

105TH CONGRESS
2D SESSION

H. R. 3892

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 1998

Received; read twice and referred to the Committee on Labor and Human
Resources

AN ACT

To amend the Elementary and Secondary Education Act of 1965 to establish a program to help children and youth learn English, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ENGLISH LANGUAGE EDUCATION.**

2 Part A of title VII of the Elementary and Secondary
3 Education Act of 1965 (20 U.S.C. 7401 et seq.) is amend-
4 ed to read as follows:

5 **“PART A—ENGLISH LANGUAGE EDUCATION**

6 **“SEC. 7101. SHORT TITLE.**

7 “This part may be cited as the ‘English Language
8 Fluency Act’.

9 **“SEC. 7102. FINDINGS AND PURPOSES.**

10 “(a) FINDINGS.—The Congress finds as follows:

11 “(1) English is the common language of the
12 United States and every citizen and other person re-
13 siding in the United States should have a command
14 of the English language in order to develop to their
15 full potential.

16 “(2) States and local school districts need as-
17 sistance in developing the capacity to provide pro-
18 grams of instruction that offer and provide an equal
19 educational opportunity to immigrant children and
20 youth and children and youth who need special as-
21 sistance because English is not their dominant lan-
22 guage.

23 “(b) PURPOSES.—The purposes of this part are—

24 “(1) to help ensure that children and youth who
25 are English language learners master English and

1 develop high levels of academic attainment in
2 English; and

3 “(2) to assist eligible local educational agencies
4 that experience unexpectedly large increases in their
5 student population due to immigration to help immi-
6 grant children and youth with their transition into
7 society, including mastery of the English language.

8 **“SEC. 7103. PARENTAL NOTIFICATION AND CONSENT TO**
9 **PARTICIPATE.**

10 “(a) IN GENERAL.—A parent or the parents of a
11 child participating in an English language instruction pro-
12 gram for English language learners assisted under this
13 Act shall be informed of—

14 “(1) the reasons for the identification of the
15 child as being in need of English language instruc-
16 tion;

17 “(2) the child’s level of English proficiency, how
18 such level was assessed, and the status of the child’s
19 academic achievement; and

20 “(3) how the English language instruction pro-
21 gram will specifically help the child acquire English
22 and meet age-appropriate standards for grade pro-
23 motion and graduation.

24 “(b) PARENTAL CONSENT.—

1 “(1) IN GENERAL.—A parent or the parents of
2 a child who is an English language learner and is
3 identified for participation in an English language
4 instruction program assisted under this Act—

5 “(A) shall sign a form consenting to their
6 child’s placement in such a program prior to
7 such time as their child is enrolled in the pro-
8 gram;

9 “(B) shall select among methods of in-
10 struction, if more than one method is offered in
11 the program; and

12 “(C) shall have their child removed from
13 the program upon their request.

14 “(2) EFFECT OF LAU DECISION.—A local edu-
15 cational agency shall not be relieved of any of its ob-
16 ligations under the holding in the Supreme Court
17 case of *Lau v. Nichols*, 414 U.S. 563 (1974), be-
18 cause any parent chooses not to enroll their child in
19 an English language instruction program using their
20 native language in instruction.

21 “(c) RECEIPT OF INFORMATION.—A parent or the
22 parents of a child identified for participation in an English
23 language instruction program for English language learn-
24 ers assisted under this Act shall receive, in a manner and
25 form understandable to the parent or parents, the infor-

1 mation required by this section. At a minimum, the parent
 2 or parents shall receive—

3 “(1) timely information about English language
 4 instruction programs for English language learners
 5 assisted under this Act; and

6 “(2) if a parent of a participating child so de-
 7 sires, notice of opportunities for regular meetings for
 8 the purpose of formulating and responding to rec-
 9 ommendations from such parents.

10 “(d) SPECIAL RULE.—An individual may not be ad-
 11 mitted to, or excluded from, any federally assisted edu-
 12 cation program solely on the basis of a surname, language-
 13 minority status, or national origin.

14 **“Subpart 1—Grants for English Language**
 15 **Acquisition**

16 **“CHAPTER 1—GENERAL PROVISIONS**

17 **“SEC. 7111. FUNDING.**

18 “(a) AUTHORIZATION OF APPROPRIATIONS.—For the
 19 purpose of carrying out this subpart, there are authorized
 20 to be appropriated such sums as may be necessary for fis-
 21 cal year 1999 and each of the 4 succeeding fiscal years.

22 “(b) RESERVATION FOR ENTITIES SERVING NATIVE
 23 AMERICANS AND ALASKA NATIVES.—From the sums ap-
 24 propriated under subsection (a) for any fiscal year, the
 25 Secretary shall reserve not less than .5 percent to provide

1 Federal financial assistance under this subpart to entities
2 that are considered to be a local educational agency under
3 section 7112(a).

4 **“SEC. 7112. NATIVE AMERICAN AND ALASKA NATIVE CHIL-**
5 **DREN IN SCHOOL.**

6 “(a) ELIGIBLE ENTITIES.—For the purpose of carry-
7 ing out programs under this subpart for individuals served
8 by elementary, secondary, and postsecondary schools oper-
9 ated predominately for Native American or Alaska Native
10 children and youth, the following shall be considered to
11 be a local educational agency:

12 “(1) An Indian tribe.

13 “(2) A tribally sanctioned educational author-
14 ity.

15 “(3) A Native Hawaiian or Native American
16 Pacific Islander native language educational organi-
17 zation.

18 “(4) An elementary or secondary school that is
19 operated or funded by the Bureau of Indian Affairs,
20 or a consortium of such schools.

21 “(5) An elementary or secondary school oper-
22 ated under a contract with or grant from the Bu-
23 reau of Indian Affairs, in consortium with another
24 such school or a tribal or community organization.

1 “(6) An elementary or secondary school oper-
 2 ated by the Bureau of Indian Affairs and an institu-
 3 tion of higher education, in consortium with an ele-
 4 mentary or secondary school operated under a con-
 5 tract with or grant from the Bureau of Indian Af-
 6 fairs or a tribal or community organization.

7 “(b) SUBMISSION OF APPLICATIONS FOR ASSIST-
 8 ANCE.—Notwithstanding any other provision of this sub-
 9 part, an entity that is considered to be a local educational
 10 agency under subsection (a), and that desires to submit
 11 an application for Federal financial assistance under this
 12 subpart, shall submit the application to the Secretary. In
 13 all other respects, such an entity shall be eligible for a
 14 grant under this subpart on the same basis as any other
 15 local educational agency.

16 **“CHAPTER 2—GRANTS FOR ENGLISH**
 17 **LANGUAGE ACQUISITION**

18 **“SEC. 7121. FORMULA GRANTS TO STATES.**

19 “(a) IN GENERAL.—In the case of each State that
 20 in accordance with section 7122 submits to the Secretary
 21 an application for a fiscal year, the Secretary shall make
 22 a grant for the year to the State for the purposes specified
 23 in subsection (b). The grant shall consist of the allotment
 24 determined for the State under section 7124.

25 “(b) PURPOSES OF GRANTS.—

1 “(1) REQUIRED EXPENDITURES.—The Sec-
2 retary may make a grant under subsection (a) only
3 if the State involved agrees that the State will ex-
4 pend at least 90 percent of the amount of the funds
5 provided under the grant for the purpose of making
6 subgrants to eligible entities to provide assistance to
7 children and youth who are English language learn-
8 ers and immigrant children and youth in accordance
9 with section 7123.

10 “(2) AUTHORIZED EXPENDITURES.—Subject to
11 paragraph (3), a State that receives a grant under
12 subsection (a) may expend not more than 10 percent
13 of the amount of the funds provided under the grant
14 for one or more of the following purposes:

15 “(A) Professional development and activi-
16 ties that assist personnel in meeting State and
17 local certification requirements for English lan-
18 guage instruction.

19 “(B) Planning, administration, and inter-
20 agency coordination related to the subgrants re-
21 ferred to in paragraph (1).

22 “(C) Providing technical assistance and
23 other forms of assistance to local educational
24 agencies that—

1 “(i) educate children and youth who
2 are English language learners and immi-
3 grant children and youth; and

4 “(ii) are not receiving a subgrant
5 from a State under this chapter.

6 “(D) Providing bonuses to subgrantees
7 whose performance has been exceptional in
8 terms of the speed with which children and
9 youth enrolled in the subgrantee’s programs
10 and activities attain English language pro-
11 ficiency.

12 “(3) LIMITATION ON ADMINISTRATIVE COSTS.—
13 In carrying out paragraph (2), a State that receives
14 a grant under subsection (a) may expend not more
15 than 2 percent of the amount of the funds provided
16 under the grant for the purposes described in para-
17 graph (2)(B).

18 **“SEC. 7122. APPLICATIONS BY STATES.**

19 “For purposes of section 7121, an application sub-
20 mitted by a State for a grant under such section for a
21 fiscal year is in accordance with this section if the applica-
22 tion—

23 “(1) describes the process that the State will
24 use in making subgrants to eligible entities under
25 this chapter;

1 “(2) contains an agreement that the State an-
2 nually will submit to the Secretary a summary re-
3 port, describing the State’s use of the funds pro-
4 vided under the grant;

5 “(3) contains an agreement that the State will
6 give special consideration to applications for a
7 subgrant under section 7123 from eligible entities
8 that describe a program that—

9 “(A)(i) enrolls a large percentage or large
10 number of children and youth who are English
11 language learners and immigrant children and
12 youth; and

13 “(ii) addresses a need brought about
14 through a significant increase, as compared to
15 the previous 2 years, in the percentage or num-
16 ber of children and youth who are English lan-
17 guage learners in a school or school district, in-
18 cluding schools and school districts in areas
19 with low concentrations of such children and
20 youth; or

21 “(B) on the day preceding the date of the
22 enactment of this section, was receiving funding
23 under a grant—

24 “(i) awarded by the Secretary under
25 subpart 1 or 3 of part A of the Bilingual

1 Education Act (as such Act was in effect
2 on such day); and

3 “(ii) that was not due to expire before
4 a period of one year or more had elapsed;

5 “(4) contains an agreement that, in carrying
6 out this chapter, the State will address the needs of
7 school systems of all sizes and in all geographic
8 areas, including rural and urban schools;

9 “(5) contains an agreement that the State will
10 coordinate its programs and activities under this
11 chapter with its other programs and activities under
12 this Act and other Acts, as appropriate; and

13 “(6) contains an agreement that the State will
14 monitor the progress of students enrolled in pro-
15 grams and activities receiving assistance under this
16 chapter in attaining English proficiency and with-
17 draw funding from such programs and activities in
18 cases where—

19 “(A) students enrolling when they are in
20 kindergarten are not mastering the English lan-
21 guage by the end of the first grade; and

22 “(B) other students are not mastering the
23 English language after 2 academic years of en-
24 rollment.

1 **“SEC. 7123. SUBGRANTS TO ELIGIBLE ENTITIES.**

2 “(a) PURPOSES OF SUBGRANTS.—A State may make
3 a subgrant to an eligible entity from funds received by
4 the State under this chapter only if the entity agrees to
5 expend the funds for one of the following purposes:

6 “(1) Developing and implementing new English
7 language instructional programs for children and
8 youth who are English language learners, including
9 programs of early childhood education and kinder-
10 garten through 12th grade education.

11 “(2) Carrying out locally designed projects to
12 expand or enhance existing English language in-
13 struction programs for children and youth who are
14 English language learners.

15 “(3) Assisting a local educational agency in
16 providing enhanced instructional opportunities for
17 immigrant children and youth.

18 **“(b) AUTHORIZED SUBGRANTEE ACTIVITIES.—**

19 “(1) IN GENERAL.—Subject to paragraph (2), a
20 State may make a subgrant to an eligible entity
21 from funds received by the State under this chapter
22 in order that the eligible entity may achieve one of
23 the purposes described in subsection (a) by under-
24 taking one or more of the following activities to im-
25 prove the understanding, and use, of the English
26 language, based on a child’s learning skills:

1 “(A) Developing and implementing com-
2 prehensive preschool or elementary or secondary
3 school English language instructional programs
4 that are coordinated with other relevant pro-
5 grams and services.

6 “(B) Providing training to classroom
7 teachers, administrators, and other school or
8 community-based organizational personnel to
9 improve the instruction and assessment of chil-
10 dren and youth who are English language
11 learners, immigrant children and youth, or
12 both.

13 “(C) Improving the program for children
14 and youth who are English language learners,
15 immigrant children and youth, or both.

16 “(D) Providing for the acquisition or devel-
17 opment of education technology or instructional
18 materials, access to and participation in elec-
19 tronic networks for materials, providing train-
20 ing and communications, and incorporation of
21 such resources in curricula and programs, such
22 as those funded under this subpart.

23 “(E) Developing tutoring programs for
24 English language learners that provide early
25 intervention and intensive instruction in order

1 to improve academic achievement, to increase
2 graduation rates among English language
3 learners, and to prepare students for transition
4 as soon as possible into classrooms where in-
5 struction is not tailored for English language
6 learners or immigrant children and youth.

7 “(F) Providing family literacy services to
8 English language learners and immigrant chil-
9 dren and youth and their families to improve
10 their English language skills and assist parents
11 in helping their children to improve their aca-
12 demic performance.

13 “(G) Such other activities, related to the
14 purpose of the subgrant, as the State may ap-
15 prove.

16 “(2) MOVING CHILDREN OUT OF SPECIALIZED
17 CLASSROOMS.—Any program or activity undertaken
18 by an eligible entity using a subgrant from a State
19 under this chapter shall be designed to assist stu-
20 dents enrolled in the program or activity to move
21 into a classroom where instruction is not tailored for
22 English language learners or immigrant children and
23 youth—

1 “(A) by the end of the first grade, in the
2 case of students enrolling when they are in kin-
3 dergarten; or

4 “(B) by the end of their second academic
5 year of enrollment, in the case of other stu-
6 dents.

7 “(3) MAXIMUM ENROLLMENT PERIOD.—An eli-
8 gible entity may not use funds received from a State
9 under this chapter to provide instruction or assist-
10 ance to any individual who has been enrolled for a
11 period exceeding 3 years in a program or activity
12 undertaken by the eligible entity under this section.

13 “(c) SELECTION OF METHOD OF INSTRUCTION.—To
14 receive a subgrant from a State under this chapter, an
15 eligible entity shall select one or more methods or forms
16 of English language instruction to be used in the programs
17 and activities undertaken by the entity to assist English
18 language learners and immigrant children and youth to
19 achieve English fluency. Such selection shall be consistent
20 with the State’s law, including State constitutional law.

21 “(d) DURATION OF SUBGRANTS.—The duration of a
22 subgrant made by a State under this section shall be de-
23 termined by the State in its discretion.

24 “(e) APPLICATIONS BY ELIGIBLE ENTITIES.—

1 “(1) IN GENERAL.—To receive a subgrant from
2 a State under this chapter, an eligible entity shall
3 submit an application to the State at such time, in
4 such form, and containing such information as the
5 State may require.

6 “(2) REQUIRED DOCUMENTATION.—The appli-
7 cation shall describe the programs and activities pro-
8 posed to be developed, implemented, and adminis-
9 tered under the subgrant and shall provide an assur-
10 ance that the applicant will only employ teachers
11 and other personnel for the proposed programs and
12 activities who are proficient in English, including
13 written and oral communication skills.

14 “(3) REQUIREMENTS FOR APPROVAL.—A State
15 may approve an application submitted by an eligible
16 entity for a subgrant under this chapter only if the
17 State determines that—

18 “(A) the eligible entity will use qualified
19 personnel who have appropriate training and
20 professional credentials in teaching English to
21 children and youth who are English language
22 learners and immigrant children and youth;

23 “(B) in designing the programs and activi-
24 ties proposed in the application, the needs of
25 children enrolled in private elementary and sec-

1 ondary schools have been taken into account
2 through consultation with appropriate private
3 school officials;

4 “(C) the eligible entity has provided for the
5 participation of children enrolled in private ele-
6 mentary and secondary schools in the programs
7 and activities proposed in the application on a
8 basis comparable to that provided for children
9 enrolled in public school;

10 “(D) the eligible entity has based its pro-
11 posal on sound research and theory;

12 “(E) the eligible entity has described in the
13 application how students enrolled in the pro-
14 grams and activities proposed in the application
15 will be taught English—

16 “(i) by the end of the first grade, in
17 the case of students enrolling when they
18 are in kindergarten; or

19 “(ii) by the end of their second aca-
20 demic year of enrollment, in the case of
21 other students; and

22 “(F) the eligible entity is not in violation
23 of any State law, including State constitutional
24 law, regarding the education of English lan-
25 guage learners.

1 “(4) QUALITY.—In determining which applica-
2 tions to select for approval, a State shall consider
3 the quality of each application.

4 “(f) EVALUATION.—

5 “(1) IN GENERAL.—Each eligible entity that re-
6 ceives a subgrant from a State under this chapter
7 shall provide the State, at the conclusion of every
8 second fiscal year during which the grant is received,
9 with an evaluation, in a form prescribed by the
10 State, of—

11 “(A) the programs and activities conducted
12 by the entity with funds received under this
13 chapter during the two immediately preceding
14 fiscal years;

15 “(B) the progress made by students in
16 learning the English language; and

17 “(C) the number and percentage of stu-
18 dents in the programs and activities mastering
19 the English language by the end of each school
20 year.

21 “(2) USE OF EVALUATION.—An evaluation pro-
22 vided by an eligible entity under paragraph (1) shall
23 be used by the entity and the State—

24 “(A) for improvement of programs and ac-
25 tivities;

1 “(B) to determine the effectiveness of pro-
2 grams and activities in assisting children and
3 youth who are English language learners to
4 master the English language; and

5 “(C) in determining whether or not to con-
6 tinue funding for specific programs or projects.

7 “(3) EVALUATION COMPONENTS.—An evalua-
8 tion provided by an eligible entity under paragraph
9 (1) shall include—

10 “(A) an evaluation of whether students en-
11 rolling in a program or activity conducted by
12 the entity with funds received under this chap-
13 ter—

14 “(i) are mastering the English lan-
15 guage—

16 “(I) by the end of the first grade,
17 in the case of students enrolling when
18 they are in kindergarten; or

19 “(II) by the end of their second
20 academic year of enrollment, in the
21 case of other students; and

22 “(ii) have achieved a working knowl-
23 edge of the English language that is suffi-
24 cient to permit them to perform, in
25 English, regular classroom work; and

1 “(B) such other information as the State
2 may require.

3 “(4) EVALUATION MEASURES.—In prescribing
4 the form of an evaluation provided by an entity
5 under paragraph (1), a State shall approve evalua-
6 tion measures for use under paragraph (3) that are
7 designed to assess—

8 “(A) oral language proficiency in kinder-
9 garten;

10 “(B) oral language proficiency, including
11 speaking and listening skills, in first grade; and

12 “(C) both oral language proficiency, in-
13 cluding speaking and listening skills, and read-
14 ing and writing proficiency in grades two and
15 higher.

16 **“SEC. 7124. DETERMINATION OF AMOUNT OF ALLOTMENT.**

17 “(a) IN GENERAL.—Except as provided in sub-
18 sections (b), (c), and (d), from the sum available for the
19 purpose of making grants to States under this chapter for
20 any fiscal year, the Secretary shall allot to each State an
21 amount which bears the same ratio to such sum as the
22 total number of children and youth who are English lan-
23 guage learners and immigrant children and youth and who
24 reside in the State bears to the total number of such chil-
25 dren and youth residing in all States (excluding the Com-

1 monwealth of Puerto Rico and the outlying areas) that,
2 in accordance with section 7122, submit to the Secretary
3 an application for the year.

4 “(b) PUERTO RICO.—From the sum available for the
5 purpose of making grants to States under this chapter for
6 any fiscal year, the Secretary shall allot to the Common-
7 wealth of Puerto Rico an amount equal to 1.5 percent of
8 the sums appropriated under section 7111(a).

9 “(c) OUTLYING AREAS.—

10 “(1) TOTAL AVAILABLE FOR ALLOTMENT.—
11 From the sum available for the purpose of making
12 grants to States under this chapter for any fiscal
13 year, the Secretary shall allot to the outlying areas,
14 in accordance with paragraph (2), a total amount
15 equal to .5 percent of the sums appropriated under
16 section 7111(a).

17 “(2) DETERMINATION OF INDIVIDUAL AREA
18 AMOUNTS.—From the total amount determined
19 under paragraph (1), the Secretary shall allot to
20 each outlying area an amount which bears the same
21 ratio to such amount as the total number of children
22 and youth who are English language learners and
23 immigrant children and youth and who reside in the
24 outlying area bears to the total number of such chil-
25 dren and youth residing in all outlying areas that,

1 in accordance with section 7122, submit to the Sec-
2 retary an application for the year.

3 “(d) MINIMUM ALLOTMENT.—

4 “(1) IN GENERAL.—Notwithstanding sub-
5 sections (a) through (c), the Secretary shall not allot
6 to any State, for fiscal years 1999 through 2003, an
7 amount that is less than 100 percent of the baseline
8 amount for the State.

9 “(2) BASELINE AMOUNT DEFINED.—For pur-
10 poses of this subsection, the term ‘baseline amount’,
11 when used with respect to a State, means the total
12 amount received under parts A and C of this title
13 for fiscal year 1998 by the State, the State edu-
14 cational agency, and all local educational agencies of
15 the State.

16 “(3) RATABLE REDUCTION.—If the amount
17 available for allotment under this section for any fis-
18 cal year is insufficient to permit the Secretary to
19 comply with paragraph (1), the Secretary shall rat-
20 ably reduce the allotments to all States for such
21 year.

22 “(e) USE OF STATE DATA FOR DETERMINATIONS.—
23 For purposes of subsections (a) and (c), any determination
24 of the number of children and youth who are English lan-
25 guage learners and reside in a State shall be made using

1 the most recent English language learner school enroll-
 2 ment data available to, and reported to the Secretary by,
 3 the State. For purposes of such subsections, any deter-
 4 mination of the number of immigrant children and youth
 5 who reside in a State shall made using the most recent
 6 data available to, and reported to the Secretary by, the
 7 State.

8 “(f) NO REDUCTION PERMITTED BASED ON TEACH-
 9 ING METHOD.—The Secretary may not reduce a State’s
 10 allotment based on the State’s selection of the immersion
 11 method of instruction as its preferred method of teaching
 12 the English language to children and youth who are
 13 English language learners or immigrant children and
 14 youth.

15 **“SEC. 7125. CONSTRUCTION.**

16 “Nothing in this chapter shall be construed as requir-
 17 ing a State or a local educational agency to establish, con-
 18 tinue, or eliminate a program of native language instruc-
 19 tion.

20 **“Subpart 2—Research and Dissemination**

21 **“SEC. 7141. AUTHORITY.**

22 “The Secretary may conduct, through the Office of
 23 Educational Research and Improvement, research for the
 24 purpose of improving English language instruction for
 25 children and youth who are English language learners and

1 immigrant children and youth. Activities under this sec-
 2 tion shall be limited to research to identify successful mod-
 3 els for teaching children English and distribution of re-
 4 search results to States for dissemination to schools with
 5 populations of students who are English language learn-
 6 ers. Research conducted under this section may not focus
 7 solely on any one method of instruction.”.

8 **SEC. 2. REPEAL OF EMERGENCY IMMIGRANT EDUCATION**
 9 **PROGRAM.**

10 Part C of title VII of the Elementary and Secondary
 11 Education Act of 1965 (20 U.S.C. 7541 et seq.) is re-
 12 pealed.

13 **SEC. 3. ADMINISTRATION.**

14 Part D of title VII of the Elementary and Secondary
 15 Education Act of 1965 (20 U.S.C. 7571 et seq.) is redesi-
 16 gnated as part C of such title and amended to read as fol-
 17 lows:

18 **“PART C—ADMINISTRATION**

19 **“SEC. 7301. REPORTING REQUIREMENTS.**

20 “(a) STATES.—Based upon the evaluations provided
 21 to a State under section 7123(f), each State receiving a
 22 grant under this title annually shall report to the Sec-
 23 retary on programs and activities undertaken by the State
 24 under this title and the effectiveness of such programs and
 25 activities in improving the education provided to children

1 and youth who are English language learners and immi-
2 grant children and youth.

3 “(b) SECRETARY.—Every other year, the Secretary
4 shall prepare and submit to the Committee on Education
5 and the Workforce of the House of Representatives and
6 the Committee on Labor and Human Resources of the
7 Senate a report on programs and activities undertaken by
8 States under this title and the effectiveness of such pro-
9 grams and activities in improving the education provided
10 to children and youth who are English language learners
11 and immigrant children and youth.

12 **“SEC. 7302. COMMINGLING OF FUNDS.**

13 “(a) ESEA FUNDS.—A person who receives Federal
14 funds under subpart 1 of part A may commingle such
15 funds with other funds the person receives under this Act
16 so long as the person satisfies the requirements of this
17 Act.

18 “(b) STATE AND LOCAL FUNDS.—Except as provided
19 in section 14503, a person who receives Federal funds
20 under subpart 1 of part A may commingle such funds with
21 funds the person receives under State or local law for the
22 purpose of teaching English to children and youth who
23 are English language learners and immigrant children and
24 youth, to the extent permitted under such State or local

1 law, so long as the person satisfies the requirements of
 2 this title and such law.”.

3 **SEC. 4. GENERAL PROVISIONS.**

4 Part E of title VII of the Elementary and Secondary
 5 Education Act of 1965 (20 U.S.C. 7601 et seq.) is redesign-
 6 nated as part D of such title and amended to read as fol-
 7 lows:

8 **“PART D—GENERAL PROVISIONS**

9 **“SEC. 7401. DEFINITIONS.**

10 “For purposes of this title:

11 “(1) CHILDREN AND YOUTH.—The term ‘chil-
 12 dren and youth’ means individuals aged 3 through
 13 21.

14 “(2) COMMUNITY-BASED ORGANIZATION.—The
 15 term ‘community-based organization’ means a pri-
 16 vate nonprofit organization of demonstrated effec-
 17 tiveness or Indian tribe or tribally sanctioned edu-
 18 cational authority which is representative of a com-
 19 munity or significant segments of a community and
 20 which provides educational or related services to in-
 21 dividuals in the community. Such term includes a
 22 Native Hawaiian or Native American Pacific Is-
 23 lander native language educational organization.

24 “(3) ELIGIBLE ENTITY.—The term ‘eligible en-
 25 tity’ means—

1 “(A) one or more local educational agen-
2 cies;

3 “(B) one or more local educational agen-
4 cies in collaboration with—

5 “(i) an institution of higher education;

6 “(ii) a community-based organization;

7 “(iii) a local educational agency; or

8 “(iv) a State;

9 “(C) a community-based organization or
10 an institution of higher education which has an
11 application approved by a local educational
12 agency to enhance an early childhood education
13 program or a family education program; or

14 “(D) a State educational agency, in the
15 case of a State educational agency that also
16 serves as a local educational agency.

17 “(4) ENGLISH LANGUAGE LEARNER.—The term
18 ‘English language learner’, when used with reference
19 to an individual, means an individual—

20 “(A) aged 3 through 21;

21 “(B) who—

22 “(i) was not born in the United
23 States; or

24 “(ii) comes from an environment
25 where a language other than English is

1 dominant and who normally uses a lan-
2 guage other than English; and

3 “(C) who has sufficient difficulty speaking,
4 reading, writing, or understanding the English
5 language that the difficulty may deny the indi-
6 vidual the opportunity—

7 “(i) to learn successfully in a class-
8 room where the language of instruction is
9 English; or

10 “(ii) to participate fully in society.

11 “(5) FAMILY LITERACY SERVICES.—The term
12 ‘family literacy services’ means services provided to
13 participants on a voluntary basis that are of suffi-
14 cient intensity in terms of hours, and of sufficient
15 duration, to make sustainable changes in a family
16 (such as eliminating or reducing welfare depend-
17 ency) and that integrate all of the following activi-
18 ties:

19 “(A) Interactive literacy activities between
20 parents and their children.

21 “(B) Equipping parents to partner with
22 their children in learning.

23 “(C) Parent literacy training, including
24 training that contributes to economic self-suffi-
25 ciency.

1 “(D) Appropriate instruction for children
2 of parents receiving parent literacy services.

3 “(6) IMMIGRANT CHILDREN AND YOUTH.—The
4 term ‘immigrant children and youth’ means individ-
5 uals who—

6 “(A) are aged 3 through 21;

7 “(B) were not born in any State; and

8 “(C) have not attended school in any State
9 for more than three full academic years.

10 “(7) INDIAN TRIBE.—The term ‘Indian tribe’
11 means any Indian tribe, band, nation, or other orga-
12 nized group or community, including any Alaska Na-
13 tive village or regional corporation as defined in or
14 established pursuant to the Alaska Native Claims
15 Settlement Act (43 U.S.C. 1601 et seq.), which is
16 recognized as eligible for the special programs and
17 services provided by the United States to Indians be-
18 cause of their status as Indians.

19 “(8) NATIVE AMERICAN; NATIVE AMERICAN
20 LANGUAGE.—The terms ‘Native American’ and ‘Na-
21 tive American language’ have the meanings given
22 such terms in section 103 of the Native American
23 Languages Act (25 U.S.C. 2902).

24 “(9) NATIVE HAWAIIAN OR NATIVE AMERICAN
25 PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL

1 ORGANIZATION.—The term ‘Native Hawaiian or Na-
2 tive American Pacific Islander native language edu-
3 cational organization’ means a nonprofit organiza-
4 tion—

5 “(A) a majority of whose governing board,
6 and a majority of whose employees, are fluent
7 speakers of the traditional Native American
8 languages used in the organization’s edu-
9 cational programs; and

10 “(B) that has not less than five years of
11 successful experience in providing educational
12 services in traditional Native American lan-
13 guages.

14 “(10) NATIVE LANGUAGE.—The term ‘native
15 language’, when used with reference to an individual
16 who is an English language learner, means the lan-
17 guage normally used by such individual.

18 “(11) OUTLYING AREA.—The term ‘outlying
19 area’ means any of the following:

20 “(A) The Virgin Islands of the United
21 States.

22 “(B) Guam.

23 “(C) American Samoa.

24 “(D) The Commonwealth of the Northern
25 Mariana Islands.

1 “(12) STATE.—The term ‘State’ means any of
2 the several States, the District of Columbia, the
3 Commonwealth of Puerto Rico, or any outlying area.

4 “(13) TRIBALLY SANCTIONED EDUCATIONAL
5 AUTHORITY.—The term ‘tribally sanctioned edu-
6 cational authority’ means—

7 “(A) any department or division of edu-
8 cation operating within the administrative
9 structure of the duly constituted governing body
10 of an Indian tribe; and

11 “(B) any nonprofit institution or organiza-
12 tion that is—

13 “(i) chartered by the governing body
14 of an Indian tribe to operate a school de-
15 scribed in section 7112(a) or otherwise to
16 oversee the delivery of educational services
17 to members of the tribe; and

18 “(ii) approved by the Secretary for
19 the purpose of carrying out programs
20 under subpart 1 of part A for individuals
21 served by a school described in section
22 7112(a).

23 **“SEC. 7402. LIMITATION ON FEDERAL REGULATIONS.**

24 “The Secretary shall issue regulations under this title
25 only to the extent that such regulations are necessary to

1 ensure compliance with the specific requirements of this
2 title.

3 **“SEC. 7403. LEGAL AUTHORITY UNDER STATE LAW.**

4 “Nothing in this title shall be construed to negate
5 or supersede the legal authority, under State law, of any
6 State agency, State entity, or State public official over
7 programs that are under the jurisdiction of the agency,
8 entity, or official.

9 **“SEC. 7404. RELEASE FROM COMPLIANCE AGREEMENTS.**

10 “Notwithstanding section 7403, any compliance
11 agreement entered into between a State, locality, or local
12 educational agency and the Department of Health, Edu-
13 cation, and Welfare or the Department of Education, that
14 requires such State, locality, or local educational agency
15 to develop, implement, provide, or maintain any form of
16 bilingual education, is void.

17 **“SEC. 7405. RULEMAKING ON OFFICE OF CIVIL RIGHTS**
18 **GUIDELINES AND COMPLIANCE STANDARDS.**

19 “(a) IN GENERAL.—In accordance with subchapter
20 II of chapter 5 of part I of title 5, United States Code,
21 the Secretary—

22 “(1) shall publish in the Federal Register a no-
23 tice of proposed rulemaking with respect to the en-
24 forcement guidelines and compliance standards of
25 the Office of Civil Rights of the Department of Edu-

1 cation that apply to a program or activity to provide
 2 English language instruction to English language
 3 learners that is undertaken by a State, locality, or
 4 local educational agency;

5 “(2) shall undertake a rulemaking pursuant to
 6 such notice; and

7 “(3) shall promulgate a final rule pursuant to
 8 such rulemaking on the record after opportunity for
 9 an agency hearing.

10 “(b) EFFECT OF RULEMAKING ON COMPLIANCE
 11 AGREEMENTS.—The Secretary may not enter into any
 12 compliance agreement after the date of the enactment of
 13 this section pursuant to a guideline or standard described
 14 in subsection (a)(1) with an entity described in such sub-
 15 section until the Secretary has promulgated the final rule
 16 described in subsection (a)(3).

17 **“SEC. 7406. RULE OF CONSTRUCTION.**

18 “Nothing in this Act shall be construed to limit the
 19 preservation or use of Native American languages as de-
 20 fined in the Native American Languages Act or Alaska
 21 Native languages.”.

22 **SEC. 5. CONFORMING AMENDMENTS.**

23 (a) TITLE HEADING.—The title heading of title VII
 24 of the Elementary and Secondary Education Act of 1965
 25 is amended to read as follows:

1 **“TITLE VII—ENGLISH LANGUAGE**
2 **FLUENCY AND FOREIGN LAN-**
3 **GUAGE ACQUISITION PRO-**
4 **GRAMS”.**

5 (b) ELEMENTARY AND SECONDARY EDUCATION
6 ACT.—The Elementary and Secondary Education Act of
7 1965 is amended—

8 (1) in section 2209(b)(1)(C)(iii) (20 U.S.C.
9 6649(b)(1)(C)(iii)), by striking “Bilingual Education
10 Programs under part A of title VII.” and inserting
11 “English language education programs under part A
12 of title VII.”; and

13 (2) in section 14307(b)(1)(E) (20 U.S.C.
14 8857(b)(1)(E)), by striking “Subpart 1 of part A of
15 title VII (bilingual education).” and inserting
16 “Chapter 2 of subpart 1 of part A of title VII
17 (English language education).”.

18 (c) DEPARTMENT OF EDUCATION ORGANIZATION
19 ACT.—

20 (1) IN GENERAL.—The Department of Edu-
21 cation Organization Act is amended by striking “Of-
22 fice of Bilingual Education and Minority Languages
23 Affairs” each place such term appears in the text
24 and inserting “Office of English Language Acquisi-
25 tion”.

1 (2) CLERICAL AMENDMENTS.—

2 (A) SECTION 209.—The section heading for
3 section 209 of the Department of Education
4 Organization Act is amended to read as follows:
5 “OFFICE OF ENGLISH LANGUAGE ACQUISITION”.

6 (B) SECTION 216.—The section heading for
7 section 216 of the Department of Education
8 Organization Act is amended to read as follows:
9 **“SEC. 216. OFFICE OF ENGLISH LANGUAGE ACQUISITION.”.**

10 (C) TABLE OF CONTENTS.—

11 (i) SECTION 209.—The table of con-
12 tents of the Department of Education Or-
13 ganization Act is amended by amending
14 the item relating to section 209 to read as
15 follows:

“Sec. 209. Office of English Language Acquisition.”.

16 (ii) SECTION 216.—The table of con-
17 tents of the Department of Education Or-
18 ganization Act is amended by amending
19 the item relating to section 216 to read as
20 follows:

“Sec. 216. Office of English Language Acquisition.”.

1 **SEC. 6. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 on the date of the enactment of this Act, or October 1,
4 1998, whichever occurs later.

 Passed the House of Representatives September 10,
1998.

Attest:

ROBIN H. CARLE,
Clerk.