 400(c) and part D of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions. Subject to section 448(b) of the General Education Provisions Act, such Council shall continue to exist until July 1, 1975.

(20 U.S.C. 1615) Enacted June 23, 1972, P.L. 92-318, sec. 716, 86 Stat. 368, amended August 21, 1974, P.L. 93-380, sec. 845(e), 88 Stat. 612.

#### GENERAL PROVISIONS

SEC. 717. (a) The provisions of parts C and D of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Assistant Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act;" after "the International Education Act of 1966;".

(20 U.S.C. 1616) Enacted June 23, 1972, P.L. 92-318, sec. 717, 86 Stat. 369.

## ATTORNEY FEES

SEC. 718. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(20 U.S.C. 1617) Enacted June 23, 1972, P.L. 92-318, sec. 717, 86 Stat. 369.

## NEIGHBORHOOD SCHOOLS

SEC. 719. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

(20 U.S.C. 1618) Enacted June 23, 1972, P.L. 92-318, sec. 719, 86 Stat. 369.

## DEFINITIONS

SEC. 720. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

(1) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

(2) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditure made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(3) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(5) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner for the purposes of this paragraph.

(6) For the purpose of section 706(a) (2) and section 709(a) (1), the term "integrated school" means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

(7) For the purpose of section 706(a) (1) (E), the term "integrated school" means a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Assistant Secretary determines that the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability, in no event more than 65 per centum thereof, and (ii) a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or, wherever the Assistant Secretary determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reser-

vation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

(9) (A) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives and (ii) (except for the purposes of section 705), as determined by the Assistant Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(10) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

(11) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(12) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(13) The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(14) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 708(a), Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

(15) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(20 U.S.C. 1619) Enacted June 23, 1972, P.L. 92-318, sec. 720, 86 Stat. 369-371; amended August 21, 1974, P.L. 93-380, sec. 643(d), 88 Stat. 587.



## EDUCATION AMENDMENTS OF 1974

(P.L. 93-380)

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TITLE VIII—MISCELLANEOUS PROVISIONS<sup>1</sup>PART A—POLICY STATEMENTS AND WHITE HOUSE CONFERENCE ON  
EDUCATION

## NATIONAL POLICY WITH RESPECT TO EQUAL EDUCATIONAL OPPORTUNITY

SEC. 801. Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

(20 U.S.C. 1221-1) Enacted August 21, 1974, P.L. 93-380, sec. 801, 88 Stat. 547.

## POLICY WITH RESEPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

SEC. 802. The Congress declares it to be the policy of the United States to implement immediately and continually section 411 of the General Education Provisions Act, relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this and other Acts of Congress.

(20 U.S.C. 1223) Enacted August 21, 1974, P.L. 93-380, sec. 802, 88 Stat. 597.

POLICY OF THE UNITED STATES WITH RESPECT TO MUSEUMS AS  
EDUCATIONAL INSTITUTIONS

SEC. 803. The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the sense of the Congress that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

(20 U.S.C. 1221-2) Enacted August 21, 1974, P.L. 93-380, sec. 803, 88 Stat. 597.

<sup>1</sup> Title VIII of P.L. 93-380.

## WHITE HOUSE CONFERENCE ON EDUCATION

SEC. 804. (a) The President is authorized to call and conduct a White House Conference on Education in 1977 (hereafter in this section referred to as the "Conference") in order to stimulate a national assessment of the condition, needs, and goals of education and to obtain from a group of citizens broadly representative of all aspects of education, both public and nonpublic, a report of findings and recommendations with respect to such assessment.

(b) (1) In carrying out the provisions of this section, participants in conferences and other activities at local, State, and Federal levels are authorized to consider all matters relevant to the purposes of the Conference set forth in subsection (a), but shall give special consideration to the following:

(A) The implementation of the policy set forth in section 801.

(B) The means by which educational systems are financed.

(C) Preschool education (including child care and nutrition programs), with special attention to the needs of disadvantaged children.

(D) The adequacy of primary education in providing all children with the fundamental skills of communication (reading, writing, spelling, and other elements of effective oral and written expression) and mathematics.

(E) The effectiveness of secondary education in preparing students for careers, as well as for postsecondary education.

(F) The place of occupational education (including education in proprietary schools) in the educational structure and the role of vocational and technical education in assuring that the Nation's requirements for skilled manpower are met.

(G) The structure and needs of postsecondary education, including methods of providing adequate levels of student assistance and institutional support.

(H) The adequacy of education at all levels in meeting the special educational needs of such individuals as handicapped persons, economically disadvantaged, racially or culturally isolated children, those who need bilingual instruction, and gifted and talented children.

(I) Ways of developing and implementing expanded educational opportunities for adults at the basic and secondary education equivalency levels.

(J) The contribution of nonpublic primary and secondary education in providing alternate educational experiences for pupils and a variety of options for parents in guiding their children's development.

(2) Participants in conference activities at the State and local levels are authorized to narrow the scope of their deliberations to the educational problems which they consider to be most critical in their respective areas, but shall be encouraged by the National Conference Committee (established pursuant to subsection (c)) to consider such problems in the context of the total educational structure.

(c)(1) There is established a National Conference Committee (hereafter in this section referred to as the "Committee"), composed of not more than thirty-five members, fifteen of whom shall be appointed by the President, ten of whom shall be appointed by the President pro tempore of the Senate, and ten of whom shall be appointed by the Speaker of the House of Representatives. The Committee shall at its first meeting select a Chairman and a Vice Chairman.

(2)(A) The Committee shall provide guidance and planning for the Conference and shall make a final report (and such interim reports as may be desirable) of the results, findings, and recommendations of the Conference to the President and to the Congress not later than December 1, 1977.

(B) The Committee is authorized to provide such assistance as may be necessary for State and local conference activities in preparation for the National Conference.

(3) The Commissioner shall support the activities of the Committee by providing technical assistance, advice, and consultation.

(4) Members of the Committee shall serve without compensation, but may receive travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while employed in the business of the Committee away from their homes or regular places of business.

(5) The Committee is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Conference Director and such professional, technical, and clerical personnel as may be necessary to assist in carrying out its functions under this section.

(d)(1) From the sums appropriated pursuant to subsection (e) the Commissioner is authorized to make a grant to each State, upon application of the Governor thereof, in order to assist in meeting the costs of that State's participation in the Conference program (including the conduct of conferences at the State and local levels).

(2) Grants made pursuant to paragraph (1) shall be made only with the approval of the Chairman of the Committee.

(3) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Commissioner in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than \$75,000 nor less than \$25,000.

(e) There are authorized to be appropriated, without fiscal year limitations, such sums as may be necessary to carry out the purposes of this section; and sums so appropriated shall remain available for expenditure until June 30, 1978.

(f) For the purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1221-1 note) Enacted August 21, 1974, P.L. 93-380, sec. 804, 88 Stat. 597, 599.

## PART B—EDUCATIONAL STUDIES AND SURVEYS

## STUDY OF PURPOSES AND EFFECTIVENESS OF COMPENSATORY EDUCATION PROGRAMS

SEC. 821. (a) In addition to the other authorities, responsibilities and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act and notwithstanding the second sentence of subsection (b) (1) of such section 405, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include—

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such program in attaining such purposes;

(2) an analysis of means to identify accurately the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof;

(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children;

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas;

(5) not more than 20 experimental programs, which shall be reasonably geographically representative, to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out the purposes of clauses (1) through (4), and the Commissioner of Education is authorized, notwithstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institute, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs; and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of sub-

mission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) Sums made available pursuant to section 151(i) of the Elementary and Secondary Education Act of 1965 shall be available to carry out the provisions of this section.

(e) (1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

(20 U.S.C. 1221e note) Enacted August 21, 1974, P.L. 93-380, sec. 821, 88 Stat. 599, 600.

#### SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

SEC. 822. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103(c)(1)(A) of title I of the Elementary and Secondary Act of 1965. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, not later than one year after the date of the enactment of this Act.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school districts of local educational agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a)(2) of the Act, and shall report to the Congress, no later than one year after the date of enactment of this Act, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for such purpose, together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and

the potential utility of data derived therefrom) for making adjustments in the amounts paid to each State under section 144(a)(1) of title I of such Act.

(c) No method of making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

(20 U.S.C. 241c note) Enacted August 21, 1974, P.L. 93-380, sec. 822, 88 Stat. 600, 601.

STUDY OF THE MEASURE OF POVERTY USED UNDER TITLE I OF THE  
ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 823. The Assistant Secretary shall supervise, with the full participation of the National Institute of Education and the National Center for Education Statistics, a thorough study of the manner in which the relative measure of poverty for use in the financial assistance program authorized by title I of the Elementary and Secondary Education Act of 1965 may be more accurately and currently developed. The study of the relative measure of poverty required by this subsection shall be adjusted for regional, climatic, metropolitan, urban, suburban, and rural differences and for family size and head of household differences. The study required by this section shall consider—

(A) the availability of data more current than the decennial census including data collected by any agency of the Federal Government which are relevant except that data so collected shall not disclose the name of any individual or any other information customarily held confidential by that agency, but shall include aggregate information to the extent possible;

(B) the availability and usefulness of cost of living data;

(C) the availability and usefulness of cost of housing data;

(D) the availability and usefulness of labor market and job availability data;

(E) the availability and usefulness of data with respect to prevailing wage rates, unemployment rates, and income distribution; and

(F) the availability of data with respect to eligibility criteria for aid to families with dependent children under a State plan approved under title IV of the Social Security Act.

(2) The Assistant Secretary is authorized and directed to prepare and submit to the Congress not later than one year after the effective date of this Act a report of the study conducted under this subsection including recommendations with respect to the availability of data designed to improve the relative measure of poverty for the program of financial assistance authorized by title I of the Elementary and Secondary Education Act of 1965. Whenever the Assistant Secretary determines that data specified in paragraph (1) of this subsection are not available or that it is impractical to obtain data for each relevant area or category, the report shall contain an explanation of the reasons therefor.

(20 U.S.C. 241a note) Enacted August 21, 1974, P.L. 93-380, sec. 823, 88 Stat. 601.

STUDY OF LATE FUNDING OF ELEMENTARY AND SECONDARY EDUCATION  
PROGRAMS

SEC. 824. (a) The Commissioner shall make a full and complete investigation and study to determine—

(1) the extent to which late funding of Federal programs to assist elementary and secondary education handicaps local educational agencies in the effective planning of their education programs, and the extent to which program quality and achievement of program objectives is adversely affected by such late funding, and

(2) means by which, through legislative or administrative action, the problem can be overcome.

(b) Not later than one year after the date of enactment of this Act, the Commissioner shall make a report to the Congress on the study required by subsection (a), together with such recommendations as he may deem appropriate.

(20 U.S.C. 241a note) Enacted August 21, 1974, P.L. 93-380, sec. 824, 88 Stat. 602.

SAFE SCHOOL STUDY

SEC. 825. (a) The Secretary shall make a full and complete investigation and study, including necessary research activities, during the period beginning upon the date of enactment of this Act and ending June 30, 1976, to determine—

(1) the frequency, seriousness, and incidence of crime in elementary and secondary schools in the States;

(2) the number and location of schools affected by crime;

(3) the per-pupil average incidence of crimes in elementary and secondary schools in urban, suburban, and rural schools located in all regions of the United States;

(4) the cost of replacement and repair of facilities, books, supplies, equipment, and other tangible objects seriously damaged or destroyed as the result of crime in such schools; and

(5) the means by which crimes are attempted to be prevented in such schools and the means by which crimes may more effectively be prevented in such schools.

(b) Within thirty days after the date of the enactment of this Act, the Secretary shall request each State educational agency to take the steps necessary to establish and maintain appropriate records to facilitate the compilation of information under clauses (2) and (3) of subsection (a) and to submit such information to him no later than seven months after the date of enactment of this Act. In conducting this study, the Secretary shall utilize data and other information available as a result of any other studies which are relevant to the objectives of this section.

(c) Not later than December 1, 1976, the Secretary shall prepare and submit to the Congress a report on the study required by this section, together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of subsection (a) of this section shall be stated separately and be appro-

privately labeled, and shall be separately stated for elementary and secondary schools, as defined in sections 801 (c) and (d) of the Elementary and Secondary Education Act of 1965.

(d) The Secretary may reimburse each State educational agency for the amount of expenses incurred by it in meeting the requests of the Secretary under this section.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(20 U.S.C. 241a note) Enacted August 21, 1974, P.L. 93-380, sec. 825, 88 Stat. 602.

#### STUDY OF ATHLETIC INJURIES

SEC. 826. (a) The Secretary shall make a full and complete investigation and study to determine—

(1) the number of athletic injuries to, and deaths of male and female students occurring in athletic competition between schools, in any practice session for such competition, and in any other school-rated athletic activities for the twelve-month period beginning sixty days after the date of enactment of this Act;

(2) the number of athletic injuries and deaths occurring (for the twelve-month period under clause (1) at each school with an athletic trainer or other medical or health professional personnel trained to prevent or treat such injuries and at each school without such personnel.

(b) Within fifty days after the date of enactment of this Act, the Secretary shall request each school to maintain appropriate records to enable it to compile information under subsection (a) and shall request such school to submit such information to the Secretary immediately after the twelve-month period beginning sixty days after the date of enactment of this Act. Not later than eighteen months after the date of enactment of this Act, the Secretary shall make a report to the Congress on the study required by subsection (a), together with such recommendations as he may deem appropriate. In such report, all information required under each paragraph of subsection (a) shall be stated separately for the two groups of schools under clauses (1) and (2) of subsection (c), except that the information shall also be stated separately (and shall be excluded from the group under clause (2)) for institutions of higher education which provide either of the two-year programs described in section 801(E) (3) of the Elementary and Secondary Education Act of 1965.

(c) For the purposes of this section, the term "school" means (1) any secondary school or (2) any institution of higher education, as defined in section 801 of the Elementary and Secondary Education Act of 1965.

(d) There is authorized to be appropriated the sum of \$75,000 to carry out the provisions of this section.

(20 U.S.C. 241a note) Enacted August 21, 1974, P.L. 93-380, sec. 826, 88 Stat. 603.

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#### ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

SEC. 842. (a) (1) Any State desiring to develop a plan for a program of financial assistance to local educational agencies in that State to assist such agencies in the provision of free public education may, upon



application therefor, he reimbursed for the development or administration of such a plan in accordance with the provisions of this section. Each plan developed pursuant to, or which meets the requirements of, this section shall be submitted to the Commissioner not later than July 1, 1977, and shall, subject to the provisions of this section, be consistent with the guidelines developed pursuant to paragraph (3). Such plan shall be designed to implement a program of State aid for free public education—

(A) which is consistent with such standards as may be required by the fourteenth article of amendment to the Constitution; and

(B) the primary purpose of which is to achieve equality of educational opportunity for all children in attendance at the schools of the local educational agencies of the State.

(2) The Commissioner shall develop guidelines defining the principles set forth in clauses (A) and (B) of paragraph (1). Not later than April 1, 1975, the Commissioner shall publish such guidelines in the Federal Register and submit such guidelines to the President of the Senate and the Speaker of the House of Representatives.

(3) During the sixty-day period following such publication, the Commissioner shall provide interested parties with an opportunity to present views and make recommendations with respect to such guidelines. Not later than July 1, 1975, the Commissioner shall (A) republish such guidelines in the Federal Register, together with any amendments thereto as may be merited and (B) publish in the Federal Register a summary of the views and recommendations presented by interested parties under the preceding sentence, together with the comments of the Commissioner respecting such views and recommendations.

(4) (A) The guidelines published in accordance with paragraph (3), together with any amendments, shall, not later than July 1, 1975, be submitted to the President of the Senate and the Speaker of the House of Representatives. If either the Senate or the House of Representatives adopts, prior to December 1, 1975, a resolution of disapproval of such guidelines, the Commissioner shall, prior to December 15, 1975, publish new guidelines. Such new guidelines shall take into consideration such views and policies as may be made in connection with such resolution and shall become effective thirty days after such publication.

(B) A resolution of disapproval under this paragraph may be in the form of a resolution of either the Senate or the House of Representatives or such resolution may be in the form of a concurrent resolution of both Houses. If such a resolution of disapproval is in the form of a concurrent resolution, the new guidelines published in accordance with the second sentence of subparagraph (A) of this paragraph shall be consistent with such policies as may be established by such concurrent resolution.

(C) If each of the Houses adopts a separate resolution with respect to guidelines submitted in accordance with this paragraph for any year and in connection therewith makes policy statements which differ substantially, then such differences may be resolved by the adoption of a concurrent resolution by both Houses. Any such concurrent resolution shall be deemed to be adopted in accordance with subparagraph (B).

(b) Any State developing a plan pursuant to this section may reject any guidelines developed and published under subsection (a) of this section if such State, as a provision of its plan, states the reasons for each such rejection.

(c) (1) Each State that develops a plan under this section shall be reimbursed for the reasonable amounts expended by the State in the development or administration of such a plan based upon the ratio of the population of that State to the population of all States except that no State shall receive less than \$100,000 and no State shall receive more than \$1,000,000.

(2) For the purposes of this section the term "State" means the fifty States.

(20 U.S.C. 246) Enacted August 21, 1974, P.L. 93-380, sec. 842, 88 Stat. 610, 611.

## PUBLIC LAW 874, 81ST CONGRESS

### TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

#### DECLARATION OF POLICY

SECTION 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.<sup>1</sup>

(20 U.S.C. 236) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong. sec. 1, 64 Stat. 1100; amended April 11, 1965, P.L. 89-10, Title I, sec. 2, 79 Stat. 27.

#### FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to July 1, 1978—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was

<sup>1</sup> Sec. 2 of P.L. 92-277, enacted April 24, 1972, provides as follows:

"SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred."

not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired,

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency, and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

(20 U.S.C. 237) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title I, sec. 2, 64 Stat. 1101; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., sec. 1, 67 Stat. 530; amended Aug. 12, 1955, C. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 3, 1956, C. 915, P.L. 949, 84th Cong., Title II, sec. 201, 70 Stat. 970; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 201, 72 Stat. 559; amended Oct. 3, 1961, P.L. 87-344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88-210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89-10, Title I, secs. 2, 5, 79 Stat. 27, 36; amended Jan. 2, 1968, P.L. 90-247, Title II, III, secs. 204(a)-(c) 301(e), 81 Stat. 808, 813; redesignated Oct. 16, 1968, P.L. 90-576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended Apr. 13, 1970, P.L. 91-230, Title II, sec. 201(b), 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 303(a)(1), 88 Stat. 522.

#### CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON FEDERAL PROPERTY

##### CHILDREN OF PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal

year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and (1) did so with a parent employed on Federal property situated in whole or in part in the same State as the school district of such agency or situated within reasonable commuting distance from the school district of such agency, or (2) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949).

#### CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1975, the Commissioner shall also determine the number of children (other than children to whom subsection (a) applies) who were in average daily attendance at the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either (1) resided on Federal property, or (2) resided with a parent employed on Federal property situated in whole or in part in the same State as such agency or situated within reasonable commuting distance from the school district of such agency, or (3) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949). In the case of fiscal years ending prior to July 1, 1975, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or any other provision of this subsection applies) who were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the fiscal year for which the determination is made, a refugee who meets the requirements of section 2(b)(3) (A) and (B) of the Migration and Refugee Assistance Act of 1962.

(c) (1) The amount to which a local educational agency is entitled under this section for any fiscal year shall be an amount equal to (A) the local contribution rate (determined under subsection (d)) multiplied by (B) the sum of the number of children determined under subsection (a) and one-half of the number determined under subsection (b).

(2) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under subsection (a) or the first sentence of subsection (b), as the case may be, unless the number of children who were in average daily attendance during such year to whom such subsection or such sentence applies—

(A) is ten or more; and

(B) amount to, whichever is the lesser, four hundred such children, or a number of such children equal to 3 per centum or more of the total number of children who were in average daily attendance during such year and for whom such agency pro-

vided free public education, except that such 3 per centum requirement need not be met by such agency for any period of two fiscal years which follows a fiscal year during which such agency met such requirement and was entitled to payment under the provisions of this section, but the payment, under the provisions of this section to such agency for the second fiscal year of any such two-year period during which such requirement is not met, shall be reduced by 50 per centum of the amount thereof.

For the purposes of this paragraph, a local educational agency may count as children determined under the first sentence of subsection (b) any number of children determined under subsection (a). Notwithstanding the provisions of clause (B) of this paragraph, the Commissioner may waive the 3 per centum condition of entitlement contained in such clause whenever, in his judgment, exceptional circumstances exist which would make the application of such condition inequitable and would defeat the purpose of this title.

(3) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children who were in average daily attendance to whom such sentence applies amounts to 20 per centum or more of the number of children who were in average daily attendance during such year and for whom such agency provided free public education, but in determining the number of such children under such second sentence no child shall be counted with respect to whose education a payment was made under section 2(b)(4) of the Migration and Refugee Assistance Act of 1962.

(4) If—

(A) the amount computed under paragraph (1) for a local educational agency for any fiscal year, together with the funds available to such agency from State, local, and other Federal sources (including funds available under section 4 of this title, but excluding funds available under title II) is, in the judgment of the Commissioner, less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which, in the judgment of the Commissioner, are generally comparable to the school district of such agency;

(B) such agency is, in the judgment of the Commissioner, making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(C) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year resided on Federal property; and

(D) the eligibility of such agency under State law for State aid with respect to the free public education of children residing on Federal property, and the amount of such aid, is determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner may increase the amount computed under paragraph (1) to the extent necessary to enable such agency to provide

a level of education equivalent to that maintained in such comparable school districts; except that this paragraph shall in no case operate to increase the amount computed for any fiscal year under paragraph (1) for a local educational agency above the amount determined by the Commissioner to be the cost per pupil of providing a level of education equivalent to that maintained in such comparable school districts, multiplied by the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who resided on Federal property during such year, minus the amount of State aid which the Commissioner determines to be available with respect to such children for the year for which the computation is being made.

(5) The determinations whether a local educational agency has met the requirements for eligibility under paragraphs (2) (B) and (4) (C) of this subsection for any fiscal year shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlement to any payments under this section to which it would be entitled had the estimate been accurate.

(d) The local contribution rate for a local educational agency (other than a local educational agency in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in a State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in a State in which there is only one local educational agency) for any fiscal year shall be computed by the Commissioner of Education, after consultation with the State educational agency and the local educational agency, in the following manner:

(1) he shall determine which school districts within the State are in his judgment generally comparable to the school districts of the agency for which the computation is being made; and

(2) he shall then divide (A) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making the computation, which the local educational agencies of such comparable school districts made from revenues derived from local sources, by (B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year.

The local contribution rate shall be an amount equal to the quotient obtained under clause (2) of this subsection. If, in the judgment of the Commissioner, the current expenditures in those school districts which he has selected under clause (1) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of the local educational agency for which the computation is being made, a level of education equivalent to that maintained in such other districts, the Commissioner may increase the local contribution rate for such agency by such amount as he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. In no event shall the local contribution rate for any local educational agency in any State (other than Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands) for any fiscal year be

less than (i) 50 per centum of the average per pupil expenditures in such State or (ii) 50 per centum of the average per pupil expenditure in the United States (which for purposes of this sentence and the next sentence means the fifty States and the District of Columbia), but not to exceed the average per pupil expenditure in the State: *Provided*, That if, for the fiscal year ending June 30, 1959, the application of clause (ii) of this sentence results in a lower local contribution rate than resulted from the application of such clause during the fiscal year ending June 30, 1958, as such clause was then in effect, then such clause, as in effect during the fiscal year ending June 30, 1958, shall be in effect during the fiscal year ending June 30, 1959. For the purposes of the preceding sentence the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in the State, or in the United States, as the case may be, plus any direct current expenditures by the States for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding fiscal year. The local contribution rate for any local educational agency in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in any State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in any State in which there is only one local educational agency, shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will, in his judgment, best effectuate the purposes of this title and most nearly approximate the policies and principles provided herein for determining local contribution rates in other States.

#### ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(e) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) or (b) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur,

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur. Such order of priority shall provide that appli-

cations for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection (a) of section 5 have been approved for that fiscal year.

(f) Notwithstanding any other provisions of title I of this Act (including the provisions of section 5(c)), a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall receive an amount equal to 100 per centum of the amounts to which such agency would be otherwise entitled under subsection (a) of this section.

(NOTE.—Section 3 is amended to read as follows with respect to appropriations for fiscal years beginning on and after July 1, 1975.)

*CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY*

*Children of Persons Who Reside and Work on Federal Property*<sup>1</sup>

*SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and*

<sup>1</sup> Section 305(b)(2)(A) of P.L. 93-380 provides as follows:

(2)(A)(i) Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

“(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

“(II) in the case of any other local educational agency, the amount so paid during any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year.”

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to July 1, 1977, such agency shall continue to be eligible for a payment under such section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the second of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provision of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provision for payments increased by division (i)—

“(1) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950, and without regard for the provisions of division (i); and

“(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget