



## **The Bilingual Education Act: 1988 Legislation**

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### **Introduction**

The 1988 Bilingual Education Act, which is part of P.L. 100-297 (The Hawkins/Stafford Elementary and Secondary School Improvement Amendments), reauthorizes bilingual education through September 30, 1993. The regulations that will guide the implementation of this new legislation during the next five years will be finalized in FY 1989 by the U.S. Department of Education. The new Bilingual Education Act, which is also referred to as Title VII, retains the basic structure of the 1984 Bilingual Education Act with a few changes. The act includes new provisions for funding, length of student participation in a program, preservice activities, and other changes. These provisions are briefly described in this paper along with a general description and full text of the Act.

The 1988 reauthorization is the fourth reauthorization of the original Bilingual Education Act of 1968. The other reauthorization took place in 1974, 1978, and 1984. The 1988 reauthorization process began with the introduction of H.R. 1755 (Bilingual Education Improvement Act of 1987) by House Education and Labor Committee Chairman Augustus F. Hawkins (D-CA). This bill was approved by the Committee on March 23, 1987. The bill would have reauthorized Title VII through FY 1993, increased funding authorization to \$246 million, and modified several other provisions of the 1984 Act. These provisions included:

- permitting grantees to devote the first 12 months, rather than 6 months, of a Part A grant to preservice activities;
- increasing to \$70,000 (from \$50,000) the minimum grant amount to state education agencies;
- eliminating the National Advisory and Coordinating Council on Bilingual Education;
- requiring the award of a minimum of 500 Title VII fellowships a year; and
- requiring the reservation of 25 percent of all Title VII appropriations for training and retraining.

This bill was subsequently included in H.R. 5, an omnibus bill amending and reauthorizing federal elementary and secondary education programs including ESEA Title VII (Bilingual Education Act).

H.R. 5 was approved on April 8, 1987, by the House Education and Labor Committee's Subcommittee on Elementary, Secondary, and Vocational Education. On April 22, 1987, Chairman Augustus Hawkins and Representatives Steve Bartlett, William Goodling and Dale Kildee reached a compromise on certain amendments that had been presented when the bill was debated by the full committee. The compromise stated that programs of transitional bilingual education (TBE) and other programs funded under the Bilingual Education Act were to be "held harmless," that is, held at FY 1987 levels (\$143 million), while directing that 70 to 75 percent of any new funds, after inflation, would go to special alternative programs. The compromise also included a reduction of funds for educational personnel training from 25 to 20 percent of total appropriations, while still maintaining funding for these programs at FY 1987 levels. H.R. 5 was passed by the

House of Representatives on May 22, 1987 by a vote of 401 to 1.

The Senate bills concerning Title VII before the final omnibus education reauthorization bill did not contain any provision for reauthorization of the Act, they merely amended the current Act. S. 857, an amendment bill, was introduced on March 26, 1987 by Senator Dan Quayle (R-IN). S. 857 mandated that 25 percent of all Title VII appropriations be set aside for English-only instruction programs and that the reservation of 75 percent of all Part A appropriations for transitional bilingual education be reduced to 60 percent. This bill also included a provision prohibiting the enrollment of any student for more than three years in a transitional bilingual education program, developmental bilingual education program, or special alternative instructional program funded under Title VII.

On May 20, 1987, the Labor and Human Resources Committee, approved S. 1238 (Bilingual Education Act Amendments of 1987), which amended S. 857 but did not reauthorize the Bilingual Education Act. S. 1238 increased to 25 percent the proportion of Title VII funds for Special Alternatives Programs and specified time requirements for students' participation in bilingual programs. S. 1238 was incorporated into S. 373, the Robert T. Stafford Elementary and Secondary Improvement Act of 1987--the Senate's education reauthorization bill. Like H.R. 5, S. 373 would reauthorize numerous education programs, including Title VII, until 1993. Approval of S. 373, subsequently renamed H.R. 5 to match the House version, made it possible for a House-Senate conference to reconcile the differences between the two omnibus bills.

The House approved the reconciled bill, 397 to 1, on April 19, 1988; the Senate approved it the next day by voice vote. President Reagan signed P.L. 100-297 into law on April 28, 1988.

The major changes in the Bilingual Education Act are:

- Up to 25 percent of Part A funds (instead of 4 percent of all funds) can be used to fund special alternative instructional programs;
- There is a three-year limit on a student's participation in a transitional bilingual education or special alternative instructional program. However, under special circumstances, the student may continue in the program for up to two more years.
- The state educational agency grant minimum of \$50,000 was raised to \$75,000;
- Transitional bilingual education, special alternative instructional, and developmental bilingual education programs may engage exclusively in preservice activities during the first 12 months of their grants;
- At least 500 graduate fellowships are to be awarded each year;
- Grants for instructional materials development are discontinued;
- The Condition of Bilingual Education report is discontinued;
- The National Advisory and Coordinating Council on Bilingual Education is eliminated.

General provisions of the 1988 Bilingual Education Act and its four major parts are discussed in the next five sections of this paper. The last section includes the full text of the Act (Title VII of P.L. 100-297).

### **General Provisions**

The Bilingual Education Act contains six sections: (1) General Provisions -- an introductory section which specifies policies, appropriations, definitions, and regulations; (2) Part A -- Financial Assistance for Bilingual Education Programs; (3) Part B -- Data Collection, Evaluation, and Research; (4) Part C -- Training and Technical Assistance; (5) Part D -- Administration; and (6) Part E -- Transition.

Under the new law, the authorization level has been raised to \$200 million in FY 1989. This means that Congress can appropriate or spend up to this amount in FY 1989. The authorization level for the next four

fiscal years (1990-1993) is left open. In the language of the law, authorization is for "such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993."

Other funding provisions specify that:

- At least 60 percent of the total Act appropriation shall be reserved to finance programs under Part A of Title VII;
- At least 75 percent of the funds appropriated to Part A shall be reserved for transitional bilingual education programs;
- Up to 25 percent of Part A funds may be reserved for special alternative instructional programs;
- At least 25 percent of the total Act appropriation shall be reserved for Part C training activities;
- Any state education agency is eligible for a grant of at least \$75,000, not to exceed 5 percent of the total funds awarded to its state under Part A the previous fiscal year.

No funding provisions are specified for Parts B and D of the law. The provisions that parents of children participating in Title VII-funded programs be informed of the instructional goals of the program, the progress of their children, and of their option to decline enrollment of their children in these programs have been expanded to state that such information be provided in a language and form the parents understand.

The definition of the family English literacy program now includes a provision for instruction in English and the history and government of the United States for aliens who are eligible for temporary resident status under the Immigration and Naturalization Act.

Another important provision is that no student may be enrolled in a bilingual program funded under Title VII for more than three years except where the school in which the student is enrolled conducts a comprehensive evaluation of the overall academic progress of the student and finds that the lack of English proficiency is impeding the student's academic progress in grade promotion and graduation standards or, if the child is handicapped, attainment of the child's individualized education program. A student may be enrolled for a fourth or fifth year only if these requirements are met. In no case may a student be enrolled in a transitional or special alternative program for more than five years. The law further stipulates that no student may be admitted to or excluded from any federally assisted education programs merely on the basis of his or her surname.

The 1988 Bilingual Education Act recognizes that "regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency."

### **Part A -- Financial Assistance for Bilingual Education Programs**

Part A of the 1988 Bilingual Education Act provides funds for the establishment, operation, and improvement of six programs:

1. Transitional bilingual education programs;
2. Developmental bilingual education programs;
3. Special alternative instructional programs for students of limited English proficiency;
4. Academic excellence programs;
5. Family English literacy programs; and
6. Special populations programs which include bilingual preschool, special education, and gifted and talented programs.

These programs are allowed to use grant funds to provide technology-based instruction to students in order to enhance the program.

## **Major Programs**

Applications for grants for transitional, developmental, and special alternative programs must contain information about children in the school district and those who are to receive instruction through the proposed program. Section 7021(c) specifies these student data reporting requirements.

The applications must be developed in consultation with an advisory council. Parents and other representatives of the limited English proficient (LEP) children to be served must comprise the majority of the council. This consultation and the notification to the state educational agency of the application must be documented in the proposal.

These programs may engage exclusively in preservice activities during the first 12 months of their grants. Grants are for three years and, unless otherwise determined by the Secretary, they are to be renewed for two additional years.

Final approval for a grant is given by the Secretary after a series of determinations. The Secretary must determine whether (1) qualified personnel will be used; (2) the needs of private school students and historically underserved students will be considered; (3) the federal funds will supplement, not replace, state and local funds; (4) the district will provide adequate training for its bilingual personnel; (5) the district will continue the program after the grant ends; and (6) the program will be evaluated in accordance with a plan that meets the requirements of Section 7033 of the Act.

### *Transitional Bilingual Education Programs*

Transitional bilingual education programs are designed for LEP students in elementary or secondary schools. These programs offer structured English instruction combined with, when necessary, instruction in the student's native language. The student's cultural heritage and that of other children in American society are included in the curriculum.

These programs must provide instruction which allows students to meet grade promotion and graduation standards. To the extent possible, students are to be placed in classes with children of approximately the same age and level of educational attainment. The programs must ensure that students are provided with instruction which is appropriate for their level of educational attainment and are given the opportunity to participate in mainstream classes in such courses as art, music, and physical education.

Transitional bilingual education programs may include the participation of up to 40 percent of children whose first language is English.

### *Developmental Bilingual Education Programs*

Developmental bilingual education programs are full-time programs designed to provide structured English instruction and instruction in a second language. These programs must help students achieve competence in English or a second language while mastering subject matter skills that allow them to meet grade promotion and graduation standards. Where possible, classes shall include approximately equal numbers of students whose native language is English and students whose native language is the second language of instruction or study.

### *Special Alternative Instructional Programs*

Special alternative instructional programs offer specially designed curricula appropriate for the linguistic and instructional needs of LEP students in elementary and secondary schools. These programs provide structured English instruction and special instructional services which allow the students to achieve competence in English and to meet grade promotion and graduation standards. In such programs, the native language of the LEP students need not be used. Applicants for program grants will receive priority if their application describes the difficulties of establishing a bilingual education program because of the small numbers of students of a particular native language or the unavailability of qualified bilingual personnel. Priority will also

be given if the application is made on behalf of a local educational agency that due to isolation or regional location has few LEP students or is unable to obtain a native language teacher.

### **Other Programs**

Applications for grants for academic excellence, family English literacy, and special populations programs must also include information on the population to be served. Section 7021(c) of the 1988 Bilingual Education Act contains these data reporting requirements. These programs are for three years and have different eligibility requirements.

#### *Academic Excellence Programs*

Academic excellence programs are programs of transitional bilingual education, developmental bilingual education, or special alternative instructional programs which have an established record of providing effective, academically excellent instruction to LEP students. These programs are designed to facilitate the dissemination of effective bilingual education practices for LEP students that (1) can be models for effective schools using effective teaching practices or (2) serve as models of exemplary bilingual education programs.

#### *Family English Literacy Programs*

Family English literacy programs are programs of instruction designed to help LEP adults and out-of-school youth achieve competence in English. Classes may be conducted in English only or in English and the student's native language. Preference for inclusion in the program is to be given to the parents and immediate family of the LEP students in programs assisted under this Act.

Under the 1988 Bilingual Education Act, these programs may also provide instruction designed to achieve a minimal understanding of English and the history and government of the United States for aliens eligible for temporary resident status under the Immigration and Naturalization Act.

#### *Special Populations Programs*

Programs that serve LEP students in special education, gifted and talented, and preschool programs are also eligible for grants under this Act. These programs, which serve special populations, may use grants to provide technology-based instruction to students.

## **Part B -- Data Collection, Evaluation, and Research**

Activities funded under Part B include:

1. Data collection on LEP persons and educational services available to them;
2. Evaluation of programs assisted under Title VII;
3. Research to improve the effectiveness of bilingual education programs; and
4. Data and information collection, analysis, and dissemination on bilingual education.

### **Grants to State Education Programs**

Grants for a minimum of \$75,000 are awarded to state education agencies (SEAs) which submit a state program to collect, aggregate, analyze, and publish data and information on their LEP population and the educational services provided or available to them. Grantees are required to submit an annual report to the Secretary on their LEP population and other matters determined by the Secretary.

SEAs are also allowed to use their grants to finance (1) the planning and development of educational programs such as those funded by Title VII; (2) the review and evaluation of programs of bilingual education; (3) the provision of technical assistance to educational organizations; (4) the development and administration of assessment instruments; (5) the training of state and local educational agency staff; and (6) the provision of services designed to build the capacity of state and local educational agencies to serve LEP persons.

### **Program Evaluation Regulations**

Within six months of the enactment of the law, the Secretary is required to issue regulations that delineate a comprehensive design for evaluating programs assisted under Part A. The regulations are prepared by the Director of the Office of Bilingual Educational and Minority Languages Affairs (OBEMLA) in consultation with state directors of bilingual education programs, the evaluation assistance centers, and individuals and organizations with expertise in testing and evaluation of programs for LEP children. The regulations are to provide for the collection of information and data. (Section 7033 lists these data and information requirements.)

### **Evaluation Assistance Centers**

The Act stipulates the establishment of at least two evaluation assistance centers funded for three years and competed for by institutions of higher education. Upon request, these centers provide technical assistance to state and local education agencies in matters related to the identification of educational needs and competencies of LEP students, and the assessment of educational progress through programs assisted under this Act.

### **Research**

The research agenda includes several types of studies. Studies will be conducted to determine and evaluate effective models for bilingual education programs, to examine second language and subject matter skills acquisition, to determine techniques to serve handicapped LEP students, to determine techniques to identify gifted and talented students, and to assess capacity building. (The complete research agenda is listed in Section 7035 of the Act.) Institutions of higher education, private for-profit and nonprofit organizations, state and local educational agencies, and individuals are eligible to compete for research and development contracts.

### **National Clearinghouse for Bilingual Education**

The Act calls for the operation of a clearinghouse which collects, analyzes, and disseminates information about bilingual education and related programs. This clearinghouse is to coordinate its activities with the National Diffusion Network.

## **Part C -- Training and Technical Assistance**

Part C funds the following activities:

- the establishment, operation, and improvement of training programs for educational personnel participating or preparing to participate in bilingual programs or special alternative instructional programs;
- the training of professionals to teach and counsel these educational personnel;
- the promotion of reform, innovation, and improvement of graduate education curricula, the structure of the academic profession, and higher education faculty recruitment;
- the provision of inservice training and technical assistance to parents and educational personnel participating or preparing to participate in bilingual or special alternative instructional programs; and
- the operation of short-term training institutes for these educational personnel.

### **Multifunctional Resource Centers**

Multifunctional resource centers provide technical assistance and training to bilingual personnel. They also gather and provide information to other centers on specific areas in bilingual education: bilingual special education, bilingual education for gifted and talented LEP students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual

programs, mathematics and science education in bilingual programs, counseling LEP students, and career education programs for LEP students.

Grants or contracts are awarded to at least 16 centers, taking into account the geographic and linguistic distribution of LEP children.

### **Fellowships**

Fellowships are awarded for advanced study of bilingual education or special alternative instructional programs for LEP students. Fellows must pursue a masters or a doctorate degree, preferably in such specialized areas as vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education.

At least 500 fellowships a year must be awarded for Fiscal Years 1989-1993.

## **Part D -- Administration**

### **Office of Bilingual Education and Minority Languages Affairs (OBEMLA)**

The Office of Bilingual Education and Minority Languages Affairs (OBEMLA) will continue to administer the programs reauthorized by Title VII. The Secretary of Education will carry out functions related to bilingual education through this office.

The Secretary appoints the Director of OBEMLA, who is responsible for all eligible functions concerning bilingual education. The Director is also responsible for coordinating the bilingual education aspects of other education programs administered by the Secretary.

### **The Secretary of Education**

The Secretary of Education is no longer required to submit a biennial Condition of Bilingual Education report. The Secretary continues to coordinate and ensure close cooperation of OBEMLA with other programs in the Department of Education in areas such as teacher training, program content, research, and curriculum.

### **The Director of OBEMLA**

The Director determines the organizational structure of OBEMLA. No later than February 1 each year, the Director shall submit to the Congress and the President a report on various aspects of Title VII programs, including the number of individuals benefiting, grants and contracts awarded, and the results of research studies.

### **The Division for Research and Evaluation**

The law stipulates that there be a division which is exclusively responsible for collecting, analyzing, and publishing data and information on the operation and effectiveness of Title VII programs. This division is known as the Division for Research and Evaluation and is headed by a director.

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## **TITLE VII- BILINGUAL EDUCATION PROGRAMS (P.L. 100-297)**

### **SEC. 7001. SHORT TITLE.**

This title may be cited as the 'Bilingual Education Act'.

**SEC. 7002. POLICY; APPROPRIATIONS.****a. POLICY--Recognizing-**

1. that there are large and growing numbers of children of limited English proficiency;
2. that many of such children have a cultural heritage which differs from that of English proficient persons;
3. that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;
4. that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;
5. that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;
6. that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;
7. that a primary means by which a child learns is through the use of such child's native language and cultural heritage;
8. that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;
9. that in some school districts establishment of bilingual, education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;
10. that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;
11. that children of limited English proficiency have a high dropout rate and low median years of education;
12. that the segregation of many groups of limited English proficient students remains a serious problem;
13. that reliance on student evaluation procedures which are inappropriate for limited English proficient students have resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs;
14. that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;
15. that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted and talented;
16. that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness.
17. that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;
18. that parent and community participation in bilingual education programs contributes to program effectiveness; and
19. that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education.

The Congress declares it to be the policy of the United States in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and



operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual educational programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

#### b. AUTHORIZATION

1. For the purpose of carrying out the provisions of this title, there are authorized to be appropriated, subject to paragraph (6), \$200,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993.
2. There are further authorized to be appropriated to carry out the provisions section 7032, subject to paragraph (6), such sums as may be necessary for the fiscal year 1989 and each of the 4 succeeding Fiscal years.
3. From the sums appropriated under paragraph (1) for pan A for any fiscal year, the Secretary may reserve not to exceed 25 percent for special alternative instructional programs and related activities authorized under section 7021(a)(3) and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).
4. From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve the at least 60 percent for the programs carried out under part A of this title; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 7021(a)(1), and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).
5. From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent (or training activities carried out under part C).
6. Notwithstanding paragraphs (1) and (2), no amount in excess of \$200,000,000 may be appropriated for the fiscal year 1989 to carry out the provisions of this title (including section 7032).
7. The reservation required by paragraph (3) shall not result in changing the terms, conditions, or negotiated levels of any grant awarded in fiscal year 1987 to which Section 7021(d)(1)(A), 7021(d)(1)(C), or 7021(d)(2) applies.

#### SEC. 7003. DEFINITIONS; REGULATIONS.

a. GENERAL RULE. The following definitions shall apply to the terms used in this title:

1. The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means:
  - (A) individuals who were not born in the United States or whose native language is a language other than English;
  - (B) individuals who come from environments where a language other than English is dominant; and
  - (C) individuals who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

2. The term 'native language' when used with reference to an individual of 'limited English proficiency', means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.
3. The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.
4. (A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instructions shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.  
(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.  
(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.  
(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or level of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for such child's level of educational attainment.
5. (A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the year of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.  
(B) Where possible, classes in programs of development bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.
6. The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specifically designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.
7. The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may

include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A or the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

8. The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which
  - (i) can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or
  - (ii) which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.
9. The term 'Office' means the Office of Bilingual education and Minority languages Affairs.
10. The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.
11. The term 'Secretary' means the Secretary of Education.
12. The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education, activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of Title IV of the Carl D. Perkins Vocational Education Act, and section 306(b)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

#### b. REGULATION REQUIREMENT.

1. In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education,
2. The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any regulations restricting or expanding the definitions set out in subsection (a).

#### c. SPECIAL INFORMATION RULE.

Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

### **PART A - FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS**

#### **SEC. 7021. BILINGUAL EDUCATION PROGRAMS.**

##### a. USES OF FUNDS.

Funds available for grants under this part shall be used for the establishment, operation, and improvement of -

1. programs of transitional bilingual education;
2. programs of development bilingual education;
3. special alternative instructional programs for students of limited English proficiency;

4. programs of academic excellence;
5. family English literacy programs; and
6. bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

#### b. APPLICATIONS.

1. A grant may be made under subsection (a)(1), (a)(2), or (a)(3) of this section only upon application therefor by one or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with one or more local educational agencies.
2. A grant may be made under subsection (a)(4), (a)(5), or (a)(6) only upon application by one or more local education agencies; institutions of higher education, including junior or community colleges; or private nonprofit organizations, applying separately or jointly.

#### c. CONTENT OF APPLICATION.

1. Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary, considers appropriate.
2. Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall contain information regarding -
  - (A) the number of children enrolled in programs conducted by the local educational agency;
  - (B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;
  - (C) (i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency, (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates and student dropout rates;
  - (D) the number of limited English proficient children who are enrolled in instructional specifically designed to meet their educational needs, as well as descriptions of such programs;
  - (E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;
  - (F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;
  - (G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;
  - (H) the resources needed to develop and operate or improve the proposed program;
  - (I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and
  - (J) the specific educational goals of the proposed program and how achievement of these goals will be measured.
3. An application for a grant under subsection (a)(3) of this section shall receive priority if the application -
  - (A) describes the administrative impracticability of establishing a bilingual education program due to

the presence of a small number of students of a particular native language,  
 (B) describes the unavailability of personnel qualified to provide bilingual instructional services, or  
 (C) is made on behalf of a local educational agency having a small number of limited English proficient students in the schools of such agency that because of isolation or regional location is unable to obtain a native language teacher.

4. Applications for grants authorized under subsection (a)(4) shall contain information regarding -
  - (A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;
  - (B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;
  - (C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; students dropout rates; and, where appropriate, postsecondary education and employment experience of students;
  - (D) the extent of parent involvement in and satisfaction with the existing bilingual education program: and
  - (E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.
5. Applications for grants authorized under subsection (a)(5) shall contain information regarding -
  - (A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;
  - (B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;
  - (C) the extent to which the persons to be served by the program have been involved in its development;
  - (D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;
  - (E) with respect to applications by a local educational agency, the extent of which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and
  - (F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

#### d. DURATION OF GRANTS.

1. (A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for 3 years.  
 (B) During the first 12 months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant may engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.  
 (C) Upon reapplication, grants authorized under subsections (a)(1), (2), and (3) of this section shall be renewed for 2 additional years unless the Secretary determines that
  - (i) the applicant's program does not comply with the requirements set out in this title;
  - (ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or
  - (iii) there is no longer a need for the applicant's program.
- (D) Parents of legal guardians of students identified for enrollment in bilingual education programs shall

be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

2. Grants made pursuant to subsection (a)(4), (a)(5), and (a)(6) shall be for 3 years.
3. (A) No student may be enrolled in a bilingual program for which a grant is made under subsection (a)(1) or (a)(3) of this section for a period of more than 3 years, except where the school in which the student is enrolled -
  - (i) conducts a comprehensive evaluation of the overall academic progress of the student, and
  - (ii) the results of the evaluation indicate that lack of English proficiency is impeding the academic progress of the student in meeting grade promotion and graduation standards and, in the case of a handicapped child attainment of the objective in the child's individualized education program.

Any student with respect to whom the requirements of this paragraph are met, may remain in the program for a fourth year, except as provided in division (ii) of subparagraph (B).

(B)

- (i) The evaluation required by paragraph (A) shall involve teachers and school personnel familiar with the students' overall academic progress. The results of such an evaluation shall be made available to the parents of the student.
- (ii) An evaluation shall be carried out at the end of the fourth year the student is in the program described in subparagraph (A) if the student is to continue in the program for a fifth year and shall be conducted in accordance with division (i) of this subparagraph.
- (iii) Each evaluation shall indicate how the students' English language development will be addressed during the period a student is retained in the program. The students' academic program during that period shall emphasize mastery of English.

(C) No student shall remain in a bilingual education program described in subparagraph (A) for more than 5 years.

(D) In carrying out this title, each local educational agency, institution of higher education, and private nonprofit organization having an application approved under this section may intensify instruction for limited English proficient students throughout the regular and any supplementary program by -

- (i) expanding the educational calendar of the schools in which such student is enrolled to include programs before and after school and during the summer months;
- (ii) lowering per pupil ratios, including the use of professional and volunteer aides; and
- (iii) the application of technology to the course of instruction.

#### e. APPLICATION REQUIREMENT.

An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall -

1. be developed in consultation with an advisory council, of which a majority shall be parents and other representative of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;
2. be accompanied by documentation of such consultation and by the comments which the Council makes on the application;

3. contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary school, representative of the secondary students to be served;
4. ensure applicant support for additional advisory council activities, if support is requested by the advisory council; and
5. include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

#### f. APPROVAL OF APPLICATIONS.

An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines -

1. that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;
2. that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;
3. that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;
4. that student evaluation and assessment procedures in the program are appropriate for limited English proficiency students, and that limited English proficient students who are handicapped are identified and served in accordance with the requirements of the Education of the Handicapped Act;
5. that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall -
  - (A) preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 with respect to service to be provided such children; or
  - (B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;
6. that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;
7. that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and
8. that the provision of assistance proposed in the application is consistent with criteria established by the secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located,

taking into consideration -

- (A) the geographic distribution of children of limited English proficiency;
- 9. the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;
  - (B) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and
  - (C) the relative numbers of persons from low-income families who would benefit from the applicants' programs;
- 10. that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

#### g. PRIORITY CONSIDERATION OF GRANTS.

An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this action.

#### h. PRIORITY FOR PROGRAMS SERVING UNDERSERVED CHILDREN.

In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriate in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability or particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

#### i. LIMITATION ON THE ASSIGNMENT OF STUDENTS.

No action taken may involve the admission or exclusion of students to or from any federally assisted education programs merely on the basis of the surnames of such students.

#### j. PROGRAMS IN PUERTO RICO.

Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

#### k. BYPASS PROVISION.

If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in non-profit, private school, as required by subsection (f)(2) of this section, the Secretary shall -

1. withhold approval of such application until the applicant demonstrates that it is in compliance with



those requirements; or

2. reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency, organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

## **SEC. 7022. INDIAN CHILDREN IN SCHOOL.**

### **a. ELIGIBLE ENTITIES.**

For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or post-secondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

1. The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.
2. The term "tribally sanctioned educational authority" means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section;

### **b. BUREAU OF INDIAN AFFAIRS SCHOOLS.**

From the sums appropriated pursuant to section 7002(b) the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

### **c. ANNUAL REPORT.**

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to Congress, the President, and the Secretary by September 30 of each year an annual report which provides -

1. an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and
2. an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

## **PART B -DATA COLLECTION, EVALUATION, AND RESEARCH**

### **SEC 7031. USE OF FUNDS.**

Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational service available to such persons, (2) evaluating the operation and

effectiveness of programs, assisted under this title, (3) conducting search to improve the effectiveness of bilingual education programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

## **SEC 7032. GRANTS FOR STATE PROGRAMS.**

### **a. DATA COLLECTION AND DISSEMINATION.**

Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provide or available to such persons.

### **b. REPORT TO SECRETARY.**

State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

### **c. OTHER USES OF FUNDS.**

State programs authorized under this section may also provide for

1. the planning and development of educational programs such as those assisted under this title;
2. the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;
3. the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficiency persons;
4. the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;
5. the training of State and local educational agency staff to carry out the purposes of the title; and
6. other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

### **d. PAYMENTS.**

Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposed of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary, to any State educational agency under the preceding sentence for any fiscal year may not be less than \$75,000 nor greater than 5 percent or the aggregate of the amount paid under Section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

e. SUPPLEMENT NOT SUPPLANT.

Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purpose described in this section, and in no case to supplement such funds.

**SEC 7033. PROGRAM EVALUATION REQUIREMENTS.**

The Secretary shall issue, within 6 months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including -

1. the educational background, needs, and competencies of the limited English proficient persons served by the program;
2. the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and, with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;
3. the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program;
4. the specific activities undertaken to improve prereferral, evaluation procedures and instructional programs for limited English proficient children who may be handicapped or gifted and talented; and
5. the extent of educational progress achieved through the program measured as appropriate by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

**SEC. 7034. EVALUATION ASSISTANCE CENTERS.**

The Secretary shall establish, through competitive grants to institutions of higher education, at least 2 evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of 3 years.

**SEC. 7035. RESEARCH.**

a. RESEARCH AND DEVELOPMENT.

The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

## b. AUTHORIZED ACTIVITIES.

Research activities authorized to be assisted under section shall include -

1. studies to determine and evaluate effective models for bilingual education programs;
2. studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the content of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;
3. longitudinal studies to measure the effect of this title on students enrolled in Title VII programs (including a longitudinal study of the impact of bilingual education programs on limited English proficient students using a nationally representative sample of the programs funded under this title and which provides information including data on grade retention, academic performance, and dropout rates);
4. studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;
5. the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);
6. studies to determine effective methods of teaching English to adults who have language proficiencies other than English;
7. studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural difference among students;
8. studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;
9. studies to determine effective and reliable techniques for providing bilingual education to handicapped students;
10. studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English; and
11. the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

## c. CONSULTATION AND DELEGATION OF AUTHORITY.

In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and Committee on Education and Labor of the House of Representatives.

## d. PUBLICATION OF PROPOSALS.

The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

## e. LIMITATION OF AUTHORITY.

Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses

of the content of educational textbooks.

### **SEC. 7036. COORDINATION OF RESEARCH.**

Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

### **SEC. 7037. EDUCATION STATISTICS.**

#### **a. DATA COLLECTION.**

Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, the Commonwealth of Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

#### **b. USE OF DATA.**

In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

## **PART C - TRAINING AND TECHNICAL ASSISTANCE**

### **SEC. 7041. USE OF FUNDS.**

#### **a. USE OF FUNDS.**

Funds available under this part shall be used for -

1. the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administration, counselors, paraprofessionals, teacher aides, and parents;
2. the training of persons to teach and counsel such persons;
3. the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education.
4. the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of

- educational personnel in the languages used in the program; and
5. the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instruction programs for limited English proficient students.

b. APPLICATIONS.

1. A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.
2. A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency, (B) local educational agencies; or (C) a State educational agency,
3. A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

c. APPLICATION REQUIREMENT FOR TRAINING PROGRAMS.

An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

d. TRAINING PROGRAM REQUIREMENTS.

A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

e. PREFERENCE IN ASSISTANCE AND PURPOSE OF TRAINING.

1. In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain course work in -
  - (A) teaching English as a second language;
  - (B) use of a non-English language for instructional purposes;
  - (C) linguistics; and
  - (D) evaluation and assessment; and which involve parents in the educational process. Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

**SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS.**

a. ESTABLISHMENT.

Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers thereafter in the section referred to as "centers").

Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

#### b. REQUIRED SERVICES.

In addition to providing technical assistance and training to person: participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

### **SEC. 7043. FELLOWSHIPS.**

#### a. AUTHORIZATION.

Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1989 and each of the 4 subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individual with limited English proficiency. in awarding fellowships, the Secretary Shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

#### b. FELLOWSHIP REQUIREMENTS.

Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in a activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

### **SEC. 7044. PRIORITY.**

In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

### **SEC. 7045. STIPENDS.**

In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

## PART D - ADMINISTRATION

### SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

#### a. ESTABLISHMENT.

There shall be in the Department of Education, an Office of Bilingual education and Minority Languages Affairs (hereafter in this section referred to as the "Office") through which the Secretary shall carry out functions relating to bilingual education.

#### b. DIRECTOR.

1. The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.
2. The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.
3. The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on -
  - (A) the grants and contracts made pursuant to this title in the preceding fiscal year;
  - (B) the number of individuals benefiting from the programs assisted under this title;
  - (C) the evaluation of activities carried out under this title during the preceding 2 fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);
  - (D) an estimate of the number of fellowships in field of training teachers for bilingual education which will be necessary for the 2 succeeding fiscal years; and
  - (E) the research activities carried out under such title during the preceding 2 fiscal years and the major findings of research studies.

#### c. COORDINATION WITH RELATED PROGRAMS.

In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under section 6218 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall include demonstration that such coordination has taken place.

#### d. STAFFING REQUIREMENT.

The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

#### e. READING AND SCORING APPLICATIONS.



For the purpose of reading and scoring applications for competitive grants authorized under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

#### **SEC. 7052. LIMITATION OF AUTHORITY.**

The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

### **PART E - TRANSITION**

#### **SEC. 7063. TRANSITION.**

This title shall not apply to grants and contracts entered into under the Bilingual Education Act as in effect before October 1, 1988.

#### **SEC. 1002. CONFORMING AMENDMENTS.**

a. a. **IN GENERAL.**

Sections 1001 through 1004, and 1006 of the Elementary and Secondary Education Act of 1965 are redesignated as sections 8001 through 8005, respectively.

b. **SPECIAL DEFINITION RULE.**

Section 8001 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

### **DEFINITIONS**

#### **SEC. 8001.**

Except as otherwise provided, the terms used in this Act have the same meanings provided in section 1471 of this Act.

#### **SEC. 1003. REPEALS.**

a. **Education Consolidation and Improvement Act of 1981.**

The Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.) is repealed.

b. **Ellender Program.**

The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

c. **Immigrant Education.**

Title VI of the Education Amendments of 1984 (20 U.S.C. 4101 et seq.) is repealed.

d. **Territorial Assistance.**

Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

e. Anti-Drug Abuse Act of 1986.

Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is repealed.

#### **SEC.1004. SPECIAL RULE ON SCHOOL DROPOUT DEMONSTRATION PROGRAM.**

The provisions of section 6005(c) of the Elementary and Secondary Education Act of 1965 (as added by section 1001 of this Act) shall apply to funds appropriated for the fiscal year 1988 for the dropout demonstration program.

#### **About the Author**

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This publication was prepared under Contract No. 300860069 for the Office of Bilingual Education on Minority Languages Affairs (OBEMLA), U.S. Department of Education. The contents of this publication do not necessarily reflect the views or policies of the Department of Education, nor does the mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

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