

EDUCATION SCIENCES REFORM

PUBLIC LAW 107-279

AS AMENDED BY PUBLIC LAW 108-446, THE INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004, ENACTED ON DECEMBER 3, 2004; 118 STAT. 2647

Notes

1. P.L. 107-279 is often referred to as the "Education Sciences Reform Act of 2002" (ESRA). That short title, however, applies only to Title I of the statute. There are separate short titles for Title II (the "Educational and Technical Assistance Act of 2002") and Title III (the "National Assessment of Educational Progress Authorization Act"). There is no overall short title for the entire statute.
2. The amendments highlighted in this document were made by section 201(a)(1), (a)(2), (b)(1), and (b)(2); section 202; and section 203 of P.L. 108-446, the Individuals with Disabilities Education Improvement Act of 2004; see 118 Stat. 2799 – 2803. Section 302(c)(1) of that Act provides that new sections 175, 176, and 177 (except for subsection (c)) of the ESRA took effect on enactment (Dec. 3, 2004). Section 302(c)(2) provides that section 177(c) of the ESRA takes effect on October 1, 2005; see 118 Stat. 2803. In addition, section 303 of P.L. 108-446 provides various authorities and instructions to the Secretary of Education to ensure the orderly transition of the amendments made by that Act, including the amendments to the ESRA; see 118 Stat. 2803 – 2804.
3. This document sets out Titles I, II, and III of P.L. 107-279, as amended. It does not include Title IV of the Act, which was itself amendatory and has been executed.
45. This document was prepared by the Division of Legislative Counsel in the Office of the General Counsel, U.S. Department of Education as a service for ED employees. It is not an official statement of the law and should not be relied on for that purpose. The official version of the law is set out in the Statutes at Large and in the U.S. Code.

Public Law 107-279, November 5, 2002; 116 Stat. 1940

An Act

To provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.

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

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TITLE I – EDUCATION SCIENCES REFORM

SEC. 101. SHORT TITLE. (20 USC 9501 note)

This title may be cited as the "Education Sciences Reform Act of 2002".

SEC. 102. DEFINITIONS. (20 USC 9501)

In this title:

(1) **IN GENERAL.** The terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and the terms "freely associated states" and "outlying area" have the meanings given those terms in section 1121(c) of such Act (20 U.S.C. 6331(c)).

(2) **APPLIED RESEARCH.** The term "applied research" means research—

(A) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and

(B) that is specifically directed to the advancement of practice in the field of education.

(3) **BASIC RESEARCH.** The term "basic research" means research—

(A) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and

(B) for the advancement of knowledge in the field of education.

(4) **BOARD.** The term "Board" means the National Board for Education Sciences established under section 116.

(5) **BUREAU.** The term "Bureau" means the Bureau of Indian Affairs.

(6) **COMPREHENSIVE CENTER.** The term "comprehensive center" means an entity established under section 203 of the Educational Technical Assistance Act of 2002.

(7) **DEPARTMENT.** The term "Department" means the Department of Education.

(8) **DEVELOPMENT.** The term "development" means the systematic use of knowledge or understanding gained from the findings of scientifically valid research and the shaping of that knowledge or understanding into products or processes that can be applied and evaluated and may prove useful in areas such as the preparation of materials and new methods of instruction and practices in teaching, that lead to the improvement of the academic skills of students, and that are replicable in different educational settings.

(9) **DIRECTOR.** The term "Director" means the Director of the Institute of Education Sciences.

(10) **DISSEMINATION.** The term "dissemination" means the communication and transfer of the results of scientifically valid research, statistics, and evaluations, in forms that are understandable, easily accessible, and usable, or adaptable for use in, the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, parents, policymakers, and the public, through technical assistance, publications, electronic transfer, and other means.

(11) EARLY CHILDHOOD EDUCATOR. The term "early childhood educator" means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(12) FIELD-INITIATED RESEARCH. The term "field-initiated research" means basic research or applied research in which specific questions and methods of study are generated by investigators (including teachers and other practitioners) and that conforms to standards of scientifically valid research.

(13) HISTORICALLY BLACK COLLEGE OR UNIVERSITY. The term "historically Black college or university" means a part B institution as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(14) INSTITUTE. The term "Institute" means the Institute of Education Sciences established under section 111.

(15) INSTITUTION OF HIGHER EDUCATION. The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(16) NATIONAL RESEARCH AND DEVELOPMENT CENTER. The term "national research and development center" means a research and development center supported under section 133(c).

(17) PROVIDER OF EARLY CHILDHOOD SERVICES. The term "provider of early childhood services" means a public or private entity that serves young children, including—

- (A) child care providers;
- (B) Head Start agencies operating Head Start programs, and entities carrying out Early Head Start programs, under the Head Start Act (42 U.S.C. 9831 et seq.);
- (C) preschools;
- (D) kindergartens; and
- (E) libraries.

(18)¹ SCIENTIFICALLY BASED RESEARCH STANDARDS.

(A) The term "scientifically based research standards" means research standards that—

- (i) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and
- (ii) present findings and make claims that are appropriate to and supported by the methods that have been employed.

(B) The term includes, appropriate to the research being conducted—

- (i) employing systematic, empirical methods that draw on observation or

¹ Regarding sections (18), (19), and (20), the NBES on June 20, 2012 expressed agreement with the position that whatever language regarding "science" is adopted, it should be consistent across federal education statutes, including the Elementary and Secondary Education Act (ESEA).

experiment;

(ii) involving data analyses that are adequate to support the general findings;

(iii) relying on measurements or observational methods that provide reliable data;

(iv) making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);

(v) ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) using research designs and methods appropriate to the research question posed.

(19) SCIENTIFICALLY VALID EDUCATION EVALUATION. The term "scientifically valid education evaluation" means an evaluation that—

(A) adheres to the highest possible standards of quality with respect to research design and statistical analysis;

(B) provides an adequate description of the programs evaluated and, to the extent possible, examines the relationship between program implementation and program impacts;

(C) provides an analysis of the results achieved by the program with respect to its projected effects;

(D) employs experimental designs using random assignment, when feasible, and other research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible; and

(E) may study program implementation through a combination of scientifically valid and reliable methods.

(20) SCIENTIFICALLY VALID RESEARCH. The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with scientifically based research standards.

(21) SECRETARY. The term "Secretary" means the Secretary of Education.

(22) STATE. The term "State" includes (except as provided in section 158) each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the freely associated states, and the outlying areas.

(23) TECHNICAL ASSISTANCE. The term "technical assistance" means—

(A) assistance in identifying, selecting, or designing solutions based on research, including professional development and high-quality training to implement solutions leading to—

(i) improved educational and other practices and classroom instruction based on scientifically valid research; and

- (ii) improved planning, design, and administration of programs;
- (B) assistance in interpreting, analyzing, and utilizing statistics and evaluations;
and
- (C) other assistance necessary to encourage the improvement of teaching and learning through the applications of techniques supported by scientifically valid research.

PART A – THE INSTITUTE OF EDUCATION SCIENCES

SEC. 111. ESTABLISHMENT. (20 USC 9511)

(a) ESTABLISHMENT. There shall be in the Department the Institute of Education Sciences, to be administered by a Director (as described in section 114) and, to the extent set forth in section 116, a board of directors.

(b) MISSION.

(1) IN GENERAL. The mission of the Institute is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through postsecondary study, in order to provide parents, educators, students, researchers, policymakers, and the general public with reliable information about—

- (A) the condition and progress of education in the United States, including early childhood education and special education;
- (B) educational practices that support learning and improve academic achievement and access to educational opportunities for all students; and
- (C) the effectiveness of Federal and other education programs.

(2) CARRYING OUT MISSION. In carrying out the mission described in paragraph (1), the Institute shall compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need (including in technology areas) that are supported by Federal funds appropriated to the Institute and ensure that such activities—

- (A) conform to high standards of quality, integrity, and accuracy; and
- (B) are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(c) ORGANIZATION. The Institute shall consist of the following:

- (1) The Office of the Director (as described in section 114).
- (2) The National Board for Education Sciences (as described in section 116).
- (3) The National Education Centers, which include—
 - (A) the National Center for Education Research (as described in part B);
 - (B) the National Center for Education Statistics (as described in part C); ~~and~~
 - (C) the National Center for Education Evaluation and Regional Assistance (as described in part D); ~~;~~ and
 - (D) the National Center for Special Education Research (as described in part E).

SEC. 112. FUNCTIONS. (20 USC 9512)

From funds appropriated under section 194, the Institute, directly or through grants, contracts, or cooperative agreements, shall—

- (1) conduct and support scientifically valid research activities, including basic research and applied research, statistics activities, scientifically valid education evaluation, development, and wide dissemination;
- (2) widely disseminate the findings and results of scientifically valid research in education;
- (3) promote the use, development, and application of knowledge gained from scientifically valid research activities;
- (4) strengthen the national capacity to conduct, develop, and widely disseminate scientifically valid research in education;
- (5) promote the coordination, development, and dissemination of scientifically valid research in education within the Department and the Federal Government; and
- (6) promote the use and application of research and development to improve practice in the classroom.

SEC. 113. DELEGATION. (20 USC 9513)

(a) DELEGATION OF AUTHORITY. Notwithstanding section 412 of the Department of Education Organization Act (20 U.S.C. 3472), the Secretary shall delegate to the Director all functions for carrying out this title ~~(other than administrative and support functions)~~, except that—

- (1) the Institute shall utilize the Department's administrative support services for travel, contracting, purchasing, human resources, information technology, and facilities under terms established by the Secretary that do not infringe on the Director's responsibilities as detailed in this Act;²
- (2) nothing in this title or in the National Assessment of Educational Progress Authorization Act (except section 302(e)(1)(J) of such Act) shall be construed to alter or diminish the role, responsibilities, or authority of the National Assessment Governing Board with respect to the National Assessment of Educational Progress (including with respect to the methodologies of the National Assessment of Educational Progress described in section 302(e)(1)(E)) from those authorized by the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.) on the day before the date of enactment of this Act;

~~(2) members of the National Assessment Governing Board shall continue to be appointed by the Secretary;~~

² Determining exactly what authority is delegated to the Director and what remains with the Secretary has been difficult due to the ambiguity of the current phrase, "other than administrative and support functions". For example, do "administrative functions" reserve to the Secretary the authority to determine which particular staff are hired by the Director or is this the Director's responsibility? Do "administrative functions" include managing contact with the press or does the Director have the authority to interact with the press without approval of the Secretary? Do "administrative functions" include requiring that annual employee performance plans within IES include the Secretary's priorities? The new definition is more precise in providing a list of specific functions that are reserved to the Department.

~~(3) section 302(f)(1) of the National Assessment of Educational Progress Authorization Act shall apply to the National Assessment Governing Board in the exercise of its responsibilities under this Act;~~

~~(4) sections 115 and 116 shall not apply to the National Assessment of Educational Progress; and~~

~~(5) sections 115 and 116 shall not apply to the National Assessment Governing Board.³~~

(b) OTHER ACTIVITIES. The Director may accept from the⁴ Secretary ~~may~~ assignments for the Institute to ~~responsibility for administering~~ other activities, if those activities are consistent with—

(1) the Institute's priorities, as approved by the National Board for Education Sciences under section 116, and the Institute's mission, as described in section 111(b); or

(2) the Institute's mission, but only if those activities do not divert the Institute from its priorities.

SEC. 114. OFFICE OF THE DIRECTOR. (20 USC 9514)

(a) APPOINTMENT. ~~Except as provided in subsection (b)(2),~~ The President, by and with the advice and consent of the Senate, shall appoint the Director of the Institute.

(b) TERM.

(1) IN GENERAL. The Director shall serve for a term of 6 years, beginning on the date of appointment of the Director, ~~except that the Director may serve after the expiration of the Director's term, until a successor has been appointed, for a period not to exceed 1 additional year.~~⁵

RENOMINATION. A Director may be renominated for a new term.⁶

~~(2) FIRST DIRECTOR. The President, without the advice and consent of the Senate, may appoint the Assistant Secretary for the Office of Educational Research and Improvement (as such office existed on the day before the date of enactment of this Act) to serve as the first Director of the Institute.~~

(3) BOARD RECOMMENDATIONS. The Board may make recommendations to the President with respect to the appointment of a Director under subsection (a) ~~other than a Director appointed under paragraph (2).~~

(c) PAY. The Director shall receive the rate of basic pay for level II of the Executive Schedule and shall be eligible for critical pay under the Federal Workforce Flexibility Act

³ NAGB had sections 2, 3, 4, & 5 inserted into ESRA because of their concern that someone would interpret ESRA as diminishing the role of NAGB. This principle is clearly articulated in the paragraph just prior to these sections, making these sections unnecessary.

⁴ This change makes it IES's option to accept additional assignments from the Secretary. The current language makes it possible for the Secretary to assign activities to IES that may not be appropriate or consistent with IES's priorities or mission since it would be the Secretary who would make the determination of consistency.

⁵ Enhances the possibility of continuity in leadership when a director's term expires but no-one has been nominated to replace the director.

⁶ Makes explicit what could be interpreted as permissible in current law.

of 2004.⁷

(d) QUALIFICATIONS. The Director shall be selected from individuals who are highly qualified authorities in the fields of scientifically valid research, statistics, or evaluation in education, as well as management within such areas, and have a demonstrated capacity for sustained productivity and leadership in these areas.

(e) ADMINISTRATION. The Director shall—

- (1) administer, oversee, and coordinate the activities carried out under the Institute, including the activities of the National Education Centers; ~~and~~
- (2) coordinate and approve budgets and operating plans for each of the National Education Centers for submission to the Secretary; ~~and~~
- (3) report directly to the Secretary.⁸

(f) DUTIES. The duties of the Director shall include the following:

- (1) To propose to the Board priorities for the Institute, in accordance with section 115(a).
- (2) To submit to the Board every two years a biennial plan of activities consistent with the priorities under Sec. 115.

~~(2)~~(3) To ensure the methodology applied in conducting research, development, evaluation, and statistical analysis is consistent with the standards for such activities under this title.

~~(3)~~(4) To coordinate education research and related activities carried out by the Institute with such research and activities carried out by other agencies within the Department and the Federal Government.

~~(4)~~(5) To advise the Secretary on research, evaluation, and statistics activities relevant to the activities of the Department.

~~(5)~~(6) To ~~establish~~ maintain⁹ necessary procedures for technical and scientific peer review of the activities of the Institute, consistent with section 116(b)(3).

~~(6)~~(7) To ensure that all participants in research conducted or supported by the Institute are afforded their privacy rights and other relevant protections as research subjects, in accordance with section 183 of this title, section 552a of title 5, United States Code, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

~~(7)~~(8) To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

~~(8)~~(9) To undertake initiatives and programs to increase the participation of researchers and institutions that have been historically underutilized in Federal education research activities of the Institute, including historically Black colleges or universities or other institutions of higher education with large numbers of minority

⁷ Many people who might be qualified to be Director are unwilling to do so over a 6 year term at the rate of pay of level II. This addition provides pay flexibility in recruiting a director, and would be subject to the recommendation of the Board.

⁸ A direct reporting line to the Secretary is important to maintaining the status and independent functioning of IES within the Department.

⁹ Peer review procedures have already been established and approved by the Board.

students.

~~(9) To coordinate with the Secretary to promote and provide for the coordination of research and development activities and technical assistance activities between the Institute and the Department's technical assistance comprehensive centers.~~ (10) To coordinate with the Secretary to assure that the results of the Institute's work are utilized by the Department's technical assistance providers.¹⁰

~~(10)~~(11) To solicit and consider the recommendations of education stakeholders, in order to ensure that there is broad and regular public and professional input from the educational field in the planning and carrying out of the Institute's activities.

~~(11)~~(12) To coordinate the wide dissemination of information on scientifically valid research.

~~(12)~~(13) To carry out and support other activities consistent with the priorities and mission of the Institute.

(g) EXPERT GUIDANCE AND ASSISTANCE. The Director may establish technical and scientific peer-review groups and scientific program advisory committees for research and evaluations that the Director determines are necessary to carry out the requirements of this title. The Director shall appoint such personnel, except that officers and employees of the United States shall comprise no more than 1/4 of the members of any such group or committee and shall not receive additional compensation for their service as members of such a group or committee. The Director shall ensure that reviewers are highly qualified and capable to appraise education research and development projects. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer-review group or an advisory committee established under this subsection.

(h) REVIEW. The Director may, when requested by other officers of the Department, and shall, when directed by the Secretary, review the ~~products and~~ publications of other offices of the Department to ~~determine~~ ~~certify whether that~~ evidence-based claims ~~about those products within those~~ and publications are scientifically valid.¹¹

SEC. 115. PRIORITIES. (20 USC 9515)

(a) PROPOSAL. ~~Not later than 6 years from the date of the previous approval of priorities,~~¹² ~~t~~The Director shall propose to the Board priorities for the Institute (taking into consideration long-term research and development on core issues conducted through the national research and development centers). The Director shall identify topics that may require long-term research and topics that are focused on understanding and solving particular education problems and issues, including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as—

(1) closing the achievement gap between high-performing and low-performing children, especially achievement gaps between minority and nonminority children and between disadvantaged children and such children's more advantaged peers; and

¹⁰ This expands the coordination function from the 15 comprehensive assistance centers to all of the Department's technical assistance providers.

¹¹ IES cannot review products, only publications that make scientific claims.

¹² Provides for updating priorities at least every 6 years.

(2) ensuring—

(A) that all children have the ability to obtain a high-quality education (from early childhood through postsecondary education) and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments, particularly in mathematics, science, and reading or language arts;

(B) access to, and opportunities for, postsecondary education; and

(C) the efficacy, impact on academic achievement, and cost-effectiveness of technology use within the Nation's schools.

(b) APPROVAL. The Board shall approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of those priorities. The Board shall transmit any priorities so approved to the appropriate congressional committees.

(c) CONSISTENCY. The Board shall ensure that priorities of the Institute and the National Education Centers are consistent with the mission of the Institute.

(d) PUBLIC AVAILABILITY AND COMMENT.

(1) PRIORITIES. Before submitting to the Board proposed priorities for the Institute, the Director shall make such priorities available to the public for comment for not less than 60 days (including by means of the Internet and through publishing such priorities in the Federal Register). The Director shall provide to the Board a copy of each such comment submitted.

(2) PLAN. Upon approval of such priorities, the Director shall make the Institute's plan for addressing such priorities available for public comment in the same manner as under paragraph (1).

SEC. 116. NATIONAL BOARD FOR EDUCATION SCIENCES. (20 USC 9516)

(a) ESTABLISHMENT. The Institute shall have a board of directors, which shall be known as the National Board for Education Sciences.

(b) DUTIES. The duties of the Board shall be the following:

(1) To advise and consult with the Director on the policies of the Institute.

(2) To consider and approve priorities proposed by the Director under section 115 to guide the work of the Institute.

(3) [To review and advise the Director on the biennial plan submitted under Sec. 114\(f\)\(2\)](#)

(4) To review and approve procedures for technical and scientific peer review of the activities of the Institute.

(5) To advise the Director on the establishment of activities to be supported by the Institute, including the general areas of research to be carried out by the National Center for Education Research.

(6) To present to the Director such recommendations as it may find appropriate for—

(A) the strengthening of education research; and

(B) the funding of the Institute.

(7) To advise the Director on the funding of applications for grants, contracts, and

cooperative agreements for research, after the completion of peer review.

(8) To review and regularly evaluate the work of the Institute, to ensure that scientifically valid research, development, evaluation, and statistical analysis are consistent with the standards for such activities under this title.

(9) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(10) To solicit advice and information from those in the educational field, particularly practitioners and researchers, to recommend to the Director topics that require long-term, sustained, systematic, programmatic, and integrated research efforts, including knowledge utilization and wide dissemination of research, consistent with the priorities and mission of the Institute.

(11) To advise the Director on opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education research, statistics, and evaluation activities of the Institute.

(12) To recommend to the Director ways to enhance strategic partnerships and collaborative efforts among other Federal and State research agencies.

(13) To recommend to the Director individuals to serve as Commissioners of the National Education Centers.

(14) To recommend when it considers it necessary and appropriate a salary for the Director under the critical pay authority of the Federal Workforce Flexibility Act of 2004.¹³

(c) COMPOSITION.

(1) VOTING MEMBERS. The Board shall have 15 voting members appointed by the President, by and with the advice and consent of the Senate.

(2) ADVICE. The President shall solicit advice regarding individuals to serve on the Board from the Board, and from the National Academy of Sciences, the National Science Board, the American Educational Research Association, the Society for Research on Educational Effectiveness, the National Academy of Education and the National Science Advisor.

(3) NONVOTING EX OFFICIO MEMBERS. The Board shall have the following nonvoting ex officio members:

(A) The Director of the Institute of Education Sciences.

(B) Each of the Commissioners of the National Education Centers.

(C) The Director of the National Institute of Child Health and Human Development.

(D) The Director of the Census.

¹³ Level II pay with no possibility for outside earned income will involve a substantial pay reduction for many qualified candidates. Under those conditions, individuals will either not take the job, or stay for only a few years. The critical pay authority doesn't automatically generate a pay increase. Each case is considered individually by OPM. Someone would have to be earning more than Level II in the current position to be considered for more than Level II as Director. The Board would have to approve the increase. This change will provide needed salary flexibility in recruiting a Director.

(E) The Commissioner of Labor Statistics.

(F) The Director of the National Science Foundation.

(4) APPOINTED MEMBERSHIP.

(A) QUALIFICATIONS. Members appointed under paragraph (1) shall be highly qualified to appraise education research, statistics, evaluations, or development, and shall include the following individuals:

(i) Not fewer than 8 researchers in the field of statistics, evaluation, social sciences, or physical and biological sciences ~~which may include those researchers recommended by the National Academy of Sciences.~~¹⁴

(ii) Individuals who are knowledgeable about the educational needs of the United States, who may include school-based professional educators, parents (including parents with experience in promoting parental involvement in education), Chief State School Officers, State postsecondary education executives, presidents of institutions of higher education, local educational agency superintendents, early childhood experts, special education experts, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(B) TERMS. Each member appointed under paragraph (1) shall serve for a term of 4 years ~~from the date of their appointment,~~¹⁵ except that—

~~(i) the terms of the initial members appointed under such paragraph shall (as determined by a random selection process at the time of appointment) be for staggered terms of—~~

~~(I) 4 years for each of 5 members;~~

~~(II) 3 years for each of 5 members; and~~

~~(III) 2 years for each of 5 members; and~~¹⁶

~~(ii) (i) no member appointed under such paragraph shall serve for more than 2 consecutive terms. (ii) a member may continue to serve after the expiration of the member's term, until a successor has been appointed, for a period not to exceed 1 additional year.~~

~~(C) UNEXPIRED TERMS. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.~~

(D) CONFLICT OF INTEREST. A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(5) CHAIR. The Board shall elect a chair ~~and a vice-chair~~ from among the members of the Board.

¹⁴ The President is required to solicit advice from the Academies per a previous section. This mention is redundant and unnecessary.

¹⁵ Currently the four-year term commences on November 29 of a year tied to one of the three cohorts in the original legislation (e.g., terms of current members began on November 29 of 2008, 2010, or 2011). The four-year term is counted from this date regardless of whether the seat is vacant or not. Due to delays in nomination and confirmation, some members effectively serve terms lasting as little as one year.

¹⁶ Staggering of terms was only necessary at the beginning of the Board's existence.

(6) COMPENSATION. Members of the Board shall serve without pay for such service. Members of the Board who are officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(7) TRAVEL EXPENSES. The members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(8) POWERS OF THE BOARD.

(A) IN GENERAL. In the exercise of its responsibilities, the Board shall be independent of the Director and the other offices and officers of the Institute.¹⁷

(AB) EXECUTIVE DIRECTOR. The Board shall have an Executive Director who shall be appointed by the Board for a term not to exceed 6 years (without regard to the provisions of title 5, United States Code, governing appointment in the competitive service) and who shall be compensated (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) at a rate of basic pay not to exceed the maximum rate of basic pay payable for positions at GS-15. The Executive Director shall report to the Board, and the Chair shall conduct the Executive Director's annual performance evaluation in consultation with the Board. A serving Executive Director may be reappointed by the Board.¹⁸

(BC) ADDITIONAL STAFF. The Board shall utilize such additional staff as may be appointed or assigned by the Director, in consultation with the Chair and the Executive Director.

(CD) DETAIL OF PERSONNEL. The Board may use the services and facilities of any department or agency of the Federal Government. Upon the request of the Board, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out this Act.

(DE) CONTRACTS. The Board may enter into contracts or make other arrangements as may be necessary to carry out its functions.

(EF) INFORMATION. The Board may, to the extent otherwise permitted by law, obtain directly from any executive department or agency of the Federal Government such information as the Board determines necessary to carry out its functions.

¹⁷ This language mirrors language pertaining to the National Assessment Governing Board in Section 302(f) and is intended to support the ability of the National Board for Education Sciences to be responsible for the annual performance review of its Executive Director.

¹⁸ Currently the Board has chosen its own Executive Director, but the Executive Director reports to the IES Director and the IES Director has conducted the Executive Director's annual performance review. Given that the Executive Director's role is to assist the Board in its duties, which include "to review and regularly evaluate the work of the Institute," this puts the Executive Director in a position where she or he is intended to serve the Board but is evaluated by the Director of the entity which the Board is meant to evaluate. The proposed change aims to have the Executive Director's performance evaluated by the group that she or he is serving, namely the Board. The National Assessment Governing Board (NAGB) is in an analogous situation, and in that case NAGB conducts the performance evaluation of its Executive Director (although the Department of Education conducts some administrative functions, such as handling the Executive Director's annual leave requests, etc.).

(G) Charitable Contributions. The Board shall be able to accept charitable donations and bequests to further the mission of the Board.¹⁹

(9) MEETINGS. The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chair or upon the written request of not less than 6 voting members of the Board. Meetings of the Board are subject to section 552b of title 5, United States Code (commonly referred to as the Government in the Sunshine Act).

(10) QUORUM. A majority of the voting members of the Board serving at the time of the meeting shall constitute a quorum.

(d) STANDING SUBCOMMITTEES.²⁰

~~(1) ESTABLISHMENT. The Board may establish standing or temporary subcommittees comprised of voting and ex-officio members to make recommendations to the Board with respect to the Board's responsibilities under this Act.~~

~~(A) that will each serve 1 of the National Education Centers; and~~

~~(B) to advise, consult with, and make recommendations to the Director and the Commissioner of the appropriate National Education Center.~~

~~(2) MEMBERSHIP. A majority of the members of each standing committee shall be voting members of the Board whose expertise is needed for the functioning of the committee. In addition, the membership of each standing committee may include, as appropriate—~~

~~(A) experts and scientists in research, statistics, evaluation, or development who are recognized in their discipline as highly qualified to represent such discipline and who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board;~~

~~(B) ex-officio members of the Board; and~~

~~(C) policymakers and expert practitioners with knowledge of, and experience using, the results of research, evaluation, and statistics who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board.~~

~~(3) DUTIES. Each standing committee shall—~~

~~(A) review and comment, at the discretion of the Board or the standing committee, on any grant, contract, or cooperative agreement entered into (or proposed to be entered into) by the applicable National Education Center;~~

~~(B) prepare for, and submit to, the Board an annual evaluation of the operations of the applicable National Education Center;~~

~~(C) review and comment on the relevant plan for activities to be undertaken by the applicable National Education Center for each fiscal year; and~~

~~(D) report periodically to the Board regarding the activities of the committee and the applicable National Education Center.~~

¹⁹ Would allow the Board to have sponsored events such as an awards dinner.

²⁰ The proposed changes bring the language into conformity with the way the Board has organized itself over the 8 years of its existence. At times the Board has encountered obstacles in its desire to form temporary subcommittees since such subcommittees are not expressly permitted by the statute.

(e) ANNUAL REPORT. The Board shall submit to the Director, the Secretary, and the appropriate congressional committees, not later than July 1 of each year, a report that assesses the effectiveness of the Institute in carrying out its priorities and mission, especially as such priorities and mission relate to carrying out scientifically valid research, conducting unbiased evaluations, collecting and reporting accurate education statistics, and translating research into practice.

(f) RECOMMENDATIONS. The Board shall submit to the Director, the Secretary, and the appropriate congressional committees a report that includes any recommendations regarding any actions that may be taken to enhance the ability of the Institute to carry out its priorities and mission. The Board shall submit an interim report not later than 3 years after the date of enactment of this Act and a final report not later than 5 years after such date of enactment.

SEC. 117. COMMISSIONERS OF THE NATIONAL EDUCATION CENTERS. (20 USC 9517)

(a) APPOINTMENT OF COMMISSIONERS.

(1) IN GENERAL. Except as provided in subsection (b), each of the National Education Centers shall be headed by a Commissioner appointed by the Director. In appointing Commissioners, the Director shall seek to promote continuity in leadership of the National Education Centers and shall consider individuals recommended by the Board. The Director may appoint a Commissioner to carry out the functions of a National Education Center without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) PAY AND QUALIFICATIONS. Commissioner shall—

(A) receive the rate of basic pay for level III~~IV~~ of the Executive Schedule; ~~and~~

(B) be eligible for critical pay under the provisions of the Federal Workforce Flexibility Act of 2004; and²¹

(C~~B~~) be highly qualified in the field of education research, statistics, or evaluation.

(3) SERVICE. Except as provided in subsection (b), each Commissioner shall report to the Director. A Commissioner shall serve for a period of ~~not more than~~ 6 years from the date of such Commissioner's appointment, except that a Commissioner —

(A) may be reappointed by the Director; and

(B) may serve after the expiration of that Commissioner's term, until a successor has been appointed, for a period not to exceed 1 additional year.

(b) APPOINTMENT OF COMMISSIONER FOR EDUCATION STATISTICS. The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(1) have substantial knowledge of programs assisted by the National Center for Education Statistics;

(2) receive the rate of basic pay for level III~~IV~~ of the Executive Schedule; and

(3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

(c) COORDINATION. Each Commissioner of a National Education Center shall coordinate with each of the other Commissioners of the National Education Centers in carrying out such Commissioner's duties under this title.

(d) SUPERVISION AND APPROVAL. Each Commissioner, except the Commissioner for Education Statistics, shall carry out such Commissioner's duties under this title under the supervision and subject to the approval of the Director.

SEC. 118. AGREEMENTS. (20 USC 9518)

The Institute may carry out research projects of common interest with entities such as the National Science Foundation and the National Institute of Child Health and Human Development through agreements with such entities that are in accordance with section 430 of the General Education Provisions Act (20 U.S.C. 1231).

SEC. 119. BIENNIAL REPORT. (20 USC 9519)

The Director shall, on a biennial basis, transmit to the President, the Board, and the appropriate congressional committees, and make widely available to the public (including by means of the Internet), a report containing the following:

(1) A description of the activities carried out by and through the National Education

²¹ Provides higher base pay and greater pay flexibility in order to enhance recruitment flexibility for commissioners.

Centers during the prior fiscal years.

(2) A summary of each grant, contract, and cooperative agreement in excess of \$100,000 funded through the National Education Centers during the prior fiscal years, including, at a minimum, the amount, duration, recipient, purpose of the award, and the relationship, if any, to the priorities and mission of the Institute, which shall be available in a user-friendly electronic database.

(3) A description of how the activities of the National Education Centers are consistent with the principles of scientifically valid research and the priorities and mission of the Institute.

(4) Such additional comments, recommendations, and materials as the Director considers appropriate.

SEC. 120. COMPETITIVE AWARDS. (20 USC 9520)

Activities carried out under this Act through grants, contracts, or cooperative agreements, at a minimum, shall be awarded on a competitive basis and, when practicable, through a process of peer review.

PART B – NATIONAL CENTER FOR EDUCATION RESEARCH

SEC. 131. ESTABLISHMENT. (20 USC 9531)

(a) ESTABLISHMENT. There is established in the Institute a National Center for Education Research (in this part referred to as the "Research Center").

(b) MISSION. The mission of the Research Center is—

(1) to sponsor sustained research that will lead to the accumulation of knowledge and understanding of education, to—

(A) ensure that all children have access to a high-quality education;

(B) improve student academic achievement, including through the use of educational technology;

(C) close the achievement gap between high-performing and low-performing students through the improvement of teaching and learning of reading, writing, mathematics, science, and other academic subjects; and (D) improve access to, and opportunity for, postsecondary education;

(2) to support the synthesis and, as appropriate, the integration of education research;

(3) to promote quality and integrity through the use of accepted practices of scientific inquiry to obtain knowledge and understanding of the validity of education theories, practices, or conditions; and

(4) to promote scientifically valid research findings that can provide the basis for improving academic instruction and lifelong learning.

SEC. 132. COMMISSIONER FOR EDUCATION RESEARCH. (20 USC 9532)

The Research Center shall be headed by a Commissioner for Education Research (in this part referred to as the "Research Commissioner") who shall have substantial knowledge of the activities of the Research Center, including a high level of expertise in

the fields of research and research management.

SEC. 133. DUTIES. (20 USC 9533)

- (a) GENERAL DUTIES. The Research Center shall—
- (1) maintain published ~~peer-review standards and~~²² standards for the conduct ~~and evaluation~~ of all research and development carried out under the auspices of the Research Center in accordance with this part;
 - (2) propose to the Director a research plan that—
 - (A) is consistent with the priorities and mission of the Institute and the mission of the Research Center and includes the activities described in paragraph (3); and
 - (B) shall be carried out pursuant to paragraph (4) and, as appropriate, be updated and modified;
 - (3) carry out specific, long-term research activities that are consistent with the priorities and mission of the Institute, and are approved by the Director;
 - (4) implement the plan proposed under paragraph (2) to carry out scientifically valid research that—
 - (A) uses objective and measurable indicators, including timelines, that are used to assess the progress and results of such research;
 - (B) meets the procedures for peer review ~~established~~ ~~maintained~~ by the Director under section 114(f)(5) and the standards of research described in section 134; and
 - (C) includes both basic research and applied research, which shall include research conducted through field-initiated research and ongoing research initiatives;
 - (5) promote the use of scientifically valid research within the Federal Government, including active participation in interagency research projects described in section 118;
 - (6) ensure that research conducted under the direction of the Research Center is relevant to education practice and policy;
 - (7) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of education research conducted or supported by the Research Center;
 - (8) assist the Director in the preparation of a biennial report, as described in section 119;
 - (9) carry out research on successful State and local education reform activities, including those that result in increased academic achievement and in closing the achievement gap, as approved by the Director;
 - (10) carry out research initiatives regarding the impact of technology, including—
 - (A) research into how technology affects student achievement;
 - (B) long-term research into cognition and learning issues as they relate to the uses of technology;
 - (C) rigorous, peer-reviewed, large-scale, long-term, and broadly applicable

²² The Institute has centralized peer review standards and procedures as approved by the Board.

empirical research that is designed to determine which approaches to the use of technology are most effective and cost-efficient in practice and under what conditions; and

(D) field-based research on how teachers implement technology and Internet-based resources in the classroom, including an understanding how these resources are being accessed, put to use, and the effectiveness of such resources; and

(11) carry out research that is rigorous, peer-reviewed, and large scale to determine which methods of mathematics and science teaching are most effective, cost efficient, and able to be applied, duplicated, and scaled up for use in elementary and secondary classrooms, including in low-performing schools, to improve the teaching of, and student achievement in, mathematics and science as required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) ELIGIBILITY. Research carried out under subsection (a) through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(c) PRIORITIES FOR LONG-TERM RESEARCH ACTIVITIES²³ NATIONAL RESEARCH AND DEVELOPMENT CENTERS.

(1) SUPPORT. In carrying out activities under subsection (a)(3), the Research Commissioner shall support long-term and well-funded programs of research that address the topics described in paragraph (2) as well as additional topics of research consistent with the Institute's priorities as approved by the Board. ~~s not less than 8 national research and development centers. The Research Commissioner shall assign each of the 8 national research and development centers not less than 1 of the topics described in paragraph (2). In addition, the Research Commissioner may assign each of the 8 national research and development centers additional topics of research consistent with the mission and priorities of the Institute and the mission of the Research Center.~~

(2) TOPICS OF RESEARCH. The Research Commissioner shall support the following topics of research, through national research and development centers or through other means, ~~assuring capacity is built in multiple locations to conduct quality research on the topic.~~

- (A) Adult literacy.
- (B) Assessment, standards, and accountability research.
- (C) Early childhood development and education.
- (D) English language learners research.
- (E) Improving low achieving schools.

²³ National R&D Centers have been bones of contention going back to the drafting of ESRA in 2001. The bill came within an inch of being scuttled as the House and Senate fought over which centers to require. The NBES position is that the research commissioner and the director, with the counsel of the Board, should be able to determine the best funding mechanisms and funding levels for advancing IES's long-term research priorities rather than having Congress earmark particular centers and levels of funding. The change in language maintains an emphasis on long-term programs of research based on particular priorities and indicates that they should be well-funded without requiring 8 specific R&D centers.

- (F) Innovation in education reform.
- (G) State and local policy.
- (H) Postsecondary education and training.
- (I) Rural education.
- (J) Teacher quality.
- (K) Reading and literacy.
- (L) Educational Technology.
- (M) Student achievement in the core academic disciplines

~~(3) DUTIES OF CENTERS. The national research and development centers shall address areas of national need, including in educational technology areas. The Research Commissioner may support additional national research and development centers to address topics of research not described in paragraph (2) if such topics are consistent with the priorities and mission of the Institute and the mission of the Research Center. The research carried out by the centers shall incorporate the potential or existing role of educational technology, where appropriate, in achieving the goals of each center.~~

~~(4) SCOPE OF CENTERS. Support for a national research and development center shall be for a period of not more than 5 years, shall be of sufficient size and scope to be effective., and notwithstanding section 134(b), may be renewed without competition for not more than 5 additional years if the Director, in consultation with the Research Commissioner and the Board, determines that the research of the national research and development center—~~

~~(A) continues to address priorities of the Institute; and~~

~~(B) merits renewal (applying the procedures and standards established in section 134).~~

~~(5) LIMIT. No national research and development center may be supported under this subsection for a period of more than 10 years without submitting to a competitive process for the award of the support.~~

~~(6) CONTINUATION OF AWARDS. The Director shall continue awards made to the national research and development centers that are in effect on the day before the date of enactment of this Act in accordance with the terms of those awards and may renew them in accordance with paragraphs (4) and (5).~~

(4) DISAGGREGATION. To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, gender, and socioeconomic background.

SEC. 134. STANDARDS FOR CONDUCT AND EVALUATION OF RESEARCH. (20 USC 9534)

(a) IN GENERAL. In carrying out this part, the Research Commissioner shall—

(1) ensure that all research conducted under the direction of the Research Center follows scientifically based research standards;

(2) develop such other standards as may be necessary to govern the conduct ~~and evaluation~~ of all research, development, and wide dissemination activities carried out by the Research Center to assure that such activities meet the highest standards of professional excellence;

(3) review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development, and actively solicit recommendations from research organizations and members of the general public in the development of the standards described in paragraph (2); and

(4) ensure that all research complies with Federal guidelines relating to research misconduct.

(b) PEER REVIEW.²⁴ The Director shall maintain a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed \$100,000, and for evaluating and assessing all research, statistical, and evaluation reports that are issued by the Institute.

~~(1) IN GENERAL. The Director shall establish a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed \$100,000, and for evaluating and assessing the products of research by all recipients of grants and cooperative agreements under this Act.~~

~~(2) EVALUATION. The Research Commissioner shall—~~

~~(A) develop the procedures to be used in evaluating applications for research grants, cooperative agreements, and contracts, and specify the criteria and factors (including, as applicable, the use of longitudinal data linking test scores, enrollment, and graduation rates over time) which shall be considered in making such evaluations; and~~

~~(B) evaluate the performance of each recipient of an award of a research grant, contract, or cooperative agreement at the conclusion of the award.~~

(c) LONG-TERM RESEARCH. The Research Commissioner shall ensure that not less than 50 percent of the funds made available for research for each fiscal year shall be used to fund long-term research programs of not less than 5 years, which support the priorities and mission of the Institute and the mission of the Research Center.

PART C – NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 151. ESTABLISHMENT. (20 USC 9541)

(a) ESTABLISHMENT. There is established in the Institute a National Center for Education Statistics (in this part referred to as the "Statistics Center").

(b) MISSION. The mission of the Statistics Center shall be—

(1) to collect and analyze education information and statistics in a manner that meets the highest methodological standards;

(2) to report education information and statistics in a timely manner; and

(3) to collect, analyze, and report education information and statistics in a manner that—

²⁴ The new language conforms with the practice of IES, which is to have one standards and review office for all IES publications and to manage all IES research competitions. It also conforms with the statutory prescription under Sec. 116(b)(3) for the Director to establish procedures for technical and scientific review that must be approved by the Board.

(A) is objective, secular, neutral, and nonideological and is free of partisan political influence and racial, cultural, gender, or regional bias; and

(B) is relevant and useful to practitioners, researchers, policymakers, and the public.

SEC. 152. COMMISSIONER FOR EDUCATION STATISTICS. (20 USC 9542)

The Statistics Center shall be headed by a Commissioner for Education Statistics (in this part referred to as the "Statistics Commissioner") who shall be highly qualified and have substantial knowledge of statistical methodologies and activities undertaken by the Statistics Center.

SEC. 153. DUTIES. (20 USC 9543)

(a) GENERAL DUTIES. The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics (disaggregated by the population characteristics described in paragraph (3)) on the condition and progress of education, at the preschool, elementary, secondary, postsecondary, and adult levels in the United States, including data on—

(A) State and local education reform activities;

(B) State and local early childhood school readiness activities;

(C) student achievement in, at a minimum, the core academic areas of reading, mathematics, and science at all levels of education;

(D) secondary school completions, dropouts, and adult literacy and reading skills;

(E) access to, and opportunity for, postsecondary education, including data on financial aid to postsecondary students;

(F) teaching, including—

(i) data on in-service professional development, including a comparison of courses taken in the core academic areas of reading, mathematics, and science with courses in noncore academic areas, including technology courses; and

(ii) the percentage of teachers who are highly qualified (as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) in each State and, where feasible, in each local educational agency and school;

(G) instruction, the conditions of the education workplace, and the supply of, and demand for, teachers;

(H) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety, including information regarding—

(i) the relationship between victims and perpetrators;

(ii) demographic characteristics of the victims and perpetrators; and

(iii) the type of weapons used in incidents, as classified in the Uniform Crime

Reports of the Federal Bureau of Investigation;

(I) the financing and management of education, including data on revenues and expenditures;

(J) the social and economic status of children, including their academic achievement;

(K) the existence and use of educational technology and access to the Internet by students and teachers in elementary schools and secondary schools;

(L) access to, and opportunity for, early childhood education;

(M) the availability of, and access to, before-school and after-school programs (including such programs during school recesses);

(N) student participation in and completion of secondary and postsecondary vocational and technical education programs by specific program area; and

(O) the existence and use of school libraries;

(2) conducting and publishing reports on the meaning and significance of the statistics described in paragraph (1);

(3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking;

(4) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities, which may include assisting State educational agencies and local educational agencies with the disaggregation of data and with the development of longitudinal student data systems;

(5) determining voluntary standards and guidelines to assist State educational agencies in developing statewide longitudinal data systems that link individual student data consistent with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 183, to improve student academic achievement and close achievement gaps;

(6) acquiring and disseminating data on educational activities and student achievement (such as the Third International Math and Science Study) in the United States compared with foreign nations;

(7) conducting longitudinal and special data collections necessary to report on the condition and progress of education;

(8) assisting the Director in the preparation of a biennial report, as described in section 119; and

~~(9) determining, in consultation with the National Research Council of the National Academies, methodology by which States may accurately measure graduation rates (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years), school completion rates, and dropout rates²⁵~~

²⁵ This work has already been accomplished.

(b) TRAINING PROGRAM. The Statistics ~~Commissioner~~ Center²⁶ may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of standard statistical procedures and concepts, and may establish a fellowship program to appoint such employees as temporary fellows at the Statistics Center, in order to assist the Statistics Center in carrying out its duties.

SEC. 154. PERFORMANCE OF DUTIES. (20 USC 9544)

(a) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS. In carrying out the duties under this part, the Statistics ~~Commissioner~~ Center may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(b) GATHERING INFORMATION.

(1) SAMPLING. The Statistics ~~Commissioner~~ Center may use the statistical method known as sampling (including random sampling) to carry out this part.

(2) SOURCE OF INFORMATION. The Statistics ~~Commissioner~~ Center may, as appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, vocational and adult education programs, libraries, administrators, teachers, students, the general public, and other individuals, organizations, agencies, and institutions (including information collected by States and local educational agencies for their own use); and

(B) by other offices within the Institute and by other Federal departments, agencies, and instrumentalities.

(3) COLLECTION. The Statistics Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Statistics Center to any such agency, organization, or institution to assist in such collection.

(4) TECHNICAL ASSISTANCE AND COORDINATION. In order to maximize the effectiveness of Department efforts to serve the educational needs of children and youth, the Statistics ~~Commissioner~~ Center shall—

(A) provide technical assistance to the Department offices that gather data for statistical purposes; and

(B) coordinate with other Department offices in the collection of data.

(c) DURATION. Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than 5 years, ~~and may be renewed at the discretion of the Statistics Commissioner for an additional period of not more than 5 years.~~²⁷

²⁶ In describing responsibilities and duties the current language sometimes assigns responsibilities to the Center and sometimes to the Commissioner without apparent rhyme or reason. The change in language uses "Center" consistently in keeping with the usage for the duties and responsibilities of the other IES education centers, retaining "Commissioner" when the authority or responsibility is clearly supervisory or requires the action of a single individual with authority.

²⁷ Non-competitive renewals are unnecessary and subject to abuse.

SEC. 155. REPORTS. (20 USC 9545)

(a) PROCEDURES FOR ISSUANCE OF REPORTS. The Statistics Commissioner, shall establish procedures, in accordance with section 186, to ensure that the reports issued under this section are relevant, of high quality, useful to customers, subject to rigorous peer review [under procedures established by the Director under Sec. 116\(b\)\(3\)²⁸](#), produced in a timely fashion, and free from any partisan political influence.

(b) REPORT ON CONDITION AND PROGRESS OF EDUCATION. Not later than June 1, 2003, and each June 1 thereafter, the Statistics Commissioner, shall submit to the President and the appropriate congressional committees a statistical report on the condition and progress of education in the United States.

(c) STATISTICAL REPORTS. The Statistics Commissioner shall issue regular and, as necessary, special statistical reports on education topics, particularly in the core academic areas of reading, mathematics, and science, consistent with the priorities and the mission of the Statistics Center.

SEC. 156. DISSEMINATION. (20 USC 9546)

(a) GENERAL REQUESTS.

(1) IN GENERAL. The Statistics Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) COMPILATIONS. The Statistics Center shall provide State educational agencies, local educational agencies, and institutions of higher education with opportunities to suggest the establishment of particular compilations of statistics, surveys, and analyses that will assist those educational agencies.

(b) CONGRESSIONAL REQUESTS. The Statistics Center shall furnish such special statistical compilations and surveys as the relevant congressional committees may request.

(c) JOINT STATISTICAL PROJECTS. The Statistics Center may engage in joint statistical projects related to the mission of the Center, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) FEES.

(1) IN GENERAL. Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) FUNDS RECEIVED. All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) ACCESS.

(1) OTHER AGENCIES. The Statistics Center shall, consistent with section 183,

²⁸ Establishes unambiguously that the peer review procedures established by the Director and approved by the Board apply to NCES.

cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Statistics Center.

(2) INTERESTED PARTIES. The Statistics Center shall, in accordance with such terms and conditions as the Center may prescribe, provide all interested parties, including public and private agencies, parents, and other individuals, direct access, in the most appropriate form (including, where possible, electronically), to data collected by the Statistics Center for the purposes of research and acquiring statistical information.

SEC. 157. COOPERATIVE EDUCATION STATISTICS SYSTEMS. (20 USC 9547)

The Statistics Center may establish 1 or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.

SEC. 158. STATE DEFINED. (20 USC 9548)

In this part, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**PART D – NATIONAL CENTER FOR EDUCATION EVALUATION
AND REGIONAL ASSISTANCE**

SEC. 171. ESTABLISHMENT. (20 USC 9561)

(a) ESTABLISHMENT. There is established in the Institute a National Center for Education Evaluation and Regional Assistance.

(b) MISSION. The mission of the National Center for Education Evaluation and Regional Assistance shall be—

(1) to provide technical assistance;

(2) to conduct evaluations of Federal education programs administered by the Secretary (and as time and resources allow, other education programs) to determine the impact of such programs (especially on student academic achievement in the core academic areas of reading, mathematics, and science);

(3) to support synthesis and wide dissemination of results of evaluation, research, and products developed; and

(4) to encourage the use of scientifically valid education research and evaluation throughout the United States.

(c) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS. In carrying out the duties under this part, the Director may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

SEC. 172. COMMISSIONER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE. (20 USC 9562)

(a) IN GENERAL. The National Center for Education Evaluation and Regional Assistance shall be headed by a Commissioner for Education Evaluation and Regional Assistance (in this part referred to as the "Evaluation and Regional Assistance Commissioner") who is highly qualified and has demonstrated a capacity to carry out the

mission of the Center and shall—

- (1) conduct evaluations pursuant to section 173;
- (2) widely disseminate information on scientifically valid research, statistics, and evaluation on education, particularly to State educational agencies and local educational agencies, to institutions of higher education, to the public, the media, voluntary organizations, professional associations, and other constituencies, especially with respect to information relating to, at a minimum—
 - (A) the core academic areas of reading, mathematics, and science;
 - (B) closing the achievement gap between high-performing students and low-performing students;
 - (C) educational practices that improve academic achievement and promote learning;
 - (D) education technology, including software; and
 - (E) those topics covered by the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before the date of enactment of this Act);
- (3) make such information accessible in a user-friendly, timely, and efficient manner (including through use of a searchable Internet-based online database that shall include all topics covered in paragraph (2)(E)) to schools, institutions of higher education, educators (including early childhood educators), parents, administrators, policymakers, researchers, public and private entities (including providers of early childhood services), entities responsible for carrying out technical assistance through the Department, and the general public;
- (4) support the regional educational laboratories in conducting applied research, the development and dissemination of educational research, products and processes, the provision of technical assistance, and other activities to serve the educational needs of such laboratories' regions;
- (5) manage the National Library of Education described in subsection (d), and other sources of digital information on education research;
- (6) assist the Director in the preparation of a biennial report, described in section 119; and

~~(7) award a contract for a prekindergarten through grade 12 mathematics and science teacher clearinghouse.~~

(b) ADDITIONAL DUTIES. In carrying out subsection (a), the Evaluation and Regional Assistance ~~Commissioner~~ Center shall—

- (1) ensure that information disseminated under this section is provided in a cost-effective, nonduplicative manner that includes the most current research findings, ~~which may include through the continuation of individual clearinghouses authorized under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act; 20 U.S.C. 6001 et seq.) (as such Act existed on the day before the date of enactment of this Act);~~²⁹
- (2) describe prominently the type of scientific evidence that is used to support the

²⁹ Not relevant for reauthorization.

findings that are disseminated;

(3) explain clearly the scientifically appropriate and inappropriate uses of—

(A) the findings that are disseminated; and

(B) the types of evidence used to support those findings; and

(4) respond, as appropriate, to inquiries from schools, educators, parents, administrators, policymakers, researchers, public and private entities, and entities responsible for carrying out technical assistance.

~~(c) **CONTINUATION.** The Director shall continue awards for the support of the Educational Resources Information Center Clearinghouses and contracts for regional educational laboratories (established under subsections (f) and (h) of section 941 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f) and (h)) (as such awards were in effect on the day before the date of enactment of this Act)) for the duration of those awards, in accordance with the terms and agreements of such awards.~~

(d) NATIONAL LIBRARY OF EDUCATION.

(1) ESTABLISHMENT. There is established within the National Center for Education Evaluation and Regional Assistance a National Library of Education that shall—

(A) be headed by an individual who is highly qualified in library science;

(B) collect and archive information;

(C) provide a central location within the Federal Government for information about education;

(D) provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(E) promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(2) INFORMATION. The information collected and archived by the National Library of Education shall include—

(A) products and publications developed through, or supported by, the Institute; and

(B) other relevant and useful education-related research, statistics, and evaluation materials and other information, projects, and publications that are—

(i) consistent with—

(I) scientifically valid research; or

(II) the priorities and mission of the Institute; and

(ii) developed by the Department, other Federal agencies, or entities (including entities supported under the Educational Technical Assistance Act of 2002 and the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before the date of enactment of this Act))).

SEC. 173. EVALUATIONS. (20 USC 9563)

(a) IN GENERAL.

(1) REQUIREMENTS. In carrying out its missions, the National Center for Education Evaluation and Regional Assistance may—

(A) conduct or support evaluations consistent with the Center's mission as described in section 171(b);

(B) evaluate programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(C) to the extent practicable, examine evaluations conducted or supported by others in order to determine the quality and relevance of the evidence of effectiveness generated by those evaluations, with the approval of the Director;

(D) coordinate the activities of the National Center for Education Evaluation and Regional Assistance with other evaluation activities in the Department;

(E) review and, where feasible, supplement Federal education program evaluations, particularly those by the Department, to determine or enhance the quality and relevance of the evidence generated by those evaluations;

(F) establish evaluation methodology; and

(G) assist the Director in the preparation of the biennial report, as described in section 119.

(2) ADDITIONAL REQUIREMENTS. Each evaluation conducted by the National Center for Education Evaluation and Regional Assistance pursuant to paragraph (1) shall—

(A) adhere to the highest possible standards of quality for conducting scientifically valid education evaluation; and

(B) be subject to rigorous peer-review [through a peer review system maintained by the Director involving highly qualified individuals with an in-depth knowledge of the subject being evaluated.](#)³⁰

(b) ~~ADMINISTRATION OF EVALUATIONS UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.~~ The Evaluation and Regional Assistance Commissioner, consistent with the mission of the National Center for Education Evaluation and Regional Assistance under section 171(b), shall administer all operations and contracts associated with evaluations [of education programs](#) authorized by ~~part E of title I of~~ the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) and administered by the Department as of the date of enactment of this Act.

SEC. 174. REGIONAL EDUCATIONAL LABORATORIES FOR RESEARCH, DEVELOPMENT, DISSEMINATION, AND TECHNICAL ASSISTANCE. (20 USC 9564)

(a) REGIONAL EDUCATIONAL LABORATORIES. The Director shall enter into contracts with entities to establish a networked system of 10 regional educational laboratories that serve the needs of each region of the United States in accordance with the provisions of this section. The amount of assistance allocated to each laboratory by the Evaluation and Regional Assistance Commissioner shall reflect the number of local educational agencies and the number of school-age children within the region served by

³⁰ [Brings the language into conformity with the existing and Board approved centralized peer review procedures of IES.](#)

such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(b) REGIONS. The regions served by the regional educational laboratories shall be the 10 geographic regions served by the regional educational laboratories established under ~~this section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994~~ (as such provision existed on the day before the date of enactment of this Act).

(c) ELIGIBLE APPLICANTS. The Director may enter into contracts under this section with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this section, ~~including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before the date of enactment of this Act) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)).~~³¹

(d) APPLICATIONS.

(1) SUBMISSION. Each applicant desiring a contract under this section shall submit an application at such time, in such manner, and containing such information as the Director may reasonably require.

(2) PLAN. Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 207 and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the regional educational laboratory, on an ongoing basis.

(e) ENTERING INTO CONTRACTS.

(1) IN GENERAL. In entering into contracts under this section, the Director shall—

(A) enter into contracts for a 5-year period; and

(B) ensure that regional educational laboratories established under this section have strong and effective governance, organization, management, and administration, and employ qualified staff.

(2) COORDINATION. In order to ensure coordination and prevent unnecessary duplication of activities among the regions, the Evaluation and Regional Assistance Commissioner shall—

(A) share information about the activities of each regional educational laboratory awarded a contract under this section with each other regional educational laboratory awarded a contract under this section and with the Department of Education, including the Director and the Board;

(B) oversee a strategic plan for ensuring that each regional educational laboratory awarded a contract under this section increases collaboration and resource-sharing in such activities;

(C) ensure, where appropriate, that the activities of each regional educational laboratory awarded a contract under this section also serve national interests; and

(D) ensure that each regional educational laboratory awarded a contract under

³¹ Not relevant for reauthorization of IES.

this section coordinates such laboratory's activities with the activities of each other regional technical assistance provider.

(3) OUTREACH. In conducting competitions for contracts under this section, the Director shall—

(A) actively encourage eligible entities to compete for such awards by making information and technical assistance relating to the competition widely available; and

(B) seek input from the chief executive officers of States, chief State school officers, educators, and parents regarding the need for applied research, wide dissemination, training, technical assistance, and development activities authorized by this title in the regions to be served by the regional educational laboratories and how those educational needs could be addressed most effectively.

(4) OBJECTIVES AND INDICATORS. Before entering into a contract under this section, the Director shall design specific objectives and measurable indicators to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional educational laboratories, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(5) STANDARDS. The Evaluation and Regional Assistance Commissioner shall ~~establish~~ ~~maintain~~ a system for technical and peer review to ensure that applied research activities, research-based reports, and products of the regional educational laboratories are consistent with the research standards described in section 134 and the evaluation standards adhered to pursuant to section 173(a)(2)(A).

(f) CENTRAL MISSION AND PRIMARY FUNCTION. Each regional educational laboratory awarded a contract under this section shall support applied research, development, wide dissemination, and technical assistance activities by—

(1) providing training (which may include supporting internships and fellowships and providing stipends) and technical assistance to State educational agencies, local educational agencies, school boards, schools funded by the Bureau as appropriate, and State boards of education regarding, at a minimum—

(A) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(B) scientifically valid research in education on teaching methods, assessment tools, and high quality, challenging curriculum frameworks for use by teachers and administrators in, at a minimum—

(i) the core academic subjects of mathematics, science, and reading;

(ii) English language acquisition;

(iii) education technology; and

(iv) the replication and adaption of exemplary and promising practices and new educational methods, including professional development strategies and the use of educational technology to improve teaching and learning; and

(C) the facilitation of communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the State education goals;

(2) developing and widely disseminating, including through Internet-based means,

scientifically valid research, information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement, to—

(A) schools, districts, institutions of higher education, educators (including early childhood educators and librarians), parents, policymakers, and other constituencies, as appropriate, within the region in which the regional educational laboratory is located; and

(B) the National Center for Education Evaluation and Regional Assistance;

(3) developing a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(4) in the event such quality applied research does not exist as determined by the regional educational laboratory or the Department, carrying out applied research projects that are designed to serve the particular educational needs (in prekindergarten through grade 16) of the region in which the regional educational laboratory is located, that reflect findings from scientifically valid research, and that result in user-friendly, replicable school-based classroom applications geared toward promoting increased student achievement, including using applied research to assist in solving site-specific problems and assisting in development activities (including high-quality and on-going professional development and effective parental involvement strategies);

(5) supporting and serving the educational development activities and needs of the region by providing educational applied research in usable forms to promote school improvement, academic achievement, and the closing of achievement gaps and contributing to the current base of education knowledge by addressing enduring problems in elementary and secondary education and access to postsecondary education;

(6) collaborating and coordinating services with other technical assistance providers funded by the Department of Education;

(7) assisting in gathering information on school finance systems to promote improved access to educational opportunities and to better serve all public school students;

(8) assisting in gathering information on alternative administrative structures that are more conducive to planning, implementing, and sustaining school reform and improved academic achievement;

(9) bringing teams of experts together to develop and implement school improvement plans and strategies, especially in low-performing or high poverty schools; and

(10) developing innovative approaches to the application of technology in education that are unlikely to originate from within the private sector, but which could result in the development of new forms of education software, education content, and technology-enabled pedagogy.

(g) ACTIVITIES. Each regional educational laboratory awarded a contract under this section shall carry out the following activities:

(1) Collaborate with the National Education Centers in order to—

(A) maximize the use of research conducted through the National Education Centers in the work of such laboratory;

(B) keep the National Education Centers apprised of the work of the regional educational laboratory in the field; and

(C) inform the National Education Centers about additional research needs identified in the field.

(2) Consult with the State educational agencies and local educational agencies in the region in developing the plan for serving the region.

(3) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(4) Report and disseminate information on overcoming the obstacles faced by educators and schools in high poverty, urban, and rural areas.

(5) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional educational laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(h) GOVERNING BOARD AND ALLOCATION.

(1) IN GENERAL. In carrying out its responsibilities, each regional educational laboratory awarded a contract under this section, in keeping with the terms and conditions of such laboratory's contract, shall—

(A) establish a governing board that—

(i) reflects a balanced representation of—

(I) the States in the region;

(II) the interests and concerns of regional constituencies; and

(III) technical expertise;

(ii) includes the chief State school officer or such officer's designee of each State represented in such board's region;

(iii) includes—

(I) representatives nominated by chief executive officers of States and State organizations of superintendents, principals, institutions of higher education, teachers, parents, businesses, and researchers; or

(II) other representatives of the organizations described in subclause (I), as required by State law in effect on the day before the date of enactment of this Act;

(iv) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Evaluation and Regional Assistance Commissioner concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Evaluation and Regional Assistance Commissioner, the mission of the regional educational laboratory for the duration of the contract period;

(v) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(vi) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(vii) directs the regional educational laboratory to carry out the laboratory's duties in a manner that will make progress toward achieving the State education goals and reforming schools and educational systems; and

(viii) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers; and

(B) allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(2) SPECIAL RULE. If a regional educational laboratory needs flexibility in order to meet the requirements of paragraph (1)(A)(i), the regional educational laboratory may select not more than 10 percent of the governing board from individuals outside those representatives nominated in accordance with paragraph (1)(A)(iii).

(i) DUTIES OF GOVERNING BOARD. In order to improve the efficiency and effectiveness of the regional educational laboratories, the governing boards of the regional educational laboratories shall establish and maintain a network to—

(1) share information about the activities each laboratory is carrying out;

(2) plan joint activities that would meet the needs of multiple regions;

(3) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(4) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(j) EVALUATIONS. The Evaluation and Regional Assistance Commissioner shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in this section in the third year that such laboratory receives assistance under this section in accordance with the standards developed by the Evaluation and Regional Assistance Commissioner and approved by the Board and shall transmit the results of such evaluations to the relevant committees of Congress, the Board, and the appropriate regional educational laboratory governing board.

(k) RULE OF CONSTRUCTION. No regional educational laboratory receiving assistance under this section shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international

projects or endeavors.

(l) ADVANCE PAYMENT SYSTEM. Each regional educational laboratory awarded a contract under this section shall participate in the advance payment system at the Department of Education.

(m) ADDITIONAL PROJECTS. In addition to activities authorized under this section, the Director is authorized to enter into contracts or agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve State education goals and for other purposes.

(n) ANNUAL REPORT AND PLAN. Not later than July 1 of each year, each regional educational laboratory awarded a contract under this section shall submit to the Evaluation and Regional Assistance Commissioner—

(1) a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(2) a report of how well such laboratory is meeting the needs of the region, including a summary of activities during the preceding year, a list of entities served, a list of products, and any other information that the regional educational laboratory may consider relevant or the Evaluation and Regional Assistance Commissioner may require.

(o) CONSTRUCTION. Nothing in this section shall be construed to require any modifications in a regional educational laboratory contract in effect on the day before the date of enactment of this Act.

PART E – NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

SEC. 175. ESTABLISHMENT. (20 USC 9567)

(a) ESTABLISHMENT. There is established in the Institute a National Center for Special Education Research (in this part referred to as the "Special Education Research Center").

(b) MISSION. The mission of the Special Education Research Center is—

(1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals;

(2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance.

(c) APPLICABILITY OF EDUCATION SCIENCES REFORM ACT OF 2002. Parts A and F, and the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.

SEC. 176. COMMISSIONER FOR SPECIAL EDUCATION RESEARCH. (20 USC 9567a)

The Special Education Research Center shall be headed by a Commissioner for Special Education Research (in this part referred to as the "Special Education Research Commissioner") who shall have substantial knowledge of the Special Education Research Center's activities, including a high level of expertise in the fields of research, research management, and the education of children with disabilities.

SEC. 177. DUTIES. (20 USC 9567b)

(a) GENERAL DUTIES. The Special Education Research Center shall carry out research activities under this part consistent with the mission described in section 175(b), such as activities that—

(1) improve services provided under the Individuals with Disabilities Education Act in order to improve—

(A) academic achievement, functional outcomes, and educational results for children with disabilities; and

(B) developmental outcomes for infants or toddlers with disabilities;

(2) identify scientifically based educational practices that support learning and improve academic achievement, functional outcomes, and educational results for all students with disabilities;

(3) examine the special needs of preschool aged children, infants, and toddlers with disabilities, including factors that may result in developmental delays;

(4) identify scientifically based related services and interventions that promote participation and progress in the general education curriculum and general education settings;

(5) improve the alignment, compatibility, and development of valid and reliable assessments, including alternate assessments, as required by section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));

(6) examine State content standards and alternate assessments for students with significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate education settings, and improved post-school results;

(7) examine the educational, developmental, and transitional needs of children with high incidence and low incidence disabilities;

(8) examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

(9) improve reading and literacy skills of children with disabilities;

(10) examine and improve secondary and postsecondary education and transitional outcomes and results for children with disabilities;

(11) examine methods of early intervention for children with disabilities, including children with multiple or complex developmental delays;

(12) examine and incorporate universal design concepts in the development of standards, assessments, curricula, and instructional methods to improve educational and transitional results for children with disabilities;

(13) improve the preparation of personnel, including early intervention personnel, who provide educational and related services to children with disabilities to increase the academic achievement and functional performance of students with disabilities;

(14) examine the excess costs of educating a child with a disability and expenses associated with high cost special education and related services;

(15) help parents improve educational results for their children, particularly related to transition issues;

(16) address the unique needs of children with significant cognitive disabilities; and

(17) examine the special needs of limited English proficient children with disabilities.

(b) STANDARDS. The Special Education Research Commissioner shall ensure that activities assisted under this section—

(1) conform to high standards of quality, integrity, accuracy, validity, and reliability;

(2) are carried out in accordance with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research; and

(3) are objective, secular, neutral, and nonideological, and are free of partisan political influence, and racial, cultural, gender, regional, or disability bias.

(c) PLAN. The Special Education Research Commissioner shall propose to the Director a research plan, developed in collaboration with the Assistant Secretary for Special Education and Rehabilitative Services, that—

(1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center;

(2) is carried out, updated, and modified, as appropriate;

(3) is consistent with the purposes of the Individuals with Disabilities Education Act;

(4) contains an appropriate balance across all age ranges and types of children with disabilities;

(5) provides for research that is objective and uses measurable indicators to assess its progress and results; and

(6) is coordinated with the comprehensive plan developed under section 681 of the Individuals with Disabilities Education Act.

(d) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.

(1) IN GENERAL. In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible applicants.

(2) ELIGIBLE APPLICANTS. Activities carried out under this subsection through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(3) APPLICATIONS. An eligible applicant that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(e) DISSEMINATION. The Special Education Research Center shall—

(1) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of special education research conducted or supported by the Special Education Research Center; and

(2) assist the Director in the preparation of a biennial report, as described in section 119.

(f) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2005 through 2010.

PART F – GENERAL PROVISIONS

SEC. 181. INTERAGENCY DATA SOURCES AND FORMATS. (20 USC 9571)

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

SEC. 182. PROHIBITIONS. (20 USC 9572)

(a) NATIONAL DATABASE. Nothing in this title may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this title.

(b) FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS. Nothing in this title may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this title.

(c) ENDORSEMENT OF CURRICULUM. Notwithstanding any other provision of Federal law, no funds provided under this title to the Institute, including any office, board, committee, or center of the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(d) FEDERALLY SPONSORED TESTING.

(1) IN GENERAL. Subject to paragraph (2), no funds provided under this title to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) EXCEPTIONS. Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(6) of this title or section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)) (as such section was in effect on the day before the date of enactment of this Act) and administered to only a representative sample of pupils in the United States and in foreign nations.

SEC. 183. CONFIDENTIALITY. (20 USC 9573)

(a) IN GENERAL. All collection, maintenance, use, and wide dissemination of data by the Institute, including each office, board, committee, and center of the Institute, shall

conform with the requirements of section 552a of title 5, United States Code, the confidentiality standards of subsection (c) of this section, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

(b) STUDENT INFORMATION. The Director shall ensure that all individually identifiable information about students, their academic achievements, and their families, ~~and information with respect to individual schools,~~³² shall remain confidential in accordance with section 552a of title 5, United States Code, the confidentiality standards of subsection (c) of this section, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

(c) CONFIDENTIALITY STANDARDS.

(1) IN GENERAL.

(A) The Director shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this title.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) PROHIBITION. No person may—

(A) use any individually identifiable information furnished under this title for any purpose other than a research, statistics, or evaluation purpose under this title;

(B) make any publication whereby the data furnished by any particular person under this title can be identified; or

(C) permit anyone other than the individuals authorized by the Director to examine the individual reports.

(d) ADMINISTRATION.

(1) IN GENERAL.

(A) DISCLOSURE. No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this title.

(B) IMMUNITY. Individually identifiable information collected or retained under this title shall be immune from legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(C) APPLICATION. This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.

(2) EMPLOYEE OR STAFF VIOLATIONS. Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (c)(2),

³² Schools do not receive privacy protection elsewhere in federal statute or regulations. Many IES reports from NCES require that schools be identified, e.g., the Common Core of Data. The prohibition on revealing school identity means that useful information must be omitted from evaluation reports. There is no compelling reason to maintain this protection for schools.

knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (c)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this title, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(3) TEMPORARY STAFF. The Director may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Director in performing the Director's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) INFORMATION REQUIREMENTS. No collection of information or data acquisition activity undertaken by the Director shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code, except such collection of information or data acquisition activity may be subject to review or coordination if the Director determines that such review or coordination is beneficial.

(5) DEFINITIONS. For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Director and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) VIOLATIONS. Any person who uses any data provided by the Director, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (c)(2), shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(7) ACCESS TO REPORTS OR RECORDS. Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Director's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(e) INVESTIGATION AND PROSECUTION OF TERRORISM.

(1) IN GENERAL. Notwithstanding subsections (a) and (b) **[should be changed to "(c) and (d)" to conform to redesignation of those subsections; see note at the end of §183]**, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

(A) collect reports, records, and information (including individually identifiable information) in the possession of the Director that are relevant to an authorized

investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) APPLICATION AND APPROVAL.

(A) IN GENERAL. An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) PROTECTION. An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2) and shall not be liable to any person for that production. **[reference to "(b)(2)" should be updated to "(d)(2)" to reflect redesignation of former subsection (b); see note below]**

[Note: Subsections (c) through (e) were previously §408 of the National Education Statistics Act of 1994. That section was amended by §401(a)(1) – (5) of P.L. 107-279 and transferred to §183, as subsections (c) through (e), by §401(a)(6); 116 Stat. 1982 – 1983.]

SEC. 184. AVAILABILITY OF DATA. (20 USC 9574)

Subject to section 183, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

SEC. 185. PERFORMANCE MANAGEMENT. (20 USC 9575)

The Director shall ensure that all activities conducted or supported by the Institute or a National Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

- (1) Establishing and improving feedback mechanisms in order to anticipate customer needs.
- (2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.
- (3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely distribution of information, including data and reports.
- (4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.
- (5) Continuously improving management strategies and practices.
- (6) Making information available to the public in an expeditious fashion.

SEC. 186. AUTHORITY TO PUBLISH. (20 USC 9576)

(a) PUBLICATION. The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department or agency of the Federal government.

(b) ADVANCE COPIES. The Director shall provide the Secretary and other relevant offices with an advance copy of any ~~information to be published~~ publication under this section before the release of that publication to the public.³³

(c) PEER REVIEW. All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) ITEMS NOT COVERED. Nothing in subsections (a), (b), or (c) shall be construed to apply to—

- (1) information on current or proposed budgets, appropriations, or legislation;
- (2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5, United States Code; and
- (3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

SEC. 187. VACANCIES. (20 USC 9577)

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 188.

SEC. 188. SCIENTIFIC OR TECHNICAL EMPLOYEES. (20 USC 9578)

(a) IN GENERAL. The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5, 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 scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

- (1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;
- (2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS-15, as determined in accordance with section 5376 of title 5, United States Code, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

³³ Syntactic fix – the Director cannot provide the Secretary with advance copies of “information”, only of publications.

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or 1/5 of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

(b) DUTIES OF EMPLOYEES. All employees described in subsection (a) shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

SEC. 189. FELLOWSHIPS. (20 USC 9579)

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

SEC. 190. VOLUNTARY SERVICE. (20 USC 9580)

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

SEC. 191. RULEMAKING. (20 USC 9581)

Notwithstanding section 437(d) of the General Education Provisions Act (20 U.S.C. 1232(d)), the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5, United States Code, shall apply to the Institute.

SEC. 192. COPYRIGHT. (20 USC 9582)

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17, United States Code.

SEC. 193. REMOVAL. (20 USC 9583)³⁴

(a) PRESIDENTIAL. The Director [and any](#) member of the Board, and the Commissioner for Education Statistics may be removed [for cause](#) by the President prior to the expiration of the term of each such appointee [subsequent to the President informing the Board of the cause for which the appointee is to be removed](#).

(b) DIRECTOR. Each Commissioner appointed by the Director pursuant to section 117 may be removed [for cause](#) by the Director prior to the expiration of the term of each such Commissioner [subsequent to the Director informing the Board of the cause for](#)

³⁴ Provides for removal for cause rather than simple removal. Without a “for cause” provision there is no difference between a term appointment and serving at the pleasure of. Without a “for cause” provision, appointees covered in this section could be routinely removed on a change of administration.

which the appointee is to be removed and receiving advice from the Board on the proposed removal.

SEC. 194. AUTHORIZATION OF APPROPRIATIONS. (20 USC 9584)

(a) IN GENERAL. There are authorized to be appropriated to administer and carry out this title (except section 174) \$1,000,000,000~~400,000,000~~ for fiscal year 2013~~03~~ and such sums as may be necessary for each of the 10~~5~~ succeeding fiscal years, of which—

~~(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before the date of enactment of this Act) for fiscal year 2002 shall be provided to the National Center for Education — Statistics, as authorized under part C; and~~(2) not more than the lesser of 2 percent of such funds or \$1,000,000 shall be made available to carry out section 116 (relating to the National Board for Education Sciences).

(b) REGIONAL EDUCATIONAL LABORATORIES. There are authorized to be appropriated to carry out section 174 \$100,000,000 for fiscal year 2013~~03~~ and such sums as may be necessary for each of the 10~~5~~ succeeding fiscal years. Of the amounts appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(c) AVAILABILITY. Amounts made available under this section shall remain available until expended.

NOTE: IGNORE Title II, EXCEPT MOVE THE STATEWIDE LONGITUDINAL DATA SYSTEMS AUTHORITY TO THE STATISTICS CENTER

TITLE II – EDUCATIONAL TECHNICAL ASSISTANCE

SEC. 201. SHORT TITLE. (20 USC 9501 note)

This title may be cited as the "Educational Technical Assistance Act of 2002".

SEC. 202. DEFINITIONS. (20 USC 9601)

In this title:

(1) IN GENERAL. The terms "local educational agency" and "State educational agency" have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) SECRETARY. The term "Secretary" means the Secretary of Education.

SEC. 203. COMPREHENSIVE CENTERS. (20 USC 9602)

(a) AUTHORIZATION.

(1) IN GENERAL. Subject to paragraph (2), beginning in fiscal year 2004, the Secretary is authorized to award not less than 20 grants to local entities, or consortia of such entities, with demonstrated expertise in providing technical assistance and professional development in reading, mathematics, science, and technology, especially to low-performing schools and districts, to establish comprehensive centers.

(2) REGIONS. In awarding grants under paragraph (1), the Secretary—

(A) shall ensure that not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before the date of enactment of this Act); and

(B) after meeting the requirements of subparagraph (A), shall consider, in awarding the remainder of the grants, the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools identified for school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) in the population served by the local entity or consortium of such entities.

(b) ELIGIBLE APPLICANTS.

(1) IN GENERAL. Grants under this section may be made with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in subsection (f), including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before the date of enactment of this Act) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)).

(2) OUTREACH. In conducting competitions for grants under this section, the Secretary shall actively encourage potential applicants to compete for such awards by making widely available information and technical assistance relating to the competition.

(3) OBJECTIVES AND INDICATORS. Before awarding a grant under this section, the Secretary shall design specific objectives and measurable indicators, using the results of the assessment conducted under section 206, to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional entities, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(c) APPLICATION.

(1) SUBMISSION. Each local entity, or consortium of such entities, seeking a grant under this section shall submit an application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.

(2) PLAN. Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 207 and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the comprehensive center, on an ongoing basis.

(d) ALLOCATION. Each comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the center.

(e) SCOPE OF WORK. Each comprehensive center established under this section shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located on school improvement activities that take into account factors such as the proportion of economically disadvantaged students in the region, and give priority to—

(1) schools in the region with high percentages or numbers of students from low-income families, as determined under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)), including such schools in rural and urban areas, and schools receiving assistance under title I of that Act (20 U.S.C. 6301 et seq.);

(2) local educational agencies in the region in which high percentages or numbers of school-age children are from low-income families, as determined under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)), including such local educational agencies in rural and urban areas; and

(3) schools in the region that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)).

(f) ACTIVITIES.

(1) IN GENERAL. A comprehensive center established under this section shall support dissemination and technical assistance activities by—

(A) providing training, professional development, and technical assistance regarding, at a minimum—

(i) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) the use of scientifically valid teaching methods and assessment tools for use by teachers and administrators in, at a minimum—

(I) the core academic subjects of mathematics, science, and reading or language arts;

(II) English language acquisition; and

(III) education technology; and

(iii) the facilitation of communication between education experts, school officials, teachers, parents, and librarians, as appropriate; and

(B) disseminating and providing information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))), to schools, educators, parents, and policymakers within the region in which the center is located; and

(C) developing teacher and school leader inservice and preservice training models that illustrate best practices in the use of technology in different content areas.

(2) COORDINATION AND COLLABORATION. Each comprehensive center established under this section shall coordinate its activities, collaborate, and regularly exchange information with the regional educational laboratory in the region in which the center is located, the National Center for Education Evaluation and Regional

Assistance, the Office of the Secretary, the State service agency, and other technical assistance providers in the region.

(g) COMPREHENSIVE CENTER ADVISORY BOARD.

(1) ESTABLISHMENT. Each comprehensive center established under this section shall have an advisory board that shall support the priorities of such center.

(2) DUTIES. Each advisory board established under paragraph (1) shall advise the comprehensive center—

(A) concerning the activities described in subsection (d);

(B) on strategies for monitoring and addressing the educational needs of the region, on an ongoing basis;

(C) on maintaining a high standard of quality in the performance of the center's activities; and

(D) on carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

(3) COMPOSITION.

(A) IN GENERAL. Each advisory board shall be composed of—

(i) the chief State school officers, or such officers' designees or other State officials, in each State served by the comprehensive center who have primary responsibility under State law for elementary and secondary education in the State; and

(ii) not more than 15 other members who are representative of the educational interests in the region served by the comprehensive center and are selected jointly by the officials specified in clause (i) and the chief executive officer of each State served by the comprehensive center, including the following:

(I) Representatives of local educational agencies and regional educational agencies, including representatives of local educational agencies serving urban and rural areas.

(II) Representatives of institutions of higher education.

(III) Parents.

(IV) Practicing educators, including classroom teachers, principals, and administrators.

(V) Representatives of business.

(VI) Policymakers, expert practitioners, and researchers with knowledge of, and experience using, the results of research, evaluation, and statistics.

(B) SPECIAL RULE. In the case of a State in which the chief executive officer has the primary responsibility under State law for elementary and secondary education in the State, the chief executive officer shall consult, to the extent permitted by State law, with the State educational agency in selecting additional members of the board under subparagraph (A)(i).

(h) REPORT TO SECRETARY. Each comprehensive center established under this section shall submit to the Secretary an annual report, at such time, in such manner, and containing such information as the Secretary may require, which shall include the following:

- (1) A summary of the comprehensive center's activities during the preceding year.
- (2) A listing of the States, local educational agencies, and schools the comprehensive center assisted during the preceding year.

SEC. 204. EVALUATIONS. (20 USC 9603)

The Secretary shall provide for ongoing independent evaluations by the National Center for Education Evaluation and Regional Assistance of the comprehensive centers receiving assistance under this title, the results of which shall be transmitted to the appropriate congressional committees and the Director of the Institute of Education Sciences. Such evaluations shall include an analysis of the services provided under this title, the extent to which each of the comprehensive centers meets the objectives of its respective plan, and whether such services meet the educational needs of State educational agencies, local educational agencies, and schools in the region.

SEC. 205. EXISTING TECHNICAL ASSISTANCE PROVIDERS. (20 USC 9604)

The Secretary shall continue awards for the support of the Eisenhower Regional Mathematics and Science Education Consortia established under part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before the date of enactment of this Act), the Regional Technology in Education Consortia under section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)), and the Comprehensive Regional Assistance Centers established under part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before the date of enactment of this Act), in accordance with the terms of such awards, until the comprehensive centers authorized under section 203 are established.

SEC. 206. REGIONAL ADVISORY COMMITTEES. (20 USC 9605)

(a) **ESTABLISHMENT.** Beginning in 2004, the Secretary shall establish a regional advisory committee for each region described in section 174(b) of the Education Sciences Reform Act of 2002.

(b) **MEMBERSHIP.**

- (1) **COMPOSITION.** The membership of each regional advisory committee shall—
 - (A) not exceed 25 members;
 - (B) contain a balanced representation of States in the region; and
 - (C) include not more than one representative of each State educational agency geographically located in the region.
- (2) **ELIGIBILITY.** The membership of each regional advisory committee may include the following:
 - (A) Representatives of local educational agencies, including rural and urban local educational agencies.
 - (B) Representatives of institutions of higher education, including individuals representing university-based education research and university-based research on subjects other than education.
 - (C) Parents.

(D) Practicing educators, including classroom teachers, principals, administrators, school board members, and other local school officials.

(E) Representatives of business.

(F) Researchers.

(3) RECOMMENDATIONS. In choosing individuals for membership on a regional advisory committee, the Secretary shall consult with, and solicit recommendations from, the chief executive officers of States, chief State school officers, and education stakeholders within the applicable region.

(4) SPECIAL RULE.

(A) TOTAL NUMBER. The total number of members on each committee who are selected under subparagraphs (A), (C), and (D) of paragraph (2), collectively, shall exceed the total number of members who are selected under paragraph (1)(C) and subparagraphs (B), (E), and (F) of paragraph (2), collectively.

(B) DISSOLUTION. Each regional advisory committee shall be dissolved by the Secretary after submission of such committee's report described in subsection (c)(2) to the Secretary, but each such committee may be reconvened at the discretion of the Secretary.

(c) DUTIES. Each regional advisory committee shall advise the Secretary on the following:

(1) An educational needs assessment of its region (using the results of the assessment conducted under subsection (d)), in order to assist in making decisions regarding the regional educational priorities.

(2) Not later than 6 months after the committee is first convened, a report based on the assessment conducted under subsection (d).

(d) REGIONAL ASSESSMENTS. Each regional advisory committee shall—

(1) assess the educational needs within the region to be served;

(2) in conducting the assessment under paragraph (1), seek input from chief executive officers of States, chief State school officers, educators, and parents (including through a process of open hearings to solicit the views and needs of schools (including public charter schools), teachers, administrators, members of the regional educational laboratory governing board, parents, local educational agencies, librarians, businesses, State educational agencies, and other customers (such as adult education programs) within the region) regarding the need for the activities described in section 174 of the Education Sciences Reform Act of 2002 and section 203 of this title and how those needs would be most effectively addressed; and

(3) submit the assessment to the Secretary and to the Director of the [Academy Institute](#) of Education Sciences, at such time, in such manner, and containing such information as the Secretary may require.

SEC. 207. PRIORITIES. (20 USC 9606)

The Secretary shall establish priorities for the regional educational laboratories (established under section 174 of the Education Sciences Reform Act of 2002) and comprehensive centers (established under section 203 of this title) to address, taking into account the regional assessments conducted under section 206 and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

**SEC. 208. GRANT PROGRAM FOR STATEWIDE, LONGITUDINAL DATA SYSTEMS.
(20 USC 9607) MOVE THIS TO TITLE I.**

(a) GRANTS AUTHORIZED. The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), [the Higher Education Act, and IDEA.](#)³⁵

(b) APPLICATIONS. Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) AWARDING OF GRANTS. In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 183;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), [the HEA, IDEA,](#) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 153(a)(5).

(d) SUPPLEMENT NOT SUPPLANT. Funds made available under this section shall be used to supplement, and not supplant, other State or local funds used for developing State data systems.

~~(e) REPORT. Not later than 1 year after the date of enactment of the Educational Technical Assistance Act of 2002, and again 3 years after such date of enactment, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—~~

~~(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;~~

~~(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 183; and~~

~~(3) identifying best practices and areas for improvement.~~

SEC. 209. AUTHORIZATION OF APPROPRIATIONS. (20 USC 9608)

There are authorized to be appropriated to carry out this title \$80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

³⁵ Expands the authority so that a broader range of educational records can be incorporated into the supported data systems.

TITLE III – NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SEC. 301. SHORT TITLE. (20 USC 9501 note)

This title may be referred to as the "National Assessment of Educational Progress Authorization Act".

SEC. 302. NATIONAL ASSESSMENT GOVERNING BOARD. (20 USC 9621)

(a) **ESTABLISHMENT.** There is established the National Assessment Governing Board (hereafter in this title referred to as the "Assessment Board"), which shall formulate policy guidelines for the National Assessment (carried out under section 303).

(b) **MEMBERSHIP.**

(1) **APPOINTMENT AND COMPOSITION.** The Assessment Board shall be appointed by the Secretary and be composed as follows:

(A) Two Governors, or former Governors, who shall not be members of the same political party.

(B) Two State legislators, who shall not be members of the same political party.

(C) Two chief State school officers.

(D) One superintendent of a local educational agency.

(E) One member of a State board of education.

(F) One member of a local board of education.

(G) Three classroom teachers representing the grade levels at which the National Assessment is conducted.

(H) One representative of business or industry.

(I) Two curriculum specialists.

(J) Three testing and measurement experts, who shall have training and experience in the field of testing and measurement.

(K) One nonpublic school administrator or policymaker.

(L) Two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal.

(M) Two parents who are not employed by a local, State or Federal educational agency.

(N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

(2) **DIRECTOR OF THE INSTITUTE OF EDUCATION SCIENCES.** The Director of the Institute of Education Sciences shall serve as an ex officio, nonvoting member of the Assessment Board.

(3) **BALANCE AND DIVERSITY.** The Secretary and the Assessment Board shall ensure at all times that the membership of the Assessment Board reflects regional, racial, gender, and cultural balance and diversity and that the Assessment Board exercises its independent judgment, free from inappropriate influences and special

interests.

(c) TERMS.

(1) IN GENERAL. Terms of service of members of the Assessment Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

(2) SERVICE LIMITATION. Members of the Assessment Board may serve not more than two terms.

(3) CHANGE OF STATUS. A member of the Assessment Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(4) CONFORMING PROVISION. Members of the Assessment Board previously granted 3 year terms, whose terms are in effect on the date of enactment of the Department of Education Appropriations Act, 2001, shall have their terms extended by 1 year.

(d) VACANCIES.

(1) IN GENERAL.

(A) ORGANIZATIONS. The Secretary shall appoint new members to fill vacancies on the Assessment Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) NOMINATIONS. Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Assessment Board vacancy.

(C) MAINTENANCE OF BOARD. The Secretary's appointments shall maintain the composition, diversity, and balance of the Assessment Board required under subsection (b).

(2) ADDITIONAL NOMINATIONS. The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) DUTIES.

(1) IN GENERAL. In carrying out its functions under this section the Assessment Board shall—

(A) select the subject areas to be assessed (consistent with section 303(b));

(B) develop appropriate student achievement levels as provided in section 303(e);

(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other

technical experts who engage in large scale surveys;

(F) consistent with section 303, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

(G) develop guidelines for reporting and disseminating results;

(H) develop standards and procedures for regional and national comparisons;

(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 303 consistent with the provisions of this section and section 303; and

(J) plan and execute the initial public release [event](#)³⁶ of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the release of the reports described in subparagraph (J).

(2) DELEGATION. The Assessment Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) ALL COGNITIVE AND NONCOGNITIVE ASSESSMENT ITEMS. The Assessment Board shall have final authority on the appropriateness of all assessment items.

(4) PROHIBITION AGAINST BIAS. The Assessment Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

(5) TECHNICAL. In carrying out the duties required by paragraph (1), the Assessment Board may seek technical advice, as appropriate, from the Commissioner for Education Statistics and other experts.

(6) REPORT. Not later than 90 days after an evaluation of the student achievement levels under section 303(e), the Assessment Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Assessment Board is taking to respond to each of the recommendations contained in such evaluation.

(f) PERSONNEL.

(1) IN GENERAL. In the exercise of its responsibilities, the Assessment Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) STAFF.

(A) IN GENERAL. The Secretary may appoint, at the request of the Assessment Board, such staff as will enable the Assessment Board to carry out its responsibilities.

(B) TECHNICAL EMPLOYEES. Such appointments may include, for terms not to exceed 3 years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six

³⁶ The existing language is ambiguous, with NCES believing that it covers the public release event whereas NAGB has asserted that it covers everything surrounding the release including the content and style of the NCES report. The new language makes it clear that it is the event itself that is NAGB's responsibility.

technical employees 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.

(g) COORDINATION. The Commissioner for Education Statistics and the Assessment Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner for Education Statistics to report to the Assessment Board on the Department's actions to implement the decisions of the Assessment Board.

(h) ADMINISTRATION. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Assessment Board, other than sections 10, 11, and 12 of such Act.

SEC. 303. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS. (20 USC 9622)

(a) ESTABLISHMENT. The Commissioner for Education Statistics shall, with the advice of the Assessment Board established under section 302, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

(b) PURPOSE; STATE ASSESSMENTS.

(1) PURPOSE. The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting of trends in such achievement in reading, mathematics, and other subject matter as specified in this section.

(2) MEASUREMENT AND REPORTING. The Commissioner for Education Statistics, in carrying out the measurement and reporting described in paragraph (1), shall—

(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;

(B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private elementary schools and secondary schools at least once every 2 years, in grades 4 and 8 in reading and mathematics;

(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to the date of enactment of the No Child Left Behind Act of 2001;

(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for 1 year in which no such assessments are conducted in between each administration of such assessments;

(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines.

(I) [decide on the reporting content of initial and subsequent reports of all assessments so that such reports are valid and reliable.](#)³⁷

(J) [release the findings from assessment reports at the release event that is executed under Sec. 302\(e\)\(1\)\(J\).](#)³⁸

(3) STATE ASSESSMENTS.

(A) IN GENERAL. The Commissioner for Education Statistics—

(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (2)(B) and (2)(E);

³⁷ There are ongoing disputes between NCES and NAGB on the content and formatting of NAEP reports, e.g., how should the graph be formatted, how much statistical detail is necessary. These are IES/NCES reports published under the authority of the Director and the Commissioner. The NCES commissioner needs to retain responsibility for the content of the reports.

³⁸ NAGB has taken the position that the NCES commissioner's role at the release event is entirely at the discretion of NAGB. Because the findings being released are from an NCES statistical report, the commissioner or his delegate should be responsible for presenting the findings.

(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (2)(C);

(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (2)(D); and

(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until the Commissioner for Education Statistics determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B) AGREEMENT.

(i) IN GENERAL. States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3).

(ii) CONTENT. Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

(C) REVIEW AND RELEASE.

(i) IN GENERAL. Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(ii) SPECIAL RULE. A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if the State has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965.

(4) PROHIBITED ACTIVITIES.

(A) IN GENERAL. The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

(B) SPECIAL RULE. Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

(C) APPLICABILITY TO STUDENT EDUCATIONAL DECISIONS. Nothing in this section shall be construed to prescribe the use of any assessment authorized under this section for student promotion or graduation purposes.

(D) APPLICABILITY TO HOME SCHOOLS. Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled

student be required to participate in any assessment referenced or authorized under this section.

(5) REQUIREMENT. In carrying out any assessment authorized under this section, the Commissioner for Education Statistics, in a manner consistent with subsection (c)(3), shall—

(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and

(C) collect information on race, ethnicity, socioeconomic status, disability, limited English proficiency, and gender.

(6) TECHNICAL ASSISTANCE. In carrying out any assessment authorized under this section, the Commissioner for Education Statistics may provide technical assistance to States, localities, and other parties.

(c) ACCESS.

(1) PUBLIC ACCESS.

(A) IN GENERAL. Except as provided in paragraph (3), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

(B) TIMELINE. The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties.

(C) PROHIBITION. To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

(2) COMPLAINTS.

(A) IN GENERAL. Parents and members of the public may submit written complaints to the Assessment Board.

(B) FORWARDING OF COMPLAINTS. The Assessment Board shall forward such complaints to the Commissioner for Education Statistics, the Secretary of Education, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

(C) REVIEW. The Assessment Board, in consultation with the Commissioner for Education Statistics, shall review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting

the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

(D) REPORT. The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the Assessment Board pursuant to subparagraph (C) to the Chairman of the House Committee on Education and the Workforce, and the Chairman of the Senate Committee on Health, Education, Labor, and Pensions.

(E) COGNITIVE QUESTIONS.

(i) IN GENERAL. The Commissioner for Education Statistics may decline to make available through public means, such as posting on the Internet, distribution to the media, distribution through public agencies, or in response to a request under section 552 of title 5, United States Code, for a period, not to exceed 10 years after initial use, cognitive questions that the Commissioner for Education Statistics intends to reuse in the future.

(ii) EXTENSION. Notwithstanding clause (i), the Commissioner for Education Statistics may decline to make cognitive questions available as described in clause (i) for a period longer than 10 years if the Commissioner for Education Statistics determines such additional period is necessary to protect the security and integrity of long-term trend data.

(3) PERSONALLY IDENTIFIABLE INFORMATION.

(A) IN GENERAL. The Commissioner for Education Statistics shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

(B) PROHIBITION. The Assessment Board, the Commissioner for Education Statistics, and any contractor or subcontractor shall not maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

(4) PENALTIES. Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18, United States Code or charged with a class E felony.

(d) PARTICIPATION.

(1) VOLUNTARY PARTICIPATION. Participation in any assessment authorized under this section shall be voluntary for students, schools, and local educational agencies.

(2) STUDENT PARTICIPATION. Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

(3) STATE PARTICIPATION.

(A) VOLUNTARY. Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

(B) AGREEMENT. For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this section. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

(4) REVIEW. Representatives of State educational agencies and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c), except the review described in subparagraph (2)(C) of subsection (c) shall take place in consultation with the representatives described in this paragraph.

(e) STUDENT ACHIEVEMENT LEVELS.

(1) ACHIEVEMENT LEVELS. The Assessment Board shall develop appropriate student achievement levels for each grade or age in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(2)(F).

(2) DETERMINATION OF LEVELS.

(A) IN GENERAL. Such levels shall—

(i) be determined by—

(I) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards; and

(II) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of subject matter knowledge for grade levels to be assessed, or the age of the students, as the case may be.

[there is no clause (ii)]

(B) NATIONAL CONSENSUS APPROACH. After the determinations described in subparagraph (A), devising a national consensus approach. **[Subparagraph (B) is not a sentence; not clear what this is supposed to say or how it fits with the rest of paragraph (2).]**

(C) TRIAL BASIS. The achievement levels shall be used on a trial basis until the Commissioner for Education Statistics determines, as a result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public.

(D) STATUS. The Commissioner for Education Statistics and the Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

(E) UPDATES. Such levels shall be updated as appropriate by the Assessment Board in consultation with the Commissioner for Education Statistics.

(3) REPORTING. After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner for Education Statistics shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(4) REVIEW. The Assessment Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c), except the review described in paragraph (2)(C) of such subsection shall take place in consultation with the representatives described in this paragraph.

(f) REVIEW OF NATIONAL AND STATE ASSESSMENTS.

(1) REVIEW.

(A) IN GENERAL. The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by one or more professional assessment evaluation organizations.

(B) ISSUES ADDRESSED. Such continuing review shall address—

(i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation);

(ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;

(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;

(iv) whether any of the test questions are biased, as described in section 302(e)(4); and

(v) whether the appropriate authorized assessments are measuring, consistent with this section, reading ability and mathematical knowledge.

(2) REPORT. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

(3) USE OF FINDINGS AND RECOMMENDATIONS. The Commissioner for Education Statistics and the Assessment Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner for Education Statistics carries out the National Assessment.

(g) COVERAGE AGREEMENTS.

(1) DEPARTMENT OF DEFENSE SCHOOLS. The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary schools and secondary schools operated by the Department of Defense.

(2) BUREAU OF INDIAN AFFAIRS SCHOOLS. The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

SEC. 304. DEFINITIONS. (20 USC 9623)

In this title:

(1) The term "Director" means the Director of the Institute of Education Sciences.

(2) The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS. (20 USC 9624)

(a) IN GENERAL. There are authorized to be appropriated—

(1) for fiscal year 2003—

(A) \$4,600,000 to carry out section 302, as amended by section 401 of this Act (relating to the National Assessment Governing Board); and

(B) \$107,500,000 to carry out section 303, as amended by section 401 of this Act (relating to the National Assessment of Educational Progress); and

(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 302 and 303, as amended by section 401 of this Act.

(b) AVAILABILITY. Amounts made available under this section shall remain available until expended.

[END]