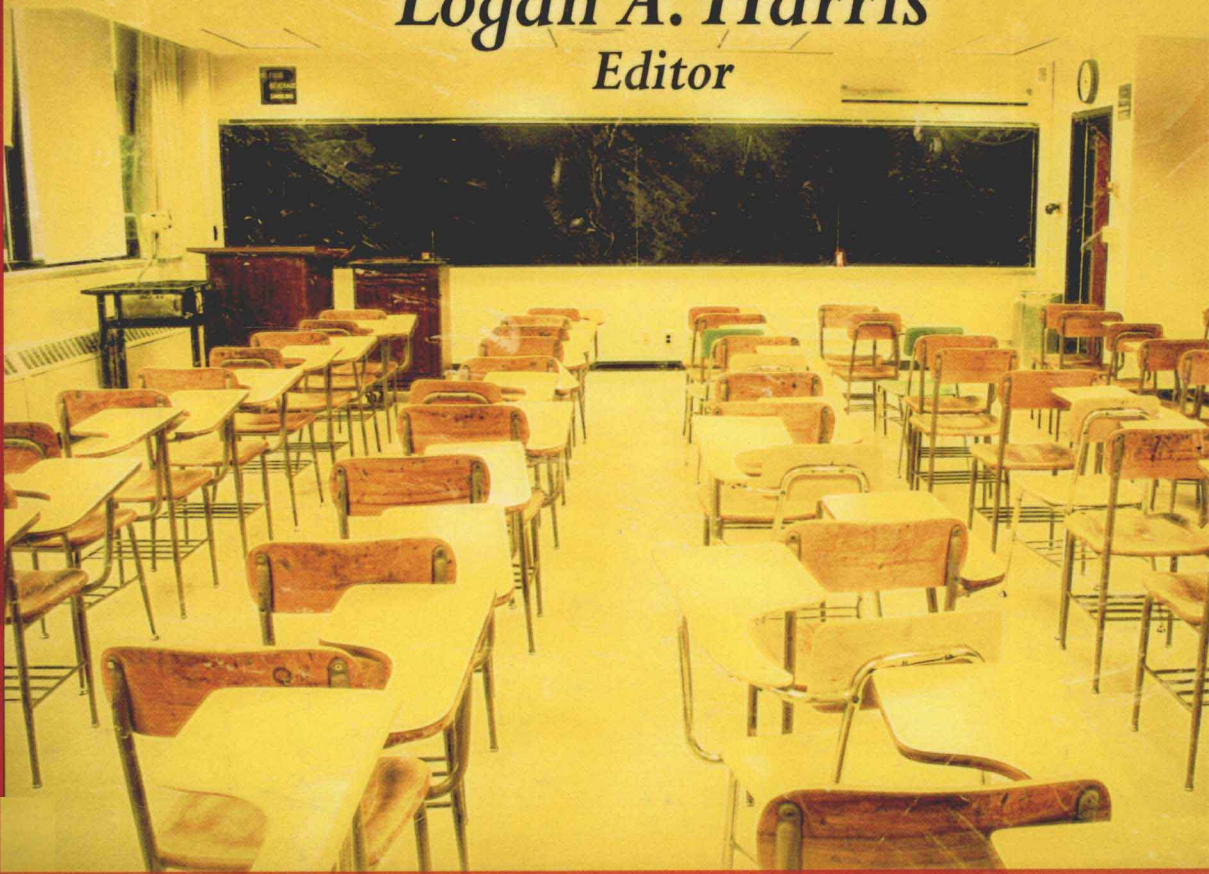


ELEMENTARY AND SECONDARY EDUCATION ACT BACKGROUND AND ISSUES

Logan A. Harris
Editor



*Education in a Competitive
and Globalizing World*

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EDUCATION IN A COMPETITIVE AND GLOBALIZING WORLD

**ELEMENTARY AND SECONDARY
EDUCATION ACT: BACKGROUND
AND ISSUES**

LOGAN A. HARRIS
EDITOR



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New York

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AND ISSUES**

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PREFACE

The primary source of federal aid to K-12 education is the Elementary and Secondary Education Act (ESEA), particularly Title I, Part A of Education for the Disadvantaged. The NCLB initiated a major expansion of federal influence upon several aspects of public K-12 education, primarily with the aim of increasing the accountability of public school systems and individual public schools for improving achievement outcomes of all pupils, especially the disadvantaged. This book provides an overview of major provisions of the ESEA, its background and issues.

Chapter 1 - The primary source of federal aid to K-12 education is the Elementary and Secondary Education Act (ESEA), particularly its Title I, Part A program of Education for the Disadvantaged. The ESEA was initially enacted in 1965 (P.L. 89-10), and was most recently amended and reauthorized by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110), which authorized virtually all ESEA programs through FY2008. It is widely expected that the 111th Congress will consider whether to amend and extend the ESEA.

The NCLB initiated a major expansion of federal influence upon several aspects of public K-12 education, primarily with the aim of increasing the accountability of public school systems and individual public schools for improving achievement outcomes of all pupils, especially the disadvantaged. States must implement in all public schools and school districts a variety of standards-based assessments in reading, math and science; make complex annual adequate yearly progress (AYP) determinations for each public school and district; and require virtually all public school teachers and aides to meet a variety of qualification requirements. State AYP policies must incorporate an ultimate goal of all public school pupils reaching a proficient or higher level of achievement by the end of the 2013-14 school year. Further, participating states must enforce a series of increasingly substantial consequences for most of their schools and almost all school districts that fail to meet the AYP standards for two consecutive years or more. All of these requirements are associated with state participation in the ESEA Title I-A program.

Other major ESEA programs provide grants to support the education of migrant students; recruitment of and professional development for teachers; language instruction for limited English proficient students; drug abuse prevention programs; after-school instruction and care; expansion of charter schools and other forms of public school choice; education services for Native American, Native Hawaiian, and Alaska Native students; Impact Aid to compensate local educational agencies for taxes foregone due to certain federal activities; and

a wide variety of innovative educational approaches or instruction to meet particular student needs.

This chapter provides a brief overview of major provisions of the ESEA.

Chapter 2 - The No Child Left Behind Act of 2001 (NCLB) contains several requirements related to student assessments for states and local educational agencies (LEAs) participating in Elementary and Secondary Education Act (ESEA) Title I-A (Education for the Disadvantaged). Under the NCLB, in addition to previous requirements for standards and assessments in reading and mathematics at three grade levels, all states participating in Title I-A were required to implement standards-based assessments for students in *each* of grades 3-8 in reading and mathematics by the end of the 2005-2006 school year. States must also implement assessments at three grade levels in *science* by the end of the 2007-2008 school year. Students who have been in U.S. schools for at least three years must be tested (for reading) in English, and states must annually assess the English language proficiency of their limited English proficient (LEP) students. The grants to states program for assessment development was appropriated \$410.7 million for FY2010.

In addition, the NCLB requires all states receiving grants under Title I-A to participate in National Assessment of Educational Progress (NAEP) tests in 4th and 8th grade reading and mathematics to be administered every two years, with all costs to be paid by the federal government. NAEP is a series of ongoing assessments of the academic performance of representative samples of students primarily in grades 4, 8, and 12. Beginning in 1990, NAEP has conducted a limited number of state-level assessments wherein the sample of students tested in each participating state is increased in order to provide reliable estimates of achievement scores for students in the state. Previously, all participation in state NAEP was voluntary, and additional costs associated with state NAEP were borne by participating states. The statutory provisions authorizing NAEP are amended by the NCLB to maximize consistency with the NCLB requirements and prohibit the use of NAEP assessments by agents of the federal government to influence state or LEA instructional programs or assessments.

The authorization for ESEA programs expired at the end of FY2008, and the 111th Congress is expected to consider whether to amend and extend the ESEA. Issues regarding expanded ESEA Title I-A student assessment requirements that are being addressed by the 111th Congress include the following: Are states meeting the expanded assessment requirements on schedule? Will federal grants be sufficient to pay the costs of meeting the assessment requirements? What might be the impact on NAEP of requiring state participation, as well as the impact of NAEP on state standards and assessments? What are the likely major benefits and costs of the expanded ESEA Title I-A student assessment requirements? And should the assessment requirements be expanded further?

Chapter 3 - Requiring or encouraging parents' involvement in the education of their children has been a longstanding goal of Title I, Part A, Education for the Disadvantaged, authorized by the Elementary and Secondary Education Act of 1965 (ESEA), most recently amended by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110). NCLB encourages parents' involvement by requiring Title I-A schools and local educational agencies (LEAs) to develop, in conjunction with parents, parental involvement policies and school-parent compacts. Schools in LEAs that receive over \$500,000 in Title I-A funding must also reserve at least 1% of their Title I-A funds for parental involvement activities. Additionally, the ESEA requires that parents receive notification on their child's school's performance, and, if

applicable, their right to transfer their child to a school that met Adequate Yearly Progress (AYP) or to request free tutoring for their child.

This chapter begins by discussing the various definitions of parental involvement, barriers to increasing parental involvement, research on parental involvement and student achievement, and parental involvement requirements prior to NCLB. It then covers the parental involvement requirements in Title I-A, Sections 1116 and 1118, that were enacted under NCLB and their implementation. A brief discussion of parental involvement requirements in other sections of the ESEA follows. This chapter concludes by considering two alternative approaches to increasing parental involvement: public charter schools and community schools.

Chapter 4 - The term “school choice” is often used to describe the practice of parents exercising a role in selecting the schools their children attend. The choices available to and made by families may be shaped by many factors, including their preferences for education, their place of residence, their perceptions of school quality, their financial resources, their children’s interests and abilities, and public policies. This chapter examines the role of federal policy in the area of school choice — specifically, selected programs and requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLBA).

The ESEA contains numerous programs and requirements that may be considered as supporting or facilitating school choice. Equitable participation requirements in most ESEA programs ensure that children whose parents enroll them in private schools are able to benefit from federal programs to a similar extent as children enrolled in public schools. Programs such as the Voluntary Public School Choice program, the Magnet Schools program, the Unsafe School Choice Option, and public school choice under Title I-A help create new public school options so that parents may have the opportunity to transfer their children to schools that are higher-performing or that offer academic programs that are not available at their children’s assigned public schools. The Public Charter Schools programs support the opening of new charter schools to provide increased opportunities for school choice. Report cards on school performance and safety help keep parents informed as they evaluate the school choices they have made or may make in the future.

Most ESEA programs are authorized through FY2008, and bills to amend and extend the ESEA are likely to be considered during the 110th Congress. As ESEA reauthorization is considered, future directions for federal school choice policy may be a topic of debate. This could involve an examination of whether the existing number and mix of school choice programs is optimal, and if not, whether existing programs should be consolidated or eliminated, or whether new programs should be created. Options for ESEA reauthorization include expanding choice options in existing programs — for example, to include public schools in neighboring districts or perhaps private schools; authorizing new demonstration or targeted choice programs; and combining existing programs into block grants.

The term “school choice” is often used to describe the practice of parents exercising a role in selecting the schools their children attend. The choices available to and made by families may be shaped by many factors, including their preferences for education, their place of residence, their perceptions of school quality, their financial resources, and their children’s interests and abilities. Public policies often can have a significant effect in influencing the school choices available to parents. For example, public policies determine the structure of public elementary and secondary education finance systems, school catchment areas, required

education curricula, and procedures for selecting or changing schools. Increasingly, policies and programs specifically supportive of school choice are being implemented in the states. These include open enrollment programs, magnet schools, charter schools, controlled choice programs, school vouchers, and tuition tax credits. While state and local governments are primarily responsible for education policy in the United States, the federal government, through several programs and requirements, also influences the ability of parents to select the schools their children attend.

This chapter examines selected programs and requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLBA), as they relate to school choice. It begins with an overview of how school choice is currently exercised in the United States. It then identifies and describes ESEA programs and requirements that are supportive of school choice. It also provides brief descriptions of other federal school choice programs authorized separately from the ESEA to provide an overview of the extent of federal support for school choice in elementary and secondary education. The report concludes with a discussion of school choice issues in the context of ESEA reauthorization.

Chapter 5 - The Elementary and Secondary Education Act (ESEA) contains 45 separately authorized programs, plus approximately 20 specified sub-programs. The largest of these programs distribute funds by formulas that prescribe how funds are to be allocated among state educational agencies (SEAs) or local educational agencies (LEAs) nationwide. They take the form of mathematical equations through which the U.S. Department of Education (ED), and in many cases also SEAs, calculate grant amounts for each potential grantee meeting statutory eligibility criteria. They almost always include one or more population factors and may also include state or LEA minimum grant provisions, eligibility thresholds, expenditure factors, fiscal accountability provisions, and reservations of funds for a variety of purposes.

The recipients of a majority of the funds under almost all ESEA formula grant programs are LEAs. Under most of these programs, grants are provided to LEAs via SEAs: that is, they are “state-administered formula grant” programs. Funds are allocated by ED directly to LEAs only under a limited number of ESEA programs. The most influential ESEA allocation formulas are those under the Title I-A program, both because this is the largest ESEA program and because there are five ESEA programs under which grants are made, in part or in full, in proportion to grants calculated under Title I, Part A. As a result, a majority of ESEA funds are allocated under formulas in which the primary population factor is school-age children in poor families, and state expenditure factors are applied.

The share of all public K- 12 education revenues that is provided under ESEA programs varies substantially among the states, although ESEA funding constitutes only approximately one-tenth or less of total public K- 12 education revenues in all cases except Puerto Rico. The average ESEA program grant per school-age child (poor and non-poor) increases as the state average poverty rate rises, with the third of states having the highest poverty rates receiving 1.4 times as much as low poverty states. At the same time, an opposite trend is found in average ESEA grants per school-age child in a poor family, with low poverty states receiving 1.3 times as much as states with the highest poverty rates.

Most ESEA allocation formulas include state or LEA minimum grant provisions. As a result, states with the smallest school-age population receive approximately 1.7 times as much

as the remaining states per school-age child, and approximately 2.2 times as much per school-age child from a poor family.

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Chapter 1

**THE ELEMENTARY AND SECONDARY EDUCATION
ACT, AS AMENDED BY THE NO CHILD LEFT BEHIND
ACT: A PRIMER**

Wayne C. Riddle and Rebecca R. Skinner

SUMMARY

The primary source of federal aid to K-12 education is the Elementary and Secondary Education Act (ESEA), particularly its Title I, Part A program of Education for the Disadvantaged. The ESEA was initially enacted in 1965 (P.L. 89-10), and was most recently amended and reauthorized by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110), which authorized virtually all ESEA programs through FY2008. It is widely expected that the 111th Congress will consider whether to amend and extend the ESEA.

The NCLB initiated a major expansion of federal influence upon several aspects of public K- 12 education, primarily with the aim of increasing the accountability of public school systems and individual public schools for improving achievement outcomes of all pupils, especially the disadvantaged. States must implement in all public schools and school districts a variety of standards-based assessments in reading, math and science; make complex annual adequate yearly progress (AYP) determinations for each public school and district; and require virtually all public school teachers and aides to meet a variety of qualification requirements. State AYP policies must incorporate an ultimate goal of all public school pupils reaching a proficient or higher level of achievement by the end of the 2013-14 school year. Further, participating states must enforce a series of increasingly substantial consequences for most of their schools and almost all school districts that fail to meet the AYP standards for two consecutive years or more. All of these requirements are associated with state participation in the ESEA Title I-A program.

Other major ESEA programs provide grants to support the education of migrant students; recruitment of and professional development for teachers; language instruction for limited English proficient students; drug abuse prevention programs; after-school instruction and

care; expansion of charter schools and other forms of public school choice; education services for Native American, Native Hawaiian, and Alaska Native students; Impact Aid to compensate local educational agencies for taxes foregone due to certain federal activities; and a wide variety of innovative educational approaches or instruction to meet particular student needs.

This chapter provides a brief overview of major provisions of the ESEA.

INTRODUCTION

The primary source of federal aid to K-12 education is the Elementary and Secondary Education Act (ESEA), particularly its Title I, Part A program of Education for the Disadvantaged. The ESEA was initially enacted in 1965 (P.L. 89-10), and was most recently amended and reauthorized by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110), which authorized virtually all ESEA programs through FY2008. It is widely expected that the 111th Congress will consider whether to amend and extend the ESEA.

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This chapter provides a brief overview of major provisions of the ESEA. It is organized by title and part of the act. Other CRS reports provide much more detailed discussions and analyses of major ESEA provisions.¹

TITLE I: IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

The introductory text for ESEA Title I includes the authorization of appropriations for FY2002- FY2007 for each Part of the Title, including school improvement grants, and authority for states to reserve 1% of grants under parts A, C, and D, or \$400,000 (whichever is greater), for state administration.

Part A: Improving Basic Programs Operated by Local Educational Agencies

Title I, Part A, of the ESEA authorizes federal aid to local educational agencies (LEAs) for the education of disadvantaged children. Title I-A grants provide supplementary educational and related services to low-achieving and other pupils attending pre-kindergarten through grade 12 schools with relatively high concentrations of pupils from low-income families. It has also become a “vehicle” to which a number of requirements affecting broad aspects of public K-12 education for all pupils have been attached as a condition for receiving Title I-A grants.

Title I-A funds are allocated by the U.S. Department of Education (ED) to state educational agencies (SEAs), which then suballocate grants to LEAs. It is one of the few federal K-12 formula grant programs for which substate grants are, in most cases, calculated by ED. Portions of each annual appropriation for Title I-A are allocated under four different formulas—Basic, Concentration, Targeted, and Education Finance Incentive Grants—although funds allocated under all of these formulas are combined and used for the same purposes by recipient LEAs. Although the allocation formulas have several distinctive elements, the primary factors used in all four formulas are estimated numbers of children aged 5-17 in poor families plus a state expenditure factor based on average expenditures per pupil for public K-12 education. Other factors included in one or more formulas include weighting schemes designed to increase aid to LEAs with the highest concentrations of poverty, and a factor to increase grants to states with high levels of expenditure equity among their LEAs. Each formula also has a LEA hold harmless provision (no LEA may receive less than 85-95% of its previous year grant, depending on the LEA’s poverty rate) and a state minimum grant provision (up to either 0.25% or 0.35% of state grants, depending on the formula).

Within LEAs, Title I-A funds are used to provide supplementary educational services to pupils at public schools with the highest percentages or numbers of children from low-income families, as well as eligible pupils who live in the areas served by these public schools, but who attend private schools.² While there are several program rules related to school selection, the participating schools must generally have a percentage or number of children from low-income families that is greater than the LEA’s average. LEAs can generally choose to focus Title I-A services on selected grade levels (e.g., only in elementary schools), but they must usually provide services in all schools, without regard to their grade level, where the percentage of pupils from low-income families is 75% or more. Once schools are selected, Title I-A funds are allocated among them on the basis of their number of pupils from low-income families.

There are two basic types of Title I-A programs. *Schoolwide programs* are authorized if the percentage of low-income pupils served by a school is 40% or higher. In schoolwide programs, Title I-A funds may be used to improve the performance of all pupils in a school. For example, funds might be used to provide professional development services to all of a school's teachers, upgrade instructional technology, or implement new curricula. The other major type of Title I-A service model is the *targeted assistance* school program. This was the original type of Title I-A program, under which Title I-A-funded services are generally limited to the lowest achieving pupils in the school. For example, pupils may be "pulled out" of their regular classroom for several hours of more intensive instruction by a specialist teacher each week, or they may receive such instruction in an after-school program, or funds may be used to hire a teacher's aide who provides additional assistance to low achieving pupils in their regular classroom. According to data for the 2002-2003 school year (the latest currently available), 54% of schools receiving Title I-A operated schoolwide programs, and these schools served 84% of all participating pupils.³

A number of major accountability requirements apply to public schools in a state that participates in the Title I-A program. Participating states⁴ must administer annual, standards-based assessments in reading and mathematics to pupils in each of grades 3-8, plus at least once in grades 10-12. Beginning with the 2007-2008 school year, such assessments must also be administered to pupils in each of three grade levels (3-5, 6-9, and 10-12) in science. Pupil performance standards for all required assessments must establish at least three performance levels: advanced, proficient, and basic. The state assessments must meet a variety of criteria regarding accommodations for pupils with disabilities and LEP pupils, and linkages between state content standards, pupil performance standards, and assessments. Participating states must also administer annual assessments of English language proficiency to all of their LEP pupils, and participate in National Assessment of Educational Progress (NAEP) tests of 4th and 8th grade pupils in reading and math every two years.

States participating in Title I-A must use results of the required reading and math assessments to make annual adequate yearly progress (AYP) determinations. AYP standards must be applied to all public schools, LEAs, and to states overall. However, under the ESEA, consequences for failing to meet AYP standards need only be applied to schools and LEAs participating in Title IA, and consequences for states as a whole are limited to potential identification and provision of technical assistance. AYP is defined primarily on the basis of the percentage of pupils scoring at a proficient or higher level of achievement. AYP standards must also include at least one additional academic indicator; in the case of high schools, this must be the graduation rate.

AYP calculations must be disaggregated—that is, determined separately for several demographic groups, as well as for an "all pupils" group. The specified groups include economically disadvantaged pupils, LEP pupils, pupils with disabilities, and pupils in major racial and ethnic groups. However, pupil groups need not be considered if their number is so small that results would not be statistically significant or the identity of pupils might be divulged (minimum group size). In order to make AYP, at least 95% of pupils overall and 95% of each demographic group must participate in assessments. Schools or LEAs meet AYP standards only if they meet the required threshold levels of performance on assessments, other academic indicators, and test participation with respect to all of the designated pupil groups that meet the minimum group size criterion selected by the state. The primary structure for AYP determination under the ESEA applies the same required threshold level of achievement

to all pupils and schools statewide (a “status” model). The ESEA also includes a “safe harbor” provision, under which AYP may be met by a pupil group if it experiences a 10% reduction, compared to the previous year, in the number of pupils below proficiency. In recent years, there has been increasing interest in using “growth” models to determine AYP, by which the achievement of individual pupils is tracked from year to year. Under a pilot program, a limited number of states are being allowed to use such models.

The ESEA requires states to identify LEAs and schools that fail to meet AYP standards for two consecutive years for improvement. Pupils attending these schools must be provided with options to attend other public schools that make AYP. If a Title I-A school fails to meet AYP standards for a third year, pupils from low-income families must be offered the opportunity to receive instruction from a supplemental services provider of their choice. One or more additional “corrective actions,” such as implementing a new curriculum, must be taken with respect to Title I-A schools that fail to meet AYP for a fourth year. Finally, those that fail to meet AYP standards for a sixth year must implement a “restructuring” plan, involving such actions as reopening as a charter school. Procedures analogous to those for schools apply to LEAs that receive Title I-A grants and fail to meet AYP requirements.

Finally, states participating in Title I-A are required to provide that all public school teachers in core subjects are “highly qualified.” In order to be deemed “highly qualified,” all such public school teachers must hold at least a bachelor’s degree, have obtained full state certification or passed the state teacher licensing examination, and must hold a license to teach. In addition, teachers who are new to the profession must demonstrate subject area knowledge, including (if teaching at a secondary level) passing a state academic test or completing an academic major, graduate degree, or advanced certification in each subject taught. A public school teacher who is *not* new to the profession may also be deemed to be “highly qualified” by demonstrating competence in all subjects taught “based on a high objective uniform State standard of evaluation” (HOUSSE). Further, paraprofessionals (aides) providing instruction in Title I-A programs must have either: (a) completed at least two years of higher education; or (b) earned an associate’s (or higher) degree; or (c) met a “rigorous standard of quality.”

Part B: Student Reading Skills Improvement Grants

Subpart 1 of Title I-B authorizes the Reading First program. Under Reading First, grants are allocated among participating states in proportion to their estimated number of children aged 5-17 in poor families, with each state receiving at least 0.25% of the total funds available for state grants. SEAs then make competitive subgrants to LEAs, with priority given to LEAs in which the estimated number of children aged 5-17 in poor families is at least 6,500 or the poverty rate for 5-17 year-olds is at least 15%. LEAs are to use these funds to improve reading programs for pupils in grades K-3 in schools that either have percentages of pupils from low-income families that are among the highest in the LEA or have been identified for improvement under Title I-A. The supported reading instruction must be grounded in scientifically based reading research. Subpart 1 also authorizes targeted assistance performance awards to states that have demonstrated improvements in pupil reading performance.

The Early Reading First program is authorized under *Subpart 2* of Title I-B. Early Reading First provides competitive grants to LEAs and/or programs serving preschool children for activities, grounded in scientifically based reading research, that are intended to help preschool children acquire knowledge and skills necessary for learning to read.

Subpart 3 of Title I-B authorizes the William F. Goodling Even Start Family Literacy Programs. Under Even Start, funds are allocated to states in proportion to grants under Title I-A, with a minimum state grant amount of the greater of \$250,000 or 0.5% of total funding for state grants. Within states, funds are competitively awarded to partnerships of LEAs and other entities to provide a combination of services to parents and children, from birth to age 7, including early childhood education, adult basic education, and parenting skills training to parents lacking a high school diploma.

Subpart 4 of Title I-B authorizes grants to LEAs to improve the services provided by school libraries. If annual appropriations are less than \$100 million (as has been the case each year thus far), competitive grants to LEAs are made directly by ED; if appropriations were \$100 million or above, grants would be made by formula to SEAs, in proportion to Title I-A grants, and SEAs would make competitive grants to LEAs.

Part C: Education of Migratory Children

Title I-C authorizes grants to SEAs for the education of migratory children and youth. Funds are allocated by formula on the basis of each state's number of migratory children and youth aged 3- 21 and the Title I-A state expenditure factor. ED may also make grants for the coordination of services and transfer of educational records for migratory students.

Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or at-Risk

Title I-D authorizes a pair of programs intended to improve education for pupils who are neglected, delinquent, or at risk of dropping out of school. *Subpart 1* authorizes grants for the education of children and youth in *state* institutions for the neglected or delinquent, including community day programs and adult correctional institutions. Funds are allocated to states on the basis of the number of such children and youth plus the Title I-A state expenditure factor. A portion of each state's grant is to be used for transition services to children and youth transferring to regular public schools. *Subpart 2* provides aid for programs operated by LEAs in collaboration with *locally operated* correctional facilities, and in coordination with the Title I-A program.