

Public Law 105-17
Individuals with Disabilities Education Act
Part C — Infants and Toddlers with
Disabilities

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Public Law 105-17 Part C-Infants and Toddlers With Disabilities

111 STAT. 106

PUBLIC LAW 105-17—JUNE 4, 1997

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

20 USC 1431.

“SEC. 631. FINDINGS AND POLICY.

“(a) **FINDINGS.**—The Congress finds that there is an urgent and substantial need—

“(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay;

“(2) to reduce the educational costs to our society, including our Nation’s schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

“(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independently living in society;

“(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

“(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.

“(b) **POLICY.**—It is therefore the policy of the United States to provide financial assistance to States—

“(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

“(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

“(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

“(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

20 USC 1432.

“SEC. 632. DEFINITIONS.

“As used in this part:

“(1) **AT-RISK INFANT OR TODDLER.**—The term ‘at-risk infant or toddler’ means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

“(2) **COUNCIL.**—The term ‘council’ means a State interagency coordinating council established under section 641.

“(3) **DEVELOPMENTAL DELAY.**—The term ‘developmental delay’, when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

“(4) **EARLY INTERVENTION SERVICES.**—The term ‘early intervention services’ means developmental services that—

“(A) are provided under public supervision;

“(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

“(C) are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas—

- “(i) physical development;
- “(ii) cognitive development;
- “(iii) communication development;
- “(iv) social or emotional development; or
- “(v) adaptive development;

“(D) meet the standards of the State in which they are provided, including the requirements of this part;

“(E) include—

- “(i) family training, counseling, and home visits;
- “(ii) special instruction;
- “(iii) speech-language pathology and audiology services;
- “(iv) occupational therapy;
- “(v) physical therapy;
- “(vi) psychological services;
- “(vii) service coordination services;
- “(viii) medical services only for diagnostic or evaluation purposes;
- “(ix) early identification, screening, and assessment services;
- “(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;
- “(xi) social work services;
- “(xii) vision services;
- “(xiii) assistive technology devices and assistive technology services; and
- “(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

“(F) are provided by qualified personnel, including—

- “(i) special educators;
- “(ii) speech-language pathologists and audiologists;
- “(iii) occupational therapists;
- “(iv) physical therapists;
- “(v) psychologists;
- “(vi) social workers;
- “(vii) nurses;
- “(viii) nutritionists;
- “(ix) family therapists;
- “(x) orientation and mobility specialists; and
- “(xi) pediatricians and other physicians;

“(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

“(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

“(5) **INFANT OR TODDLER WITH A DISABILITY.**—The term ‘infant or toddler with a disability’—

“(A) means an individual under 3 years of age who needs early intervention services because the individual—

“(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

“(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and

“(B) may also include, at a State’s discretion, at-risk infants and toddlers.

Grants.
20 USC 1433.

“SEC. 633. GENERAL AUTHORITY.

“The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

20 USC 1434.

“SEC. 634. ELIGIBILITY.

“In order to be eligible for a grant under section 633, a State shall demonstrate to the Secretary that the State—

“(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and

“(2) has in effect a statewide system that meets the requirements of section 635.

20 USC 1435.

“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

“(a) **IN GENERAL.**—A statewide system described in section 633 shall include, at a minimum, the following components:

“(1) A definition of the term ‘developmental delay’ that will be used by the State in carrying out programs under this part.

“(2) A State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

“(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

“(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

“(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service

providers that includes timelines and provides for participation by primary referral sources.

“(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

“(7) A central directory which includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

“(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section 612(a)(14) and may include—

“(A) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

“(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part;

“(C) training personnel to work in rural and inner-city areas; and

“(D) training personnel to coordinate transition services for infants and toddlers served under this part from an early intervention program under this part to preschool or other appropriate services.

“(9) Subject to subsection (b), policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

“(A) the establishment and maintenance of standards which are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services; and

“(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State;

except that nothing in this part, including this paragraph, prohibits the use of paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to infants and toddlers with disabilities under this part.

“(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

“(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by

the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

“(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

“(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

“(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

“(E) the resolution of intra- and interagency disputes; and

“(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

“(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

“(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

“(13) Procedural safeguards with respect to programs under this part, as required by section 639.

“(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

“(15) A State interagency coordinating council that meets the requirements of section 641.

“(16) Policies and procedures to ensure that, consistent with section 636(d)(5)—

“(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

“(B) the provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

“(b) POLICY.—In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9), consistent with State law within 3 years.

“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

20 USC 1436.

“(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant’s or toddler’s family, to receive—

“(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

“(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family’s capacity to meet the developmental needs of the infant or toddler; and

“(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e).

“(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

“(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents’ consent, early intervention services may commence prior to the completion of the assessment.

“(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

“(1) a statement of the infant’s or toddler’s present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

“(2) a statement of the family’s resources, priorities, and concerns relating to enhancing the development of the family’s infant or toddler with a disability;

“(3) a statement of the major outcomes expected to be achieved for the infant or toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

“(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

“(5) a statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

“(6) the projected dates for initiation of services and the anticipated duration of the services;

“(7) the identification of the service coordinator from the profession most immediately relevant to the infant’s or toddler’s or family’s needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons; and

“(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

“(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then the early intervention services to which consent is obtained shall be provided.

20 USC 1437.

“SEC. 637. STATE APPLICATION AND ASSURANCES.

“(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

“(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

“(2) a designation of an individual or entity responsible for assigning financial responsibility among appropriate agencies;

“(3) information demonstrating eligibility of the State under section 634, including—

“(A) information demonstrating to the Secretary’s satisfaction that the State has in effect the statewide system required by section 633; and

“(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

“(4) if the State provides services to at-risk infants and toddlers through the system, a description of such services;

“(5) a description of the uses for which funds will be expended in accordance with this part;

“(6) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

“(7) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

“(8) a description of the policies and procedures to be used—

“(A) to ensure a smooth transition for toddlers receiving early intervention services under this part to preschool or other appropriate services, including a description of how—

“(i) the families of such toddlers will be included in the transition plans required by subparagraph (C); and

“(ii) the lead agency designated or established under section 635(a)(10) will—

“(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool

services under part B, as determined in accordance with State law;

“(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, up to 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

“(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

“(B) to review the child’s program options for the period from the child’s third birthday through the remainder of the school year; and

“(C) to establish a transition plan; and

“(9) such other information and assurances as the Secretary may reasonably require.

“(b) ASSURANCES.—The application described in subsection (a)—

“(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

“(2) shall contain an assurance that the State will comply with the requirements of section 640;

“(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

“(4) shall provide for—

“(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary’s functions under this part; and

“(B) keeping such records and affording such access to them as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

“(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

“(A) will not be commingled with State funds; and

“(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

“(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

“(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, and rural families, in the planning and implementation of all the requirements of this part; and

“(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

“(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

“(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part H (as in effect before July 1, 1998), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

“(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

Applicability.

“(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

“(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

“(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

“(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

20 USC 1438.

“SEC. 638. USES OF FUNDS.

“In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

“(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

“(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

“(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year; and

“(4) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

“(A) identifying and evaluating at-risk infants and toddlers;

“(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

“(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

“SEC. 639. PROCEDURAL SAFEGUARDS.

20 USC 1439.

“(a) MINIMUM PROCEDURES.—The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following:

“(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

Records.

“(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

“(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

“(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

“(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

“(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

“(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

“(8) The right of parents to use mediation in accordance with section 615(e), except that—

“(A) any reference in the section to a State educational agency shall be considered to be a reference to a State’s lead agency established or designated under section 635(a)(10);

“(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State’s lead agency under this part, as the case may be; and

“(C) any reference in the section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

“(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

20 USC 1440.

“SEC. 640. PAYOR OF LAST RESORT.

“(a) NONSUBSTITUTION.—Funds provided under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

“(b) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to Medicaid for infants or toddlers with disabilities) within the State.

20 USC 1441.

“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

“(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

“(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

“(b) COMPOSITION.—

“(1) IN GENERAL.—The council shall be composed as follows:

"(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

"(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

"(C) STATE LEGISLATURE.—At least one member shall be from the State legislature.

"(D) PERSONNEL PREPARATION.—At least one member shall be involved in personnel preparation.

"(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

"(F) AGENCY FOR PRESCHOOL SERVICES.—At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

"(G) AGENCY FOR HEALTH INSURANCE.—At least one member shall be from the agency responsible for the State governance of health insurance.

"(H) HEAD START AGENCY.—At least one representative from a Head Start agency or program in the State.

"(I) CHILD CARE AGENCY.—At least one representative from a State agency responsible for child care.

"(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

"(c) MEETINGS.—The council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) FUNCTIONS OF COUNCIL.—

"(1) DUTIES.—The council shall—

"(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance

of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

“(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

“(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

Reports.

“(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

“(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

“(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

20 USC 1442.

“SEC. 642. FEDERAL ADMINISTRATION.

“Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

“(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State’s lead agency established or designated under section 635(a)(10);

“(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

“(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

20 USC 1443.

“SEC. 643. ALLOCATION OF FUNDS.—

“(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

“(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to one percent for payments to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

“(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95-134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

“(b) PAYMENTS TO INDIANS.—

“(1) **IN GENERAL.**—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

“(2) **ALLOCATION.**—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

“(3) **INFORMATION.**—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

“(4) **USE OF FUNDS.**—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

“(5) **REPORTS.**—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(i)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

“(6) **PROHIBITED USES OF FUNDS.**—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

“(c) **STATE ALLOTMENTS.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2), (3), and (4), from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

“(2) **MINIMUM ALLOTMENTS.**—Except as provided in paragraphs (3) and (4), no State shall receive an amount under this section for any fiscal year that is less than the greatest of—

“(A) one-half of one percent of the remaining amount described in paragraph (1); or

“(B) \$500,000.

“(3) **SPECIAL RULE FOR 1998 AND 1999.**—

“(A) **IN GENERAL.**—Except as provided in paragraph (4), no State may receive an amount under this section for either fiscal year 1998 or 1999 that is less than the sum of the amounts such State received for fiscal year 1994 under—

“(i) part H (as in effect for such fiscal year); and

“(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994) for children with disabilities under 3 years of age.

“(B) **EXCEPTION.**—If, for fiscal year 1998 or 1999, the number of infants and toddlers in a State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for the State shall be reduced by the same percentage by which the number of such infants and toddlers so declined.

“(4) **RATABLE REDUCTION.**—

“(A) **IN GENERAL.**—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

“(B) **ADDITIONAL FUNDS.**—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis they were reduced.

“(5) **DEFINITIONS.**—For the purpose of this subsection—

“(A) the terms ‘infants’ and ‘toddlers’ mean children under 3 years of age; and

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

“(d) **REALLOTMENT OF FUNDS.**—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallocate, among the remaining States, amounts from such State in accordance with such subsection.

"SEC. 644. FEDERAL INTERAGENCY COORDINATING COUNCIL.

20 USC 1444.

"(a) ESTABLISHMENT AND PURPOSE.—**"(1) IN GENERAL.—**The Secretary shall establish a Federal Interagency Coordinating Council in order to—**"(A)** minimize duplication of programs and activities across Federal, State, and local agencies, relating to—**"(i)** early intervention services for infants and toddlers with disabilities (including at-risk infants and toddlers) and their families; and**"(ii)** preschool or other appropriate services for children with disabilities;**"(B)** ensure the effective coordination of Federal early intervention and preschool programs and policies across Federal agencies;**"(C)** coordinate the provision of Federal technical assistance and support activities to States;**"(D)** identify gaps in Federal agency programs and services; and**"(E)** identify barriers to Federal interagency cooperation.**"(2) APPOINTMENTS.—**The council established under paragraph (1) (hereafter in this section referred to as the 'Council') and the chairperson of the Council shall be appointed by the Secretary in consultation with other appropriate Federal agencies. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that the member represents.**"(b) COMPOSITION.—**The Council shall be composed of—**"(1)** a representative of the Office of Special Education Programs;**"(2)** a representative of the National Institute on Disability and Rehabilitation Research and a representative of the Office of Educational Research and Improvement;**"(3)** a representative of the Maternal and Child Health Services Block Grant Program;**"(4)** a representative of programs administered under the Developmental Disabilities Assistance and Bill of Rights Act;**"(5)** a representative of the Health Care Financing Administration;**"(6)** a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;**"(7)** a representative of the Social Security Administration;**"(8)** a representative of the special supplemental nutrition program for women, infants, and children of the Department of Agriculture;**"(9)** a representative of the National Institute of Mental Health;**"(10)** a representative of the National Institute of Child Health and Human Development;**"(11)** a representative of the Bureau of Indian Affairs of the Department of the Interior;**"(12)** a representative of the Indian Health Service;**"(13)** a representative of the Surgeon General;**"(14)** a representative of the Department of Defense;

“(15) a representative of the Children’s Bureau, and a representative of the Head Start Bureau, of the Administration for Children and Families;

“(16) a representative of the Substance Abuse and Mental Health Services Administration;

“(17) a representative of the Pediatric AIDS Health Care Demonstration Program in the Public Health Service;

“(18) parents of children with disabilities age 12 or under (who shall constitute at least 20 percent of the members of the Council), of whom at least one must have a child with a disability under the age of 6;

“(19) at least two representatives of State lead agencies for early intervention services to infants and toddlers, one of whom must be a representative of a State educational agency and the other a representative of a non-educational agency;

“(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants and toddlers with disabilities and their families and preschool children with disabilities; and

“(21) other persons appointed by the Secretary.

“(c) MEETINGS.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

“(d) FUNCTIONS OF THE COUNCIL.—The Council shall—

“(1) advise and assist the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, and the Commissioner of Social Security in the performance of their responsibilities related to serving children from birth through age 5 who are eligible for services under this part or under part B;

“(2) conduct policy analyses of Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

“(3) identify strategies to address issues described in paragraph (2);

“(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

“(5) coordinate technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

“(6) facilitate activities in support of States’ interagency coordination efforts.

“(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.

“(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the Council.

“SEC. 645. AUTHORIZATION OF APPROPRIATIONS.

20 USC 1445.

“For the purpose of carrying out this part, there are authorized to be appropriated \$400,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2002.