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**Full Text of Public Law 105-17,  
Individuals With Disabilities Education Act  
Amendments of 1997**

Part B—Assistance for Education of All Children With Disabilities

Section 619 of Part B—Preschool Grants

Part C—Infants and Toddlers With Disabilities

Part D—National Activities to Improve Education of Children With Disabilities

Public Law 105-17  
105th Congress

An Act

To amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

June 4, 1997  
[H.R. 5]

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Individuals with Disabilities Education Act Amendments of 1997”.

Individuals with Disabilities Education Act Amendments of 1997. Children, youth and families. Inter-governmental relations. 20 USC 1400 note.

**TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

**SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

Parts A through D of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) are amended to read as follows:

**“PART A—GENERAL PROVISIONS**

**“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.** 20 USC 1400.

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Individuals with Disabilities Education Act’.

“(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

“PART A—GENERAL PROVISIONS

“Sec. 601. Short title; table of contents; findings; purposes.

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

“Sec. 605. Acquisition of equipment; construction or alteration of facilities.

“Sec. 606. Employment of individuals with disabilities.

“Sec. 607. Requirements for prescribing regulations.

“PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

“Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.

“Sec. 612. State eligibility.

“Sec. 613. Local educational agency eligibility.

“Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.

“Sec. 615. Procedural safeguards.

“Sec. 616. Withholding and judicial review.

“Sec. 617. Administration.

- “Sec. 618. Program information.
- “Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

- “Sec. 631. Findings and policy.
- “Sec. 632. Definitions.
- “Sec. 633. General authority.
- “Sec. 634. Eligibility.
- “Sec. 635. Requirements for statewide system.
- “Sec. 636. Individualized family service plan.
- “Sec. 637. State application and assurances.
- “Sec. 638. Uses of funds.
- “Sec. 639. Procedural safeguards.
- “Sec. 640. Payor of last resort.
- “Sec. 641. State Interagency Coordinating Council.
- “Sec. 642. Federal administration.
- “Sec. 643. Allocation of funds.
- “Sec. 644. Federal Interagency Coordinating Council.
- “Sec. 645. Authorization of appropriations.

“PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH  
DISABILITIES

“SUBPART 1—STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH DISABILITIES

- “Sec. 651. Findings and purpose.
- “Sec. 652. Eligibility and collaborative process.
- “Sec. 653. Applications.
- “Sec. 654. Use of funds.
- “Sec. 655. Minimum State grant amounts.
- “Sec. 656. Authorization of appropriations.

“SUBPART 2—COORDINATED RESEARCH, PERSONNEL PREPARATION, TECHNICAL  
ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

- “Sec. 661. Administrative provisions.

“CHAPTER 1—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL  
SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED  
RESEARCH AND PERSONNEL PREPARATION

- “Sec. 671. Findings and purpose.
- “Sec. 672. Research and innovation to improve services and results for children  
with disabilities.
- “Sec. 673. Personnel preparation to improve services and results for children with  
disabilities.
- “Sec. 674. Studies and evaluations.

“CHAPTER 2—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL  
SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED  
TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

- “Sec. 681. Findings and purposes.
- “Sec. 682. Parent training and information centers.
- “Sec. 683. Community parent resource centers.
- “Sec. 684. Technical assistance for parent training and information centers.
- “Sec. 685. Coordinated technical assistance and dissemination.
- “Sec. 686. Authorization of appropriations.
- “Sec. 687. Technology development, demonstration, and utilization, and media  
services.

“(c) FINDINGS.—The Congress finds the following:

“(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

“(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142)—

“(A) the special educational needs of children with disabilities were not being fully met;

“(B) more than one-half of the children with disabilities in the United States did not receive appropriate educational services that would enable such children to have full equality of opportunity;

“(C) 1,000,000 of the children with disabilities in the United States were excluded entirely from the public school system and did not go through the educational process with their peers;

“(D) there were many children with disabilities throughout the United States participating in regular school programs whose disabilities prevented such children from having a successful educational experience because their disabilities were undetected; and

“(E) because of the lack of adequate services within the public school system, families were often forced to find services outside the public school system, often at great distance from their residence and at their own expense.

“(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

“(4) However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

“(5) Over 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

“(A) having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible;

“(B) strengthening the role of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

“(C) coordinating this Act with other local, educational service agency, State, and Federal school improvement efforts in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

“(D) providing appropriate special education and related services and aids and supports in the regular classroom to such children, whenever appropriate;

“(E) supporting high-quality, intensive professional development for all personnel who work with such children in order to ensure that they have the skills and knowledge necessary to enable them—

“(i) to meet developmental goals and, to the maximum extent possible, those challenging expectations that have been established for all children; and

“(ii) to be prepared to lead productive, independent, adult lives, to the maximum extent possible;

“(F) providing incentives for whole-school approaches and pre-referral intervention to reduce the need to label children as disabled in order to address their learning needs; and

“(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results.

“(6) While States, local educational agencies, and educational service agencies are responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

“(7)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

“(B) America’s racial profile is rapidly changing. Between 1980 and 1990, the rate of increase in the population for white Americans was 6 percent, while the rate of increase for racial and ethnic minorities was much higher: 53 percent for Hispanics, 13.2 percent for African-Americans, and 107.8 percent for Asians.

“(C) By the year 2000, this Nation will have 275,000,000 people, nearly one of every three of whom will be either African-American, Hispanic, Asian-American, or American Indian.

“(D) Taken together as a group, minority children are comprising an ever larger percentage of public school students. Large-city school populations are overwhelmingly minority, for example: for fall 1993, the figure for Miami was 84 percent; Chicago, 89 percent; Philadelphia, 78 percent; Baltimore, 84 percent; Houston, 88 percent; and Los Angeles, 88 percent.

“(E) Recruitment efforts within special education must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

“(F) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation’s 2 largest school districts, limited English proficient students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education. The Department of Education has found that services provided to limited English proficient students often do not respond primarily to the pupil’s academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation’s students from non-English language backgrounds.

“(8)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

“(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

“(C) Poor African-American children are 2.3 times more likely to be identified by their teacher as having mental retardation than their white counterpart.

“(D) Although African-Americans represent 16 percent of elementary and secondary enrollments, they constitute 21 percent of total enrollments in special education.

“(E) The drop-out rate is 68 percent higher for minorities than for whites.

“(F) More than 50 percent of minority students in large cities drop out of school.

“(9)(A) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

“(B) In 1993, of the 915,000 college and university professors, 4.9 percent were African-American and 2.4 percent were Hispanic. Of the 2,940,000 teachers, prekindergarten through high school, 6.8 percent were African-American and 4.1 percent were Hispanic.

“(C) Students from minority groups comprise more than 50 percent of K-12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

“(D) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

“(E) Ten years ago, 12 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 13 percent minority, while one-third of the students in public schools are minority children.

“(F) As recently as 1991, historically black colleges and universities enrolled 44 percent of the African-American teacher trainees in the Nation. However, in 1993, historically black colleges and universities received only 4 percent of the discretionary funds for special education and related services personnel training under this Act.

“(G) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

“(H) In 1986-87, of the degrees conferred in education at the B.A., M.A., and Ph.D. levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

“(10) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the

private sector that impede their full participation in the mainstream of society.

“(d) PURPOSES.—The purposes of this title are—

“(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

“(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

“(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

“(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

“(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

“(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

20 USC 1401.

**“SEC. 602. DEFINITIONS.**

“Except as otherwise provided, as used in this Act:

“(1) ASSISTIVE TECHNOLOGY DEVICE.—The term ‘assistive technology device’ means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

“(2) ASSISTIVE TECHNOLOGY SERVICE.—The term ‘assistive technology service’ means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

“(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child’s customary environment;

“(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

“(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

“(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

“(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

“(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

“(3) CHILD WITH A DISABILITY.—

“(A) IN GENERAL.—The term ‘child with a disability’ means a child—

“(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as ‘emotional disturbance’), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

“(ii) who, by reason thereof, needs special education and related services.

“(B) CHILD AGED 3 THROUGH 9.—The term ‘child with a disability’ for a child aged 3 through 9 may, at the discretion of the State and the local educational agency, include a child—

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

“(ii) who, by reason thereof, needs special education and related services.

“(4) EDUCATIONAL SERVICE AGENCY.—The term ‘educational service agency’—

“(A) means a regional public multiservice agency—

“(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

“(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State; and

“(B) includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

“(5) ELEMENTARY SCHOOL.—The term ‘elementary school’ means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

“(6) EQUIPMENT.—The term ‘equipment’ includes—

“(A) machinery, utilities, and built-in equipment and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

“(B) 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; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

“(7) EXCESS COSTS.—The term ‘excess costs’ means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

“(A) amounts received—

“(i) under part B of this title;

“(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; or

“(iii) under part A of title VII of that Act; and

“(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

“(8) FREE APPROPRIATE PUBLIC EDUCATION.—The term ‘free appropriate public education’ means special education and related services that—

“(A) have been provided at public expense, under public supervision and direction, and without charge;

“(B) meet the standards of the State educational agency;

“(C) include an appropriate preschool, elementary, or secondary school education in the State involved; and

“(D) are provided in conformity with the individualized education program required under section 614(d).

“(9) INDIAN.—The term ‘Indian’ means an individual who is a member of an Indian tribe.

“(10) INDIAN TRIBE.—The term ‘Indian tribe’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

“(11) INDIVIDUALIZED EDUCATION PROGRAM.—The term ‘individualized education program’ or ‘IEP’ means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

“(12) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term ‘individualized family service plan’ has the meaning given such term in section 636.

“(13) INFANT OR TODDLER WITH A DISABILITY.—The term ‘infant or toddler with a disability’ has the meaning given such term in section 632.

“(14) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’—

“(A) has the meaning given that term in section 1201(a) of the Higher Education Act of 1965; and

“(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.

“(15) LOCAL EDUCATIONAL AGENCY.—

“(A) 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 for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

“(B) The term includes—

“(i) an educational service agency, as defined in paragraph (4); and

“(ii) any other public institution or agency having administrative control and direction of a public elementary or secondary school.

“(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

“(16) NATIVE LANGUAGE.—The term ‘native language’, when used with reference to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.

“(17) NONPROFIT.—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.

“(18) OUTLYING AREA.—The term ‘outlying area’ means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(19) PARENT.—The term ‘parent’—

“(A) includes a legal guardian; and

“(B) except as used in sections 615(b)(2) and 639(a)(5), includes an individual assigned under either of those sections to be a surrogate parent.

“(20) PARENT ORGANIZATION.—The term ‘parent organization’ has the meaning given that term in section 682(g).

“(21) PARENT TRAINING AND INFORMATION CENTER.—The term ‘parent training and information center’ means a center assisted under section 682 or 683.

“(22) RELATED SERVICES.—The term ‘related services’ means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

“(23) SECONDARY SCHOOL.—The term ‘secondary school’ means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

“(24) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.

“(25) SPECIAL EDUCATION.—The term ‘special education’ means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

“(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

“(B) instruction in physical education.

“(26) SPECIFIC LEARNING DISABILITY.—

“(A) IN GENERAL.—The term ‘specific learning disability’ means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

“(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

“(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

“(27) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

“(28) STATE EDUCATIONAL AGENCY.—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.

“(29) SUPPLEMENTARY AIDS AND SERVICES.—The term ‘supplementary aids and services’ means, aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

“(30) TRANSITION SERVICES.—The term ‘transition services’ means a coordinated set of activities for a student with a disability that—

“(A) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

“(B) is based upon the individual student’s needs, taking into account the student’s preferences and interests; and

“(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

**“SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.**

“(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall

be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

“(b) **DIRECTOR.**—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

“(c) **VOLUNTARY AND UNCOMPENSATED SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

**“SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.**

20 USC 1403.

“(a) **IN GENERAL.**—A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

“(b) **REMEDIES.**—In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

“(c) **EFFECTIVE DATE.**—Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.

**“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.**

20 USC 1404.

“(a) **IN GENERAL.**—If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

“(b) **COMPLIANCE WITH CERTAIN REGULATIONS.**—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

“(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the ‘Americans with Disabilities Accessibility Guidelines for Buildings and Facilities’); or

“(2) appendix A of part 101-19.6 of title 41, Code of Federal Regulations (commonly known as the ‘Uniform Federal Accessibility Standards’).

**“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.**

20 USC 1405.

“The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.

**“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.**

20 USC 1406.

“(a) **PUBLIC COMMENT PERIOD.**—The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

“(b) **PROTECTIONS PROVIDED TO CHILDREN.**—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that would procedurally or substantively lessen the protections provided to children with disabilities under this

Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

“(c) POLICY LETTERS AND STATEMENTS.—The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with, and eligibility under, this part without following the requirements of section 553 of title 5, United States Code.

“(d) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS PART.—

Federal Register,  
publication.

“(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

“(2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate.

“(e) ISSUES OF NATIONAL SIGNIFICANCE.—If the Secretary receives a written request regarding a policy, question, or interpretation under part B of this Act, and determines that it raises an issue of general interest or applicability of national significance to the implementation of part B, the Secretary shall—

“(1) include a statement to that effect in any written response;

“(2) widely disseminate that response to State educational agencies, local educational agencies, parent and advocacy organizations, and other interested organizations, subject to applicable laws relating to confidentiality of information; and

“(3) not later than one year after the date on which the Secretary responds to the written request, issue written guidance on such policy, question, or interpretation through such means as the Secretary determines to be appropriate and consistent with law, such as a policy memorandum, notice of interpretation, or notice of proposed rulemaking.

“(f) EXPLANATION.—Any written response by the Secretary under subsection (e) regarding a policy, question, or interpretation under part B of this Act shall include an explanation that the written response—

“(1) is provided as informal guidance and is not legally binding; and

“(2) represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.