

Public Law 98-211
98th Congress

An Act

Dec. 8, 1983
[H.R. 1035]

To make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and for other purposes.

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

Education Consolidation and Improvement Act of 1981, amendment.
20 USC 3804.

STATE PROGRAM DESIGN

SECTION 1. (a) Section 555(b) of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35; 20 U.S.C. 3801 et seq.) (hereafter in this Act referred to as "the Act") is amended to read as follows:

20 USC 2761, 2771, 2781.
20 USC 3803.

"(b) PROGRAM DESIGN.—State agency programs shall be designed to serve migratory children of migratory agricultural workers or of migratory fishermen, handicapped children, and neglected and delinquent children (as described in subparts 1, 2, and 3, respectively, of part B of title I of the Elementary and Secondary Education Act of 1965) in accordance with section 554(a)(2) and the other applicable requirements of this chapter. The Secretary shall continue to use the definitions of 'agricultural activity', 'currently migratory child', and 'fishing activity' which were in effect on June 30, 1982, in regulations prescribed under subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965. No additional definition of 'migratory agricultural worker' or 'migratory fisherman' may be applied after the date of enactment of this subsection to such subpart 1."

20 USC 3804.

(b) Section 555 of the Act is amended by adding at the end thereof the following new subsection:

Public availability.

"(e) EVALUATION.—Each State educational agency shall—

"(1) conduct an evaluation of the programs assisted under this chapter at least every two years and shall make public the results of that evaluation; and

"(2) collect data on the race, age, and gender of children served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter."

APPLICATIONS

20 USC 3805.

SEC. 2. (a) Section 556(b) of the Act is amended by inserting "or" at the end of paragraph (1)(A), by striking out "or" at the end of paragraph (1)(B), and by striking out paragraph (1)(C).

(b) Section 556 of the Act is amended by adding at the end thereof the following:

"(c) EXEMPTION FROM TARGETING.—The requirements of subsection (b)(1) shall not apply in the case of a local educational agency with a total enrollment of less than one thousand children, but this subsection does not relieve such an agency from the responsibility to serve children under the assurances set forth in subsection (b)(2)."

(c) Clause (2) of section 556(b) of the Act is amended by striking all that follows "areas," in such clause and inserting in lieu thereof "requires, among the educationally deprived children selected, the inclusion of those children who have the greatest need for special assistance, and determines the needs of participating children with sufficient specificity to ensure concentration on those needs;"

20 USC 3805.

(d) Clause (4) of section 556(b) of the Act is amended by inserting before the semicolon a comma and the following: "and that the results of such evaluation will be considered by such agency in the improvement of the programs and projects assisted under this chapter; and".

FLEXIBILITY TO CONTINUE TITLE I TYPE EXPENDITURES

SEC. 3. Section 556 of the Act is further amended by adding at the end thereof the following new subsection:

Ante, p. 1412.

"(d) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (b)(1) of this section, a local educational agency shall have discretion to make educational decisions which are consistent with achieving the purposes of this chapter as set forth in this subsection, as follows:

Eligible school attendance area. Educationally deprived children.

"(1) A local educational agency may designate any school attendance area in which at least 25 per centum of the children are from low-income families as an eligible school attendance area.

"(2) A local educational agency may, with the approval of the State educational agency, designate as eligible (and serve) school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this provision shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by the local educational agency.

"(3) Funds received under this chapter may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(4) If an eligible school attendance area or eligible school was so designated in accordance with subsection (b)(1)(A) in either of two preceding fiscal years, it may continue to be so designated for a single additional fiscal year even though it does not qualify in accordance with subsection (b)(1)(A).

"(5) With approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, but (A) the number of children attending private elementary and secondary schools who receive services

under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

“(6) A child who, in any previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this title for the current year.

“(7) Educationally deprived children who begin participation in a program or project assisted under this chapter who, in the same school year, are transferred to a school attendance area or a school not receiving funds under this chapter, may continue to participate in a program or project funded under this chapter for the remainder of such year.

“(8) The local educational agency is not required to use funds under this chapter to serve educationally deprived children in greatest need of assistance if such children are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this chapter.

“(9) In the case of any school serving an attendance area that is eligible to receive services under this chapter and in which not less than 75 per centum of the children are from low-income families, funds received under this chapter may be used for a project designed to upgrade the entire educational program in that school in the same manner and only to the same extent as permitted under section 133(b) of the Elementary and Secondary Education Act of 1965 (but without regard to paragraph (4) of such section).

“(10) Public school personnel paid entirely by funds made available under this chapter may be assigned limited, rotating, supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as is the case with similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.”.

PARENTAL INVOLVEMENT

SEC. 4. Section 556 of the Act is further amended by adding at the end thereof the following new subsection:

“(e) PARENTAL INVOLVEMENT.—For the purposes of complying with the assurances given pursuant to subsection (b)(3) with respect to consultation with parents of participating children, (1) a local educational agency shall convene annually a public meeting, to which all parents of eligible students shall be invited, to explain to parents the programs and activities provided with funds made available under this chapter, and (2) if parents desire further activities, the local educational agency may, upon request, provide reasonable support for such activities.”.

Educational
program,
upgrade.

20 USC 2753.

Public school
personnel, duty
assignment.

Ante, p. 1413.

20 USC 3805.

Public meeting.

AREAS FOR SERVICES TO PRIVATE SCHOOLCHILDREN

SEC. 5. Section 557(a) of the Act is amended by inserting "(1)," 20 USC 3806.
immediately after "556(b)".

APPLICATION OF NONSUPPLANTING RULE TO STATES

SEC. 6. Section 558(b) of the Act is amended— 20 USC 3807.

(1) by inserting "State educational agency or other State agency in operating its State level programs or a" before "local educational agency" in the first sentence; and

(2) by striking out "a local educational agency shall not be required" in the second sentence and inserting in lieu thereof "no State educational agency, other State agency, or local educational agency shall be required".

EXCLUSIONS OF SPECIAL PROGRAM FUNDS

SEC. 7. Section 558(d) of the Act is amended— 20 USC 3807.

(1) by striking out "if such programs are consistent with the purposes of this chapter" and inserting in lieu thereof "including compensatory education for educationally deprived children (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965)"; and

20 USC 2751.

(2) by adding at the end thereof the following new sentence: "For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

"(1) bilingual education for children of limited English proficiency,

"(2) special education for handicapped children or children with specific learning disabilities, and

"(3) certain State phase-in programs as described in section 131(d) of the Elementary and Secondary Education Act of 1965."

OVERLAP IN COUNTY BOUNDARIES

SEC. 8. Section 558(e) of the Act is amended by striking out "In any State" and inserting in lieu thereof "Notwithstanding section 111(a)(3)(C) of the Elementary and Secondary Education Act of 1965, in any State". 20 USC 3807.
20 USC 2711.

RESTRICTION OF EXPENDITURES TO MEETING EDUCATIONAL NEEDS

SEC. 9. (a) Section 561(b) of the Act is amended by inserting before the period at the end thereof the following: "and because they are the most likely to be able to design programs to meet the educational needs of the students in their own districts". 20 USC 3811.

(b) Section 564(a) of the Act is amended— 20 USC 3814.

(1) by striking out "and" at the end of paragraphs (5) and (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has exercised and will exercise no influence in the decisionmaking processes of local educational

agencies as to the expenditures made pursuant to its application under section 566; and”.

- 20 USC 3816. (c) Section 566(c) of the Act is amended by adding at the end thereof the following: “In exercising such discretion, it shall be the responsibility of each local educational agency to ensure that each expenditure of funds under this chapter is for the purpose of meeting the educational needs within the schools of that local educational agency.”.

PHASE-OUT AND TRANSITION EXPENSES

- 20 USC 3812. SEC. 10. Section 562(c) of the Act is amended by adding at the end thereof the following: “Until September 30, 1983, such funds may also be used to assist in phasing out programs described in section 561(a) and in promoting an orderly transition to operations under this chapter.”.
- 20 USC 3811.

STATE ALLOTMENTS

- 20 USC 3813. SEC. 11. The first sentence of section 563(a) is amended by striking out “not to exceed”.

AUDIT REQUIREMENT FOR SMALL LOCAL EDUCATIONAL AGENCIES

- 20 USC 3814. SEC. 12. Section 564 of the Act is amended by adding at the end thereof the following new subsection:
- 31 USC 7305. “(c) Notwithstanding section 1745 of this Act, local educational agencies receiving less than an average \$5,000 each year under this chapter need not be audited more frequently than once every five years.”.

REQUIREMENT FOR STATE CERTIFICATION OF LOCAL EDUCATIONAL AGENCY APPLICATIONS

- 20 USC 3816. SEC. 13. Section 566(a) of the Act is amended by striking out everything preceding paragraph (1) and inserting in lieu thereof the following:
- “SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year for which its application to the State educational agency has been certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—”.

SCHOOL LEVEL PROGRAMS

- 20 USC 3823. SEC. 14. Section 573(a) of the Act is amended by striking out “chapter” in the first sentence and inserting in lieu thereof “subchapter”.

STATE RULEMAKING

- 20 USC 3871. SEC. 15. Section 591 of the Act is amended by adding at the end thereof the following new subsection:
- “(d) Nothing in this subtitle shall be interpreted (1) to authorize State regulations, issued pursuant to procedures as established by State law, applicable to local educational agency programs or projects funded under this subtitle, except as related to State audit and financial responsibilities, or (2) to encourage, preempt, or prohibit

regulations issued pursuant to State law which are not in conflict with the provisions of this subtitle. The imposition of any State rule or policy relating to the administration and operation of programs funded by this subtitle (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.”.

WITHHOLDING OF PAYMENTS

- SEC. 16. Section 592(a) of the Act is amended— 20 USC 3872.
 (1) by striking out “on the record” in the first sentence; and
 (2) by adding at the end thereof the following new sentence:
 “A transcript or recording shall be made of any hearing conducted under this subsection and shall be available for inspection by any person.”.

JUDICIAL REVIEW

- SEC. 17. Section 593(b) of the Act is amended by inserting “and a local educational agency” after “A State educational agency”. 20 USC 3873.

APPLICATION OF GENERAL EDUCATION PROVISIONS ACT

- SEC. 18. (a) Section 596 of the Act is amended to read as follows: 20 USC 3876.

“APPLICATION OF OTHER LAWS

“SEC. 596. (a) Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this subtitle. 20 USC 1221.

“(b) The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this subtitle with respect to the programs authorized by this subtitle:

- “(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 591(a) of this subtitle. 20 USC 1221e-3.
 “(2) Section 426(a) of such Act is superseded by section 591(b) of this subtitle. 20 USC 3871.
 “(3) Section 427 of such Act is superseded by section 556(b)(3) of this subtitle. 20 USC 1231d.
 “(4) Section 430 of such Act is superseded by sections 556(a) and 564(b) of this subtitle. 20 USC 3805.
 “(5) Section 431A of such Act is superseded by section 558(a) of this subtitle. 20 USC 1231g.
 “(6) Section 453 of such Act is superseded by section 592 of this subtitle. 20 USC 3805, 3814.
 “(7) Section 455 of such Act is superseded by section 593 of this subtitle with respect to judicial review of withholding of payments. 20 USC 1232-1.
 “(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.”. 20 USC 3807, 1234b, 3872, 1234d, 3873.

“(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.”. 20 USC 1232c-1232e.

(b) Section 406A(a) of the General Education Provisions Act, as added by the Education Amendments of 1974 (relating to responsibility of States to furnish information), is amended— 20 USC 1221e-1a.

- (1) by striking out paragraphs (3) and (4);
- (2) by inserting "and" at the end of paragraph (2); and
- (3) by redesignating paragraph (5) as paragraph (3).

CONFORMING AND TECHNICAL AMENDMENTS TO TITLE I OF ESEA

SEC. 19. (a) Title I of the Elementary and Secondary Education Act of 1965 is amended—

20 USC 2762.

(1) in section 142(a) by striking out "subpart 3 of part A, other than sections 122, 123, and 126(d) thereof" in paragraph (3) and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 of the Education Consolidation and Improvement Act of 1981"; and

20 USC 2772,
2782.

(2) in sections 147 and 152(a), by striking out "subpart 3 of part A, other than sections 122, 123, 125, 126(d), and 126(e) thereof" and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981".

(b) The amendments made by subsection (a) shall apply only with respect to funds for use under the Education Consolidation and Improvement Act of 1981.

20 USC 3801
note.

EXTENSION OF AUTHORIZATION FOR TITLE VII OF ESEA

SEC. 20. Section 528 of the Omnibus Budget Reconciliation Act of 1981 is amended—

20 USC 3489.

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph: "(15) title VII of the Elementary and Secondary Education Act of 1965."

CONFORMING AMENDMENTS

20 USC 3815.

SEC. 21. (a) Section 565(a) of the Act is amended by striking out "nonpublic" and inserting in lieu thereof "private, nonprofit".

20 USC 3383.

(b) The first sentence of section 1003(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "Act" a comma and the following: "or the Education Consolidation and Improvement Act of 1981".

ASSESSMENT OF COMPENSATORY EDUCATION

SEC. 22. Chapter 1 of the Act is amended by adding at the end thereof the following new section:

"NATIONAL ASSESSMENT OF COMPENSATORY EDUCATION ASSISTED
UNDER THIS CHAPTER

20 USC 3808.

"SEC. 559. (a) The Secretary shall conduct a national assessment of compensatory education assisted under this chapter, through independent studies and analysis by the National Institute of Education. The assessment shall include descriptions and assessments of the impact of (1) services delivered, (2) recipients of services, (3) background and training of teachers and staff, (4) allocation of funds (to school sites), (5) coordination with other programs, (6) effectiveness of programs on student's basic and higher order academic skills,

school attendance, and future education, and (7) a national profile of the way in which local educational agencies implement activities described under section 556(b). The National Institute of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required by this section. The National Institute of Education shall report to Congress the preliminary results of the assessment required by this section in January and July of 1986, and a final report shall be prepared and submitted to the Congress not later than January 1, 1987.

20 USC 3805.

Reports to Congress.

“(b) Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the Department of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.”

Recommendations to Congress.

IMPACT AID

SEC. 23. Section 5(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress), is amended by adding at the end thereof the following: “If any legislation enacted after March 31, 1983, affects the determination of amounts of payments made on the basis of entitlements established under sections 2, 3, and 4 by placing any additional restriction on payments based on the concentration of children counted under subsection (a) or (b) of section 3 in the schools of a local educational agency, such restriction shall be applied, in the case of any State (other than a territory or possession of the United States) within which there is only one local educational agency, by treating each administrative school district within such State as a local educational agency (solely for the purpose of computing the amount of such payments). Treating such an administrative school district as a local educational agency under the preceding sentence shall not result, during fiscal year 1984, 1985, or 1986, in an increase of more than 10 per centum in the amount of funds paid to such State above the amount which would otherwise be paid to such State for such fiscal year.”

20 USC 240.

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 24. (a) Section 515(b) of the Omnibus Education Reconciliation Act of 1981 is amended by inserting “(g)(2)” after “section 406”.

20 USC 1221e-1 note.

(b) The National Center for Education Statistics shall not terminate the study of the condition of education for Hispanic Americans unless specifically required or authorized to do so by law.

Hispanic Americans.
20 USC 1221e-1 note.

EFFECTIVE DATE

SEC. 25. (a) Except as provided in subsection (b), the amendments made by this Act to the Education Consolidation and Improvement Act of 1981 and title I of the Elementary and Secondary Education Act of 1965 shall be effective July 1, 1983.

20 USC 3804 note.

20 USC 3801 note.

20 USC 2701.

(b) With respect to the period beginning July 1, 1982, and ending June 30, 1983, no recipient of funds under the Education Consolidation and Improvement Act of 1981 shall be held to have expended

such funds in violation of the requirements of such Act if such funds are expended either in accordance with such Act as in effect prior to the date of enactment of this Act or in accordance with such Act as amended by this Act.

Approved December 8, 1983.

LEGISLATIVE HISTORY—H.R. 1035 (S. 1008):

HOUSE REPORTS: No. 98-51 (Comm. on Education and Labor) and No. 98-574 (Comm. of Conference).

SENATE REPORT No. 98-166 accompanying S. 1008 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Aug. 4, S. 1008 considered and passed Senate.

Apr. 12, considered and passed House.

Oct. 7, considered and passed Senate, amended.

Nov. 18, House and Senate agreed to conference report.