



K-12 Education: Highlights of the No Child Left Behind Act of 2001 (P.L. 107-110)

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Summary

On January 8, 2002, the No Child Left Behind Act of 2001, legislation to extend and revise the Elementary and Secondary Education Act (ESEA), was signed into law as P.L. 107-110. This legislation extensively amended and reauthorized most federal elementary and secondary education aid programs.

Major features of the No Child Left Behind Act of 2001 include the following: (a) states were required to implement standards-based assessments in reading and mathematics for pupils in each of grades 3-8 by the end of the 2005-2006 school year, and at three grade levels in science by the end of the 2007-2008 school year; (b) grants are provided to states for assessment development; (c) all states are required to participate in National Assessment of Educational Progress (NAEP) tests in 4th and 8th grade reading and mathematics every second year; (d) states must annually apply adequate yearly progress (AYP) standards, incorporating a goal of all pupils reaching a proficient or higher level of achievement by the end of the 2013-14 school year, to each public school, local education agency (LEA), and the state overall; (e) a sequence of consequences, including public school choice and supplemental services options, must be implemented for schools and LEAs that fail to meet AYP standards for two or more consecutive years; (f) ESEA Title I-A allocation formulas have been modified to increase targeting on high-poverty LEAs and to move Puerto Rico toward parity with the states; (g) by the end of the 2005-06 school year, all paraprofessionals paid with Title I-A funds were to have completed at least two years of higher education or met a “rigorous standard of quality”; (h) several new programs aimed at improving reading instruction have been initiated; (i) teacher programs have been consolidated into a state grant authorizing a wide range of activities including teacher recruitment, professional development, and hiring; (j) states and LEAs participating in Title I-A were to ensure that teachers meet the act’s definition of “highly qualified” by the end of the 2005-2006 school year; (k) almost all states and LEAs are authorized to transfer a portion of the funds they receive among several programs; (l) federal support of public school choice has been expanded in several respects; (m) several previous programs have been consolidated into a state grant supporting integration of technology into K-12 education; (n) the Bilingual and Emergency Immigrant Education Acts have been consolidated into a single formula grant, with previous limits on the share of grants for specific instructional approaches eliminated; and (o) the 21st Century Community Learning Center program has been converted into a formula grant with increased focus on after-school activities.

ESEA programs are authorized through FY2008, and the 110th Congress is considering whether to amend and extend the ESEA.

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Introduction

The No Child Left Behind Act of 2001 (NCLB), signed into law on January 8, 2002 (H.R. 1, P.L. 107-110), extended and amended the Elementary and Secondary Education Act (ESEA). ESEA programs are authorized through FY2008, and the 110th Congress is considering whether to amend and extend the ESEA. This report outlines major highlights of the NCLB. Only the most basic provisions of this act are briefly described in this report; other CRS reports provide more specific and substantial analyses of the major provisions of the NCLB.¹

Major features of the NCLB include the following: (a) states were required to implement standards-based assessments in reading and mathematics for pupils in each of grades 3-8 by the end of the 2005-2006 school year, and at three grade levels in science by the end of the 2007-2008 school year;² (b) grants are provided to states for assessment development; (c) all states are required to participate in National Assessment of Educational Progress (NAEP) tests in 4th and 8th grade reading and mathematics every second year; (d) states must annually apply adequate yearly progress (AYP) standards, incorporating a goal of all pupils reaching a proficient or higher level of achievement by the end of the 2013-14 school year, to each public school, local education agency (LEA), and the state overall; (e) a sequence of consequences, including public school choice and supplemental services options, must be implemented for schools and LEAs that fail to meet AYP standards for two or more consecutive years; (f) ESEA Title I-A allocation formulas have been modified to increase targeting on high-poverty LEAs and to move Puerto Rico toward parity with the states; (g) by the end of the 2005-06 school year, all paraprofessionals paid with Title I-A funds were to have completed at least two years of higher education or met a “rigorous standard of quality”; (h) several new programs aimed at improving reading instruction have been initiated; (i) teacher programs have been consolidated into a state grant authorizing a wide range of activities including teacher recruitment, professional development, and hiring; (j) states and LEAs participating in Title I-A were to ensure that teachers meet the act’s definition of “highly qualified” by the end of the 2005-2006 school year; (k) almost all states and LEAs are authorized to transfer a portion of the funds they receive among several programs; (l) federal support of public school choice has been expanded in several respects; (m) several previous programs have been consolidated into a state grant supporting integration of technology into K-12 education; (n) the Bilingual and Emergency Immigrant Education Acts have been consolidated into a single formula grant, with previous limits on the share of grants for specific instructional approaches eliminated; and (o) the 21st Century Community Learning Center program has been converted into a formula grant with increased focus on after-school activities.

Major provisions that were in the House- or Senate-passed versions of H.R. 1 (107th Congress) but were *not* included in the final legislation include the Senate bill’s provisions for mandatory funding at specified levels for Individuals with Disabilities Education Act (IDEA) Part B grants to states, discipline provisions for children with disabilities, authorization for up to seven states to eliminate a wide range of program requirements in return for increased accountability in terms of pupil outcomes, and pest management in schools; and the provisions in both the House- and Senate-passed versions for aggregate (i.e., not program-specific) performance bonuses or sanctions, especially for states.

¹ For current information on these reports, see <http://www.crs.gov>.

² These requirements are in addition to an ongoing, previous requirement for assessments in reading and mathematics at three grade levels.

Major features of the NCLB, as well as brief references to relevant provisions of previous law, are compared in the following table.

Major Provisions of the No Child Left Behind Act of 2001 (NCLB), P.L. 107-110

Aggregate Structure and Funding Levels of the NCLB

Provision	Previous Law	No Child Left Behind Act
Structure of the ESEA: number of programs and titles, aggregate authorization and appropriation levels, major consolidations and repeals	Prior to the NCLB amendments, the ESEA consisted of 14 titles. In general, ESEA programs were authorized from FY1995 through FY1999, plus a one-year automatic extension provided under the General Education Provisions Act (GEPA). In terms of funding, there were 57 line item appropriations for ESEA activities in FY2001, which totaled \$18.6 billion. In addition, there were 24 ESEA activities previously authorized that were not funded in FY2001.	<p>As amended by the NCLB, the ESEA consists of nine titles and 45 authorizations of appropriations. Each authorization is for the period FY2002 through FY2007. For FY2002, 16 out of 45 authorizations were for such sums as may be necessary; the remaining 29 authorizations were for specific amounts that totaled \$26.3 billion. For the period FY2003 through FY2007, all but four authorizations are for such sums as may be necessary. The four exceptions have dollar amounts specified for each year—(1) Title I, Part A Grants to LEAs; (2) Title IV, Part B 21st Century Community Learning Centers (CCLC); (3) Title V, Part A Innovative Programs; and (4) the Fund for the Improvement of Education (FIE). For K-12 education activities outside of the ESEA, such as Education for Homeless Children and Youth or certain Indian education activities operated by the Bureau of Indian Affairs (BIA), the NCLB includes an additional six authorizations of appropriations.</p> <p>The FY2002 appropriations enacted by P.L. 107-116 (Labor, Health and Human Services, Education and Related Agencies Appropriations Act) included 45 line items for ESEA activities, for a total ESEA appropriation of \$21.9 billion. The 45 ESEA line items did not completely correspond with the 45 authorizations of appropriations for FY2002. Also, the single line item for the FIE included the designation of specific appropriations for 15 separate activities, many of which were funded as separate programs in FY2001.</p> <p>Major consolidations and reorganizations of ESEA authority under the NCLB included (1) Title I of ESEA, as amended by NCLB, was expanded to include reading programs, school library programs, and programs providing dropout assistance; (2) Title II authorizes a broad program of teacher assistance, consolidating the former Eisenhower Professional Development and Class Size Reduction programs, plus math and science programs, and grants for technology activities; (3) Title III combines several bilingual education programs and emergency immigrant education assistance into a single state formula grant; (4) Title IV authorizes both the 21st CCLC and Safe and Drug-Free Schools and Communities Act programs (although these are retained</p>

Provision	Previous Law	No Child Left Behind Act
		<p>as separate programs); (5) Title V includes education block grants, charter schools, magnet schools, and the FIE, which provides authority for 21 specific program-like activities; (6) Title VI authorizes state assessment grants and rural education programs; and (7) Title VII authorizes Native American programs, Title VIII remains the Impact Aid authority, and Title IX contains general provisions.</p> <p>With regard to major repeals, the NCLB repealed only one K-12 program that had a sizable appropriation in FY2001—School Repair and Renovation, first funded in FY2001 at \$1.2 billion. It also repealed a number of previously unfunded programs, including the former Title XII, the School Facilities Infrastructure Improvement Act.</p>

Assessments, Adequate Yearly Progress Standards, and Outcome Accountability Under ESEA Title I, Part A

Provision	Previous Law	No Child Left Behind Act
Assessments	Assessments under ESEA Title I (which were due to be implemented in 2000-2001, although only a minority of states met this deadline) were required to be adopted in at least the subjects of mathematics and reading/language arts; be aligned with state content and pupil performance standards; be administered annually to students in at least one of grades 3-5, 6-9, and 10-12; include all pupils in the grades being assessed who have attended schools in the LEA for at least one year; involve multiple approaches; assess higher order thinking skills; and produce results disaggregated by gender, racial and ethnic groups, English proficiency status, migrant status, disability status, and economic disadvantage.	<p>In addition to previous assessment requirements, all states participating in ESEA Title I were required to implement standards-based assessments for pupils in <i>each</i> of grades 3-8 in reading and mathematics by the end of the 2005-2006 school year. States must also develop and implement assessments at three grade levels in <i>science</i> by the end of the 2007-2008 school year.</p> <p>Annual grants to states for assessment development are authorized, and states could delay administration (but not development) of the expanded assessments (above) one year for each year that minimum amounts are not appropriated for this purpose (the minimum amount has been appropriated for each of FY2002-06).</p> <p>Pupils 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) pupils.</p> <p>Assessments must be of “adequate technical quality for each purpose required under [this] Act,” and grants are authorized for the development of enhanced assessments. The Department is to contract with an independent organization for a study of the assessments and accountability policies used by states to meet Title I requirements.</p> <p>All participating states are required to participate in National Assessment of Educational Progress (NAEP) tests in 4th and 8th grade reading and</p>

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Adequate Yearly Progress (AYP) standards	<p>States were to select AYP standards and apply these to participating LEAs and schools; there was no requirement for AYP standards for states overall. Schools and LEAs could limit the application of these standards to the specific pupils served by Title I. The previous statutory provisions regarding AYP standards were relatively broad and vague. There was no explicit requirement for a specific focus on any high need or other pupil group; and no requirement that the standards incorporate a goal of all pupils reaching a proficient level of achievement by any specific future date. In practice, there was wide variation among states in the nature and apparent rigor of their standards.</p>	<p>mathematics to be administered every two years, with costs paid by the federal government. In addition, the statutory provisions authorizing NAEP were amended to enhance consistency with the NCLB requirements, and to: provide that pupils in home schools may not be required to participate in NAEP tests; prohibit the use of NAEP assessments by agents of the federal government to influence state or LEA instructional programs or assessments; provide for review of complaints about NAEP tests; and specify that at least two members of the National Assessment Governing Board must be parents who are not employed by any educational agency.</p> <p>Previous requirements for state-developed AYP standards have been substantially expanded in scope and specificity. Such standards now have to be applied specifically to economically disadvantaged pupils, limited English proficient (LEP) pupils, pupils with disabilities, and pupils in major racial and ethnic groups, as well as all pupils, in each public school, LEA, and states overall. They have to incorporate a goal of all pupils reaching a proficient or advanced level of achievement by the end of the 2013-14 school year.</p> <p>In general, a “uniform bar” approach must be employed: states are to set a threshold percentage (of pupils at proficient or advanced levels) each year that is applicable to all pupil subgroups. The “uniform bar” must generally be increased once every three years, although in the initial period it must be increased after two years. The minimum level for the “uniform bar” in the initial period is to be based on the greater of the percentage (of pupils at proficient or advanced levels) for the lowest-achieving pupil group or the threshold percentage for the lowest-performing quintile of schools statewide in the base year (2001-2002). Averaging of scores over 2-3 years is allowed. Under a “safe harbor” provision, a school that does not meet the standard AYP requirements may still be deemed to meet AYP if it experiences a 10% reduction in the gap between 100% and the base year for pupil groups that fail to meet the “uniform bar.”</p> <p>For a school to meet AYP standards, 95%+ of relevant pupils must be assessed.</p>

Provision	Previous Law	No Child Left Behind Act
Outcome accountability under ESEA Title I (see also “School choice” below)	<p>States were required to identify LEAs, and LEAs to identify schools, which failed to meet AYP standards for 2 consecutive years. Such schools and LEAs were to receive technical assistance. After the third year following identification, corrective actions—which <i>may</i> include loss of funds or reconstitution of school staff—were to be taken. However, most corrective actions could not be taken until standards and assessments were fully implemented, and no specific corrective action need be taken at any time. States could reserve up to 0.5% of grants for program improvement.</p> <p>States were to identify especially successful “distinguished schools” and “distinguished educators,” were authorized to use Title I funds reserved for program improvement to support such schools and educators. LEAs could also provide nonfinancial rewards to these schools and educators.</p> <p>The Secretary of Education was authorized to reduce administrative funds to states which failed to establish standards and assessments under ESEA Title I.</p> <p>In addition, FY2001 appropriations legislation required the provision of public school choice options, within limits, to pupils attending schools identified as needing improvement.</p>	<p>While participating states are required to establish and apply AYP standards to all public schools and LEAs, a variety of actions must be taken only with respect to public schools and LEAs receiving grants under ESEA Title I-A. Schools that fail to meet AYP standards for 2 consecutive years must be identified as needing improvement; technical assistance is to be provided and public school choice must be offered to their pupils by the next school year (unless prohibited by state law). LEAs are generally required only to offer public school choice options within the same LEA; however, if all public schools in the LEA to which a child might transfer have been identified as needing improvement, then LEAs “shall, to the extent practicable,” establish cooperative agreements with other LEAs to offer expanded public school choice options.</p> <p>If a school fails to meet the state AYP standard for 3 consecutive years, pupils from low-income families must be offered the opportunity to receive supplemental instructional services from a provider of their choice. States are to identify and provide lists of approved providers of such supplemental instructional services, which might include public or private schools, non-profit organizations, or commercial firms, and monitor the quality of the services they provide. The amount spent per child for supplemental services is to be the lesser of the actual cost of the services or the LEA’s Title I-A grant per child counted in the national allocation formula (approximately \$1,400 on average for FY2005).</p> <p>Transportation must be provided to pupils utilizing the public school choice option. LEAs are to use up to 20% of their Title I funds for transportation and supplemental services costs, although the grant to any particular school identified for corrective action or restructuring may not be reduced by more than 15%. LEAs are authorized to use Innovative Programs grants (ESEA Title V-A) to pay additional supplemental services costs. States are also authorized to use funds they reserve for program improvement or administration under Title I-A, or funds available to them under Title V-A, to pay additional supplemental services costs. If insufficient funds are available to pay the costs of supplemental services for all eligible pupils whose families wish to exercise this option, LEAs may limit services to the lowest-achieving eligible pupils. The requirement to provide supplemental services may be waived if none of the approved providers offer such services in or near a LEA.</p> <p>One or more of a specified series of “corrective actions” <i>must</i> be taken with respect to schools that fail to meet AYP for 4 consecutive years; these include replacing relevant school staff, implementing a new curriculum, decreasing management authority at the school level,</p>

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		<p>appointing an outside expert to advise the school, extending the school day or year, or changing the internal organizational structure of the school.</p> <p>Schools that fail to meet AYP standards for 5 consecutive years <i>must</i> be “restructured” by implementing one or more of the following “alternative governance” actions: reopening as a charter school, replacing all or most school staff, state takeover of school operations (if permitted under state law), or other “major restructuring” of school governance.</p> <p>Procedures analogous to those for schools apply to LEAs that fail to meet AYP requirements. Both an increased state reservation (rising from 0.5% currently to 4% by FY2004) and a separate authorization of funds are provided for school improvement grants.</p> <p>ED is required to establish a peer review process to evaluate whether states have met their statewide AYP goals. States that fail to meet their goals are to be listed in an annual report to Congress, and technical assistance is to be provided to states that fail to meet their goals for 2 consecutive years.</p> <p>States are to provide academic achievement awards to schools which significantly close achievement level gaps among different groups of pupils, or which exceed AYP standards for 2 or more consecutive years.</p>

Provision	Previous Law	No Child Left Behind Act
School choice	Under the ESEA, states and LEAs were authorized, but not required, to provide the option of intradistrict school choice to students attending schools that failed to meet Title I AYP requirements. Under the FY2001 appropriations legislation (P.L. 106-554), LEAs were required to offer students attending schools identified for school improvement intradistrict public school choice. Additionally, the ESEA authorized the use of Title I funds for choice programs limited to other Title I schools (although no Title I funds could be used for transportation). The ESEA also authorized grants supportive of school choice under the Magnet Schools Assistance, Innovative Education Program Strategies, and Public Charter Schools programs.	The ESEA, as amended, provides for increased public school choice opportunities by continuing or amending previous grant programs supportive of the <i>voluntary</i> provision of school choice (Innovative programs, the Public Charter Schools program, and the Magnet Schools program); and by authorizing discretionary grants under the new Voluntary Public School Choice programs. It also provides for the <i>mandatory</i> provision of public school choice in instances where schools fail to make AYP toward raising the proportion of students proficient on state academic assessments. If a school fails to make AYP for 2 consecutive years, students attending that school must be offered the opportunity to transfer to a successful school in the same LEA; if the school fails for a third year, students must continue to be offered school choice and also the opportunity to receive supplemental or tutorial services. In such instances, the lowest achieving children from low-income families must receive priority. Transportation must be provided to pupils exercising public school choice options, and up to 20% of Title I-A funds may be used for such transportation plus supplemental services. If a LEA fails to make AYP for 4 consecutive years, the state <i>may</i> require that students attending schools in that LEA be offered the opportunity to transfer to a successful school in another LEA, with transportation provided by the sending LEA. Finally, the ESEA now requires students attending persistently dangerous schools, or who become a victim of violent crime while at school, to be allowed to transfer to a safe public school.
Reports to parents and the public regarding school system performance	Each school and LEA participating in ESEA Title I was to be reviewed annually. <i>When</i> standards and assessment systems were fully implemented, “individual performance profiles” were to be prepared and disseminated by LEAs for each participating school. “Statistically sound” achievement data, disaggregated by pupil gender, race or ethnicity, as well as LEP, migrant, disability, and low-income status, were to be reported for each school, LEA, and the state overall.	Beginning in the 2002-2003 school year (with a one-year waiver authorized under exceptional or uncontrollable circumstances), pupil assessment results and certain other data for individual public schools, LEAs, and states overall must be reported to parents and the public. Report cards must generally include information on pupil performance disaggregated by race, ethnicity, and gender, as well as disability, migrant, English proficiency, and economic disadvantage status. The report cards must also include information on pupil progress toward meeting any other educational indicators included in the state’s AYP standards, plus secondary school student graduation rates, the number and identity of any schools failing to meet AYP standards, and aggregate information on the qualifications of teachers. The report cards <i>may</i> include additional information, such as average class size or the incidence of school violence. LEA and school report cards are to be disseminated to parents of public school pupils and to the public at large. Preexisting report cards may be modified to meet these requirements.

Teacher and Paraprofessional Programs and Qualification Requirements

Provision	Previous Law	No Child Left Behind Act
Teacher programs	Federal support was provided through the Eisenhower Professional Development (ESEA Title II) and Class Size Reduction (CSR—annual appropriations legislation) programs. The former was a formula grant program primarily supporting professional development for K-12 teachers. The latter was a formula grant program principally focused on reducing class sizes through the recruitment and hiring of new teachers.	ESEA Title II, Part A replaced the Eisenhower and CSR programs with a new state formula grant program. Authorized uses of funds were substantively expanded beyond professional development and class size reduction, and include such activities as certification and tenure reform, merit pay, teacher testing, and training to integrate technology into the curriculum. National activities are separately authorized and include such efforts as national teacher and principal recruitment campaigns, support for advanced certification, professional development for early childhood educators, and a national panel to study teacher mobility. The NCLB includes new provisions to shield school employees (including teachers, administrators, and school board members) from legal liability for actions taken in official capacity to maintain school discipline. In addition, teacher quality accountability requirements are newly applied under this legislation (see below).
Teacher and paraprofessional quality requirements	Previously, the ESEA did not have specific requirements regarding teacher quality. Teacher aides/paraprofessionals hired with ESEA Title I funds generally had to have earned a high school diploma or equivalency within two years of being hired.	<p>The NCLB requires LEAs participating in ESEA Title I, Part A to ensure that, beginning in the 2002-03 school year, teachers <i>newly hired</i> with Title I, Part A funds are “highly qualified.” States participating in Title I-A were to establish plans providing that <i>all</i> public school teachers statewide in core academic subjects will meet the bill’s definition of “highly qualified” no later than the end of the 2005-2006 school year. Further, LEAs receiving Title I Part A funds were to have a plan to ensure that all teachers are highly qualified by the end of the 2005-2006 school year.</p> <p>Under the NCLB, each LEA that receives Title I-A funding must ensure that all aides or paraprofessionals <i>newly hired</i> with Title I-A funds after the date of enactment of P.L. 107-110 <i>either</i> must have completed at least two years of higher education, <i>or</i> must have both met a “rigorous standard of quality,” and be able to show through a state or local academic assessment that they have knowledge of reading, writing, and math (or reading readiness, writing readiness, and math readiness) and the ability to help with instruction in these subjects. Each LEA must also ensure that, by the end of the 2005-06 school year, <i>all</i> paraprofessionals paid with Title I-A funds have met those same requirements. These requirements do not apply to paraprofessionals providing translation or parental involvement services. The NCLB also delineates the types of responsibilities Title I-A paraprofessionals can undertake.</p>

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Mathematics and science education programs	The Eisenhower Professional Development program (ESEA Title II) had a funding reservation for math and science professional development.	The NCLB authorizes a Mathematics and Science Partnership program (ESEA Title II, Part B). Eligible partnerships that include state educational agencies, engineering, math, or science departments of higher education institutions, and high need LEAs receive funds for various activities, among them: professional development to improve math and science teachers' subject knowledge; math and science summer workshops; recruitment of math, science, or engineering majors into teaching; development of math and science curricula; and distance learning programs for math and science teachers.

Reading Programs

Provision	Previous Law	No Child Left Behind Act
Reading programs	The Reading Excellence Act (REA), authorized by Title II, Part C of the ESEA, provided competitive grants to states. Authorized uses of REA funds included professional training; providing supplemental reading support to K-3 students who needed extra help learning to read; and supporting family literacy efforts.	<p>Reading First, authorized in Subpart I of ESEA Title I, Part B, replaced the REA. The Reading First program authorizes both formula grants and targeted assistance (competitive) grants to states. For FY2002 and FY2003, 100% of funds, after national reservations, were to be allocated as formula grants to states, in proportion to the number of children, aged 5-17, from families with incomes below the poverty line. Beginning in FY2004, 10% of funds in excess of the FY2003 appropriation, or \$90 million, whichever is less, is to be reserved for targeted assistance state grants. Authorized uses of funds include establishing scientifically based reading programs for children in grades K-3; providing reading-related professional training; providing assistance in selecting or administering screening, diagnostic, and classroom-based instructional reading assessments; providing assistance in selecting or developing effective instructional materials; strengthening coordination among schools, early literacy programs, and family literacy programs.</p> <p>Early Reading First, another new program authorized in Subpart 2 of ESEA Title I, Part B, is a competitive grant program with awards not to exceed five years. LEAs eligible for Reading First grants, and public or private organizations serving preschool-aged children, or combinations thereof, may apply for these grants. This program funds professional training and provides preschool-aged children with more exposure to high-quality language and literature-rich environments.</p>

Provision	Previous Law	No Child Left Behind Act
School library programs	Library services and materials was one of several authorized uses of funds under ESEA Title VI, Part C—Local Innovative Education programs.	<p>Improving Literacy Through School Libraries, Subpart 4 of ESEA Title I, Part B, authorizes formula grants to states, in proportion to awards states receive under ESEA Title I-A, <i>if</i> appropriations exceed \$100 million; otherwise the program is to operate as a competitive grant from the Secretary of Education to eligible LEAs. (Through FY2007, grants have been awarded competitively.) Authorized uses of funds include acquiring up-to-date school library media resources, including books; acquiring and using advanced technology; facilitating Internet links and other resource sharing networks among schools and libraries; providing professional development for school library media specialists; and providing students with access to school libraries during nonschool hours.</p> <p>In addition, use of funds by LEAs for library services and materials continues to be one of several authorized activities under Local Innovative Programs, now contained in ESEA Title V, Part A-3.</p>

Special Flexibility Authorities

Provision	Previous Law	No Child Left Behind Act
Special flexibility provisions	Ed-Flex (P.L. 106-25) authorized participating states to waive a wide range of requirements for ESEA and certain other state-administered programs. ESEA Title I-A schoolwide programs allowed many requirements under most federal programs to be waived in schools where 50% or more of pupils were from low-income families. Small, rural LEAs were granted authority to combine funds under selected ESEA programs. Finally, the former ESEA Title XIV authorized the Secretary of Education to waive many ESEA requirements on a case-by-case basis.	<p>In addition to previous special flexibility authorities, Title VI, Part A-I of the revised ESEA allows most <i>LEAs</i> to transfer up to 50% of their grants among four programs—Teachers, Technology, Safe and Drug Free Schools, and the Innovative Programs Block Grant—or into (but not from) ESEA Title I, Part A. LEAs that have been identified as failing to meet state AYP requirements are able to transfer only 30% of their grants under these programs, and only to activities intended to address the failure to meet AYP standards. <i>States</i> are allowed to transfer up to 50% of their state activity funds among the first four of these programs plus the 21st CCLC program. Funds that are transferred must be used in accordance with all of the requirements of the program to which they are transferred. (Note: The authority for ED to grant Ed-Flex authority to states expired at the end of FY2004.)</p> <p>Under a State and Local Flexibility Demonstration Act (ESEA Title VI, Part A, Subpart 3), up to seven states, selected on a competitive basis, are authorized to consolidate all of their state administration and state activity funds under the Title I-A, Reading First, Even Start, Teachers, Technology, Safe and Drug Free Schools, 21st CCLC, and Innovative Programs Block Grant programs. The consolidated funds can be used for any purpose authorized under any ESEA program. The selected states are to enter into local performance agreements with 4-10 LEAs (at least one-half of which must have school-age child poverty rates of 20% or more), which may consolidate funds under the provisions of the local flexibility authority described below. In addition, participating states may specify the purposes for which <i>all</i> LEAs in the states use funds they</p>

Provision	Previous Law	No Child Left Behind Act
Rural education	A Rural Education Achievement program was added to the ESEA by FY2001 appropriations legislation. This program provided eligible LEAs (rural districts with small enrollment) with flexibility in the use of funds they received under specific ESEA authorities. The program also included a one-year authority (which was not funded) for separate grants to these LEAs.	<p>receive under the ESEA Title V-A Innovative Programs block grant. This authority will be granted for a period of five years; states will lose the authority if they fail to meet state AYP requirements for 2 consecutive years. (As of November 2007, no state participates in this “State Flex” program.)</p> <p>Further, up to 80 LEAs (no more than three per state initially), plus the LEAs that enter into agreements in states participating in the state flexibility demonstration above, are allowed to consolidate all of their funds under the Teachers, Technology, Safe and Drug Free Schools, and Innovative Programs Block Grant programs, and to use these funds for any purpose authorized under any ESEA program. The authority is to be granted for a period of five years; LEAs will lose the authority if they fail to meet state AYP requirements for 2 consecutive years. Under both the state and local flexibility demonstration programs, several specified types of requirements—including those regarding civil rights, fiscal accountability, and private school pupil and teacher participation—may not be waived. (As of November 2007, no LEA participates in this “Local Flex” program.)</p> <p>The previous federal effort to increase funding and flexibility for small rural school districts will be continued and expanded to authorize funding for poor rural school districts (see “Rural education” section, below). The Title I-A schoolwide program eligibility threshold is reduced to 40%. Finally, the previous authority for the U.S. Secretary of Education to waive a variety of ESEA program requirements on a case-by-case basis is extended as Title IX, Part D.</p> <p>The ESEA contains a revised Rural Education Achievement program (ESEA Title VI, Part B) that encompasses two separate programs—the Small, Rural School Achievement program, and the Rural and Low-Income School program. The first program is a revised version of the program authorized under prior law. The second program, which is new, identifies another set of districts (defined by low-income student population and rural location) and authorizes the allocation of funds to states based on the enrollment in those districts.</p>

Education for Limited English Proficient Pupils

Provision	Previous Law	No Child Left Behind Act
Education for limited English proficient (LEP) pupils	The ESEA provided competitive grants for the education of LEP pupils under the Bilingual Education Act (BEA) and formula grants for the education of recent immigrant pupils under the Emergency Immigrant Education program (EIEP). The use of BEA funds for non-bilingual instructional approaches was limited to 25% of grants. Additional assistance	The BEA and EIEP programs have been consolidated into a single formula grant program (if appropriations for a given fiscal year reach or exceed \$650 million, as has occurred each year beginning with FY2002). Grants are distributed to states based on the enrollment of LEP (80% of funds) and immigrant (20%) students. State enrollment estimates for these populations

Provision	Previous Law	No Child Left Behind Act
	<p>was authorized through Foreign Language Assistance program (FLAP) grants for two-way language programs that provide language instruction to native English speakers and LEP pupils.</p>	<p>can be taken from either data available through the Bureau of the Census or data collected and submitted by SEAs, whichever the Secretary considers most accurate. No state is to receive a grant less than \$500,000 and the grant to Puerto Rico may not exceed 0.5% of the total available for state allotments. Continuation awards have been provided to past recipients of BEA instructional services and professional development grants. A 6.5% set-aside provides additional support for a National Professional Development Project and continued funding of the renamed National Clearinghouse for English Language Acquisition and Language Instruction programs.</p> <p>Within-state distribution of funds is based on the enrollment of LEP students only, regardless of students' immigrant status. However, states can reserve up to 15% for grants to eligible entities—one or more LEAs, or one or more LEAs in collaboration with an institution of higher education, a community-based organization, or a SEA—containing schools that have recently experienced large influxes of immigrant children. SEAs can reserve 5% of funds for state activities such as professional development, planning, evaluation, administration, and technical assistance. The minimum grant to an eligible entity (hereafter referred to simply as an LEA) is \$10,000.</p> <p>Participating LEAs and SEAs are subject to several accountability provisions and reporting requirements. At the end of every second fiscal year, LEAs must submit to their SEA a program evaluation that analyzes the progress made by students in the program as well as those who have moved out of the program. This evaluation must report data on the number and proportion of LEP students participating in these programs and the subsequent academic achievement of past program participants. SEAs must develop annual measurable achievement objectives that reflect: (1) the amount of time an individual child has been enrolled in a language instruction program; (2) annual increases in the number or percentage of children learning English; and (3) the number or percentage of students receiving waivers for reading or language arts assessments. Exceptions to these objectives can be made for LEAs that experience significant increases in the number of LEP and immigrant children. SEAs that find LEAs failing to meet these objectives for 2 consecutive years must provide the LEA with technical assistance to develop an improvement plan. LEAs found to be failing for 4 consecutive years can be forced to modify their language instruction program, have their funds withdrawn, and/or relevant personnel replaced by the SEA.</p> <p>The FLAP was extended as one of several authorized activities under the Fund for the Improvement of Education (see below).</p>

Other ESEA Title I Provisions

Provision	Previous Law	No Child Left Behind Act
Allocation of ESEA Title I-A funds to states and LEAs	In the allocation of funds to LEAs, the Title I-A statute authorized four different allocation formulas, and provided that all funds above the FY1995 level were to be allocated under the Targeted or Education Finance Incentive Grant (EFIG) formulas. However, until FY2002, appropriations acts prevented any funds from being used for these two formulas and, in practice, all funds were allocated under the Basic (84% of funds in FY2001) and Concentration (16% of funds) Grant formulas.	<p>In the allocation of Title I-A funds, the NCLB provides that an amount equal to the FY2001 appropriation is to be allocated under each of the Basic and Concentration Grant formulas, and any increases are to be allocated under the Targeted Grant or EFIG formula. A hold harmless rate of 85%-95% of previous year grants (the higher a LEA's child poverty rate, the higher is the hold harmless percentage), previously applicable only to Basic and Targeted Grants, now applies to each of the four Part A allocation formulas. In particular, the Concentration Grant hold harmless provision applies to all LEAs, not just those which currently meet the eligibility criteria for this formula, except that if a LEA fails to meet such criteria for 4 successive years, then the hold harmless will no longer apply.</p> <p>The relative share of funds allocated to Puerto Rico will increase over time as a result of two amendments: (a) the minimum expenditure factor for Puerto Rico will be increased in stages to full parity with the minimum applicable to states by FY2007 (in FY2001 it was approximately 75% of the minimum for states); and (b) a cap on Targeted Grants to Puerto Rico is marginally raised.</p> <p>State minimum grants are increased from up to 0.25% under current law to up to 0.35%, but only with respect to appropriated funds above the FY2001 level. The NCLB provides for the use of population data on school-age children in poor families that is updated annually, rather than, as previously, every second year (annual updates were applied beginning with FY2004).</p> <p>Major changes were made to the EFIG formula. First, in the allocation of funds to states, the population factor was changed from total school-age children to the same count of poor and other children used to calculate Basic Grants. Second, the state expenditure factor used in the other three Part A formulas is included in the EFIG formula, although with somewhat more narrow bounds (85% and 115% of the national average rather than 80% and 120%). Third, the EFIG formula now has a distinct intrastate allocation formula, which is based in concept on the Targeted Grant formula except that the degree of targeting will vary in three stages based on a measure of disparities in spending per pupil among each state's LEAs (the greater the disparities, the greater is the degree of required targeting within states).</p>

Provision	Previous Law	No Child Left Behind Act
Title I migrant programs	<p>The ESEA Title I Migrant Education program (MEP) has provided formula grants to SEAs for the development of programs targeted to migrant students. Grants have been distributed based on each states' share of migratory children enrolled in school multiplied by a state expenditure factor.</p> <p>Under the MEP, a migratory child has been defined as a person between the ages of 3 and 21 who is, or whose parent or spouse is, a migratory agricultural or dairy worker and who has moved from one school district (or administrative area) to another to obtain temporary or seasonal employment in the past 36 months. Children who travel more than 20 miles within a school district with land area larger than 15,000 square miles to engage in seasonal fishing activity may also qualify as migratory students. The enrollment estimates used in the formula were based on the number of full-time students and the full-time equivalent number of part-time students, as determined by the most accurate information available to the U.S. Secretary of Education.</p>	The MEP remains largely unchanged. As with Title I-A grants, the minimum expenditure factor for Puerto Rico is being increased in stages, but for this program only to 85% of the minimum applicable to states (in FY2001 it was approximately 75% of the minimum for states).
Title I neglected and delinquent programs	The ESEA Title I neglected and delinquent (N&D) program has provided grants to SEAs (Subpart 1) and LEAs (Subpart 2) for educational and related services to neglected and delinquent children and youth. Formula grants have been based on the number of neglected and delinquent children and youth in the state and a state expenditure factor. Local program funds may be distributed on either a formula or competitive basis to LEAs with concentrations of eligible children and youth. Local programs may serve not only youth in institutions for the delinquent or community day programs, but also youth at-risk of dropping out of school.	The N&D program remains largely unchanged. As with Title I-A grants, the minimum expenditure factor for Puerto Rico is being increased in stages, but for this program only to 85% of the minimum applicable to states (in FY2001 it was approximately 75% of the minimum for states). The Secretary is authorized to reserve up to 2.5% of Subpart 1 funds for technical assistance and development of techniques to evaluate program effectiveness.

Provision	Previous Law	No Child Left Behind Act
Comprehensive School Reform program	<p>The Comprehensive School Reform program (CSRP) has provided grants to public elementary or secondary schools, to help pay the initial costs of implementing comprehensive strategies for educational reform. The CSRP was linked to authorizations in Title I, Section 1502, and Title X, Part A, of the ESEA, although most of the provisions governing the program were included in the FY1998 Department of Education Appropriations Act. The FY1998 appropriations legislation listed specific educational strategies which schools might seek CSRP grants to implement, although applicants could propose alternative strategies, including locally developed programs, which met specified general criteria.</p> <p>CSRP grants were allocated by formula to SEAs, which then selected grantee LEAs and schools on a competitive basis. Funds for the Title I portion of the CSRP were allocated to states in proportion to their Title I-A Basic Grants, while the Title X-A portion was allocated to states in proportion to their population aged 5-17. SEAs could use up to 5% of grants for administration, evaluation, and technical assistance. Grants to individual schools were to be at least \$50,000 per year, renewable for up to three years. Schools participating in the CSRP have been supported by a series of technical assistance providers, and also have received technical support from organizations which develop and disseminate the instructional programs they adopt.</p>	<p>The CSRP is explicitly authorized, with relatively few substantial changes, as ESEA Title I, Part F. (While only the former ESEA Title I portion of the program is explicitly authorized under the NCLB, P.L. 107-116 provided an additional \$75 million appropriation for FY2002 for CSRP grants as formerly made under ESEA Title X-A.)</p> <p>There is no longer any explicit reference to specific school reform models; however, several characteristics which eligible comprehensive school reform models must exhibit are described (e.g., “provides high quality and continuous teacher and staff professional development”). A priority is placed on assisting schools that have failed to meet AYP standards under Title I-A. Assisted school reforms must be based on “scientifically based research and effective practices.” Up to 3% of appropriations may be reserved for national quality initiatives, including public-private efforts to help states, LEAs, and schools make informed decisions in evaluating and selecting comprehensive school reforms.</p>
Dropout programs	<p>The previous Title V, Part C of the ESEA authorized grants to LEAs and educational partnerships for dropout prevention activities. However, no funding had been provided for this or predecessor authority since FY1995.</p>	<p>The Dropout Prevention program, ESEA Title I-H, authorizes grants to SEAs and LEAs for activities that help prevent school dropout and encourage reentry. The procedures for allocating funds vary depending on the annual appropriation level. If appropriations are below \$75 million (as has been the case for each of FY2002-06), grants are awarded competitively to SEAs and LEAs directly by ED. If appropriations exceed \$75 million but are below \$250 million, ED would make competitive grants to SEAs, which would then make competitive subgrants to LEAs. Finally, if appropriations exceed \$250 million, grants would be made by formula to states (in proportion to Title I-A grants), with competitive subgrants to LEAs. The program targets grants to schools that serve grades 6-12 and have annual dropout rates that are above the state average as well as middle schools that feed students into such high dropout high schools. In addition, 10% of appropriations for Part H are to be used at the national level for such activities as evaluation, technical assistance, and establishment of a national clearinghouse on effective practices.</p>

Other ESEA and Related Programs

Provision	Previous Law	No Child Left Behind Act
21 st CCLC/After-school programs	This program was originally authorized as Part I of Title X of the ESEA. The 21 st CCLC provided competitive grants to LEAs for academic and other after-school programs. Local grantees were selected directly by ED. Grant recipients could receive an award for up to three years and were required to include at least four out of a broad array of potential activities to serve the local community.	The program was reauthorized in ESEA Title IV, Part B. The reauthorized program is structured as a formula grant program to states, in proportion to the awards states received under Title I-A for the preceding fiscal year. SEAs must award at least 95% of their state allotment to eligible local entities (defined as LEAs, CBOs, other public or private entities, or consortia of one or more of the above) for a period of three to five years. This is a change from the program as originally authorized, which only permitted schools or consortia of schools (or LEAs operating on their behalf), to be directly awarded 21 st CCLC grants. Funds may be used for before and after school activities that advance student academic achievement.
Educational technology	ESEA Title III authorized a state formula grant (Technology Literacy Challenge Fund) plus several competitive/discretionary grant programs (e.g., Technology Innovation Challenge Grants) to expand access to, and effective use of, educational technology.	<p>The Enhancing Education Through Technology Act of 2001 (ESEA Title II, Part D) consolidated several technology programs authorized under prior law, including the Technology Innovation Challenge Grants and the Technology Literacy Challenge Fund. This new authority awards funds by formula to states and, in turn, to LEAs and eligible local entities (half of these funds are to be awarded to LEAs by formula). At least 25% of an LEA's funding must be used for professional development in the integration of advanced technologies into curricula and instruction. Other authorized activities for LEAs include increasing access to technology; using technology to connect schools and teachers with parents and students; preparing teachers to serve as technology leaders in their schools; and acquiring, expanding, implementing, repairing, and maintaining technology. State activities include distance learning, public-private initiatives for technology acquisition, and development of performance measurements to determine effectiveness of educational technology programs.</p> <p>Among the other technology provisions authorized in the NCLB are the following: continuation of a separate authorization for the Ready-to-Learn Television program; inclusion of the Star Schools program, Ready to Teach program (formerly Mathline), and the Community Technology Centers in the Fund for the Improvement of Education (see below); and transfer of the Preparing Tomorrow's Teachers to Use Technology to the Higher Education Act.</p>

Provision	Previous Law	No Child Left Behind Act
School safety	ESEA Title IV authorized state formula grants and competitive grants for school safety and anti-drug abuse programs.	<p>The NCLB amended and extended the Safe and Drug-Free Schools and Communities Act (SDFSCA) as Part A of Title IV—21st Century Schools. State and local grants are funded for programs to prevent student violence in and around schools and the illegal use of alcohol, tobacco, and drugs. After funds reserved for outlying areas, Indian youth, and native Hawaiian youth are distributed, the remaining funds are distributed to the states by a formula of 50% based on school-age population and 50% based on ESEA Title I-A Concentration Grants for the preceding fiscal year. National programs are authorized to continue aid to recruit, hire, and train drug prevention and school safety program coordinators in schools with notable drug and violence problems. Up to \$2 million is to be reserved for evaluating the national impact of the program, and funds are authorized to continue the Safe Schools/Healthy Students initiative, which is jointly funded with the Department of Health and Human Services (HHS), and the Department of Justice. Grants are permitted for LEAs and community-based groups to assist localities most directly affected by hate crimes.</p> <p>Funding for several new activities is authorized under national programs, such as: establishing a national center for school safety to be jointly supported by ED and the Department of Justice for emergency responses, school hotlines, consultations, and other school safety activities; providing competitive grants enabling LEAs to develop and implement programs to reduce alcohol abuse in secondary schools; and awarding grants to eligible entities to assist in creating and supporting mentoring programs for children with greatest need.</p> <p>Statutory provisions of the Gun Free Schools Act are incorporated into the SDFSCA requiring states to have a law to expel for one year any student bringing a weapon to school. In another provision of the NCLB, a student who attends a persistently dangerous public elementary or secondary school (as determined by a state in consultation with the relevant LEA) or who becomes a victim of a violent crime (determined by state law) while on school property is allowed to transfer to a safe school, including a public charter school, within the same local school district.</p>

Provision	Previous Law	No Child Left Behind Act
Impact Aid	<p>Impact Aid (ESEA Title VIII) compensates LEAs for the “substantial and continuing financial burden” resulting from federal activities. These activities include federal ownership of certain lands as well as the enrollment in LEAs of children of parents who work and/or live on federal land; for example, children of parents in the military and children living on Indian lands.</p> <p>Section 8007(b) authorized facilities modernization grants from 60% of funds provided for Section 8007. Eligible LEAs had to have little or no capacity to issue bonds or be defined as a ‘heavily impacted’ LEA under Section 8003(b)(2), and had to qualify for funds under Section 8002 (related to payments for federal ownership of land)—i.e., those with assessed property value per student below the state average, or having children living on Indian land or children of military parents comprising <i>at least 50%</i> of their total enrollment, and having a school facility emergency.</p>	<p>Unlike most other ESEA programs, Impact Aid had been revised and reauthorized during the 106th Congress (i.e., previous to the NCLB) by Title XVIII (the Impact Aid Reauthorization Act of 2000) of P.L. 106-398 (Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001). P.L. 107-110 made technical changes in sections dealing with federal lands, basic support payments, and state equalization. In addition, the act modified provisions dealing with grants to address facilities emergencies and modernization needs (under Section 8007(b)—discussed below). Finally P.L. 107-110 authorized the act through FY2007.</p> <p>Section 8007(b) was significantly modified to authorize: (a) emergency, and (b) modernization grants from 60% of funds provided for Section 8007 to qualifying LEAs (and under certain circumstances to individual schools) and sets out priorities for such grants as follows: <i>First</i>, emergency grants for LEAs with “a school facility emergency ... that poses a health or safety hazard,” that are eligible for construction grant assistance under Section 8007(a), and that either have “no practical capacity to issue bonds,” have “minimal capacity,” or qualify for payments for certain heavily impacted LEAs. <i>Second</i>, emergency grants for LEAs with somewhat more borrowing authority and somewhat less federal impact (i.e., at least either 40% of enrollment composed of children living on Indian lands or children of parents in the military). <i>Third</i>, modernization grants for LEAs that receive Impact Aid assistance and meet either the “no capacity,” or “limited capacity” criterion or receive heavily impacted payments and have “facility needs resulting from the presence of the Federal Government, such as the enrollment of federally connected children, the presence of tax-exempt Federal property, or an increase in enrollment due to the expansion of Federal activities, housing privatization, or the acquisition of Federal property.” And <i>fourth</i>, modernization grants for LEAs meeting the same criteria as those under the second priority for emergency grants (above). In addition to these eligibility requirements, a grant must be matched by local contributions and must not exceed \$4 million during any four-year period. Certain uses of grant funds are prohibited; for example, for athletic facilities.</p>

Provision	Previous Law	No Child Left Behind Act
Innovative programs (block grant)	Prior to the NCLB, the Innovative Education Program Strategies program was authorized under ESEA Title VI, with many provisions similar to the new Innovative Programs authority. Formula grants were allocated to states, based on total population aged 5-17, except that no state received less than one-half of 1% of the total. At least 85% of the state grant was required to be distributed to LEAs, using formulas developed by the states which incorporated specified general factors. The maximum state administration allocation was 25% of the 15% state-level reservation. LEA uses of funds were limited to nine targeted assistance activities.	<p>As amended by NCLB, ESEA Title IV, Part A, authorizes the Innovative Programs program, which is informally referred to as the “Education Block Grant.” Program purposes include support of educational reform, implementation of reform and improvement programs based on scientifically based research, support of educational innovation and improvement, assistance to meet the educational needs of all students, and assistance to improve educational performance.</p> <p>The formula for allocating funds to states, and the provisions for state-developed formulas for allocation to LEAs, were essentially unchanged from previous law. Each state must allocate at least 85% of its grant to LEAs, except that each state must distribute to LEAs 100% of any amount received in excess of its FY2002 state grant. Remaining funds may be used at the state level to meet the purposes of this program, except no more than 15% of the remaining funds may be used for state administration.</p> <p>LEAs must use their grants to meet locally determined educational needs, as selected from a list of 27 innovative education assistance activities specifically authorized under the program. LEA spending must be tied to high academic achievement standards. Students enrolled in private schools are eligible to participate in the benefits of this program on an equitable basis. State applications must provide for, among other requirements, an annual report summarizing student achievement improvement.</p>

Provision	Previous Law	No Child Left Behind Act
Technical assistance	<p>Provision of technical assistance to SEAs, LEAs, and schools by Comprehensive Regional Assistance Centers, a National Diffusion Network, Eisenhower Regional Mathematics and Science Education Consortia, and Technology-Based Technical Assistance providers was authorized under ESEA Title XIII, Parts A through D. Technology-Based Technical Assistance was not a grant program; rather, it authorized the Secretary to support the administration and implementation of ESEA. The other three programs authorized discretionary grants, and two of these programs were funded in FY2001—\$28 million for Comprehensive Regional Assistance Centers, and \$15 million for Eisenhower Regional Mathematics and Science Education Consortia. In addition, the Regional Technology in Education Consortia program was funded at \$10 million in FY2001. The National Diffusion Network had not been funded since FY1995.</p>	<p>Several programs formerly authorized by the ESEA were transferred by the NCLB (without major amendment) to the Educational Research, Development, Dissemination, and Improvement Act of 1994 (ERDDIA—Title IX of the P.L. 103-227). These included Comprehensive Regional Assistance Centers (Part K of ERDDIA); National Diffusion Network (Part L); Eisenhower Regional Mathematics and Science Education Consortia (Part M); and Technology-Based Technical Assistance (Part N). A new Part J of ERDDIA, Certain Multiyear Grants and Contracts, authorized the Secretary to continue funding for Comprehensive Regional Assistance Centers and Eisenhower Regional Mathematics and Science Education Consortia, as well as the Regional Technology in Education Consortia (formerly Section 3141 of ESEA, but not extended by NCLB). To continue funding under Part J, these programs must have been funded through multiyear grants and contracts that were in effect the day before the enactment of the NCLB. Authority was extended on a year-to-year basis after the multiyear grants and contracts have expired. Unlike the six-year authorizations for ESEA programs, ERDDIA Part J authorized such sums as may be necessary for each year, indefinitely.</p>
Education for Indians, Alaska Natives, and Native Hawaiians	<p>Title IX of the ESEA authorized formula grants for supplemental education programs to LEAs and Bureau of Indian Affairs (BIA) funded schools, as well as discretionary grants to Native Hawaiian and Alaska Native educational organizations, and to a wider range of entities for educational improvement for Indian children and adults. The Education Amendments of 1978 (P.L. 95-561), Title XI, Part B, authorized standards, distribution formulas, administrative grants, and other programs for BIA-funded schools. The Tribally Controlled Schools Act of 1988 (P.L. 100-297) authorized tribes and tribal school boards operating BIA-funded schools to receive BIA grants, instead of contracts, for educational operations.</p>	<p>In reauthorizing Title IX of ESEA, the NCLB redesignates it as Title VII, creates a demonstration program allowing LEAs and BIA-funded schools receiving formula grants to integrate those funds with other federal funds they receive for Indian children, and consolidates the Native Hawaiian, Alaska Native, and several additional Indian programs into fewer programs.</p> <p>The NCLB reauthorized P.L. 95-561 and P.L. 100-297, amending the former act to create a new accountability provision for BIA-funded schools, requiring that each school be accredited (or be a candidate for accreditation) within two years, and setting various corrective actions the Secretary of the Interior may take for schools that are still unaccredited after that time. Accreditation may be by tribal as well as regional or state accrediting agencies, as long as the tribal accreditation is acknowledged by a state or regional agency. The amendments also consolidated support services in the BIA education office, increase tribal influence in various matters, and require reports to Congress on BIA school construction needs.</p>

Provision	Previous Law	No Child Left Behind Act
Education for Homeless Children and Youth	<p>The McKinney-Vento Homeless Assistance Act, P.L. 100-77 as amended (McKinney-Vento), authorized the Education for Homeless Children and Youth program under Subtitle B of Title VII. Formula grants were made to states in proportion to ESEA Title I-A grants to LEAs. States were required to use funds according to a state plan to ensure that homeless children and youth have access to a free, appropriate education equal to that provided to other children, and to remove existing barriers to enrollment and educational services for homeless children and youth.</p> <p>The previous program discouraged but did not prohibit the use of funds for separate schools or programs for the homeless. The statement of policy said that “... <i>homelessness alone should not be a sufficient reason</i> to separate students from the mainstream school environment ...” LEAs were required to use funds to provide services to homeless children and youth comparable to services provided to other children, and, “to the maximum extent possible,” through existing programs and mechanisms that integrate homeless and nonhomeless students. States were required to distribute at least 95% of their grants to LEAs, except that they could retain at the state level up to 100% of the amount they received under the program in FY1990.</p>	<p>The NCLB extends the Education for Homeless Children and Youth program, leaving most of the major provisions of the program in place. In particular, the key program policy states that “<i>homelessness alone is not sufficient reason</i> to separate students from the mainstream school environment.” The state grant formula is based on allocations made under ESEA Title I, Part A grants to LEAs, except that no state shall receive less than the greater of (a) \$150,000; (b) one-fourth of 1% of the total appropriation; and (c) the amount the state received in FY2001. Each state must allocate at least 75% of its grant to LEAs, except that it can retain up to 50% if it is funded at the minimum state grant level.</p> <p>With certain exceptions for health and safety emergencies, states are prohibited from using funds for either a separate school or separate program within a school. However, a “grandfather” clause allows the continuation of funding for separate schools that were in operation in FY2000 in four specified counties—San Joaquin, Orange, and San Diego Counties in California, and Maricopa County in Arizona. States and LEAs must assure that homeless children and youth, including unaccompanied youth, can enroll and obtain services comparable to those provided other children and youth.</p>
Fund for Improvement of Education (FIE)	<p>ESEA Title X-A authorized both grants for a wide variety of “nationally significant” educational activities, to be selected at the discretion of the U.S. Secretary of Education, and grants for a number of specifically authorized educational programs, such as an elementary school counseling demonstration program and a partnerships in character education pilot project. In addition, a number of grants for K-12 education activities beyond those mentioned in ESEA Title X-A have been funded under this broad authority in annual appropriations acts.</p>	<p>The FIE is reauthorized as ESEA Title V, Part D. This Part retains a broad authority for grants at the Secretary’s discretion, as well as specific authority for support of specific educational activities in 21 Subparts, all under a single authorization of appropriations.</p>

Provision	Previous Law	No Child Left Behind Act
Prohibitions against federal control	Both the previous version of the ESEA and several other statutes—particularly the Department of Education Organization Act (DEOA) and the General Education Provisions Act (GEPA)—have prohibited federal control of numerous aspects of K-12 education policy. ³	In addition to previous prohibitions against federal control of K-12 education, the NCLB: (a) states that the federal government may not “mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act;” (b) provides that ED may not “endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school”; (c) provides that no state “shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under” the ESEA; (d) prohibits the use of any ESEA funds to “develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law”; (e) prohibits the use of any ESEA funds for any “purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification,” and prohibits ED from “withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification”; and (f) prohibits the “development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act” (other than the database on migrant children and youth authorized under the Migrant Education program, ESEA Title I-C).

Provision		Previous Law	No Child Left Behind Act
Miscellaneous provisions	Not applicable		<p>P.L. 107-110 prohibits the provision of Department of Education financial assistance to any state or local educational agency or school which “has a designated open forum or a limited public forum,” and which discriminates against the Boy Scouts of America, or “any other youth group listed in Title 36 of the United States Code (as a patriotic society),” in providing equal access to school premises or facilities. At the same time, grantee agencies are not required to sponsor Boy Scout troops or other organizations affected by this provision.</p> <p>LEAs receiving ESEA grants must provide to armed services recruiters the same access to secondary school students as provided to postsecondary educational institutions and prospective employers.</p>
Selected major provisions of the House- or Senate-passed versions of H.R. 1 (107 th Congress) that were <i>not</i> included in the final legislation	Not applicable		<p>From the Senate-passed version: Mandatory funding at specified levels for Individuals with Disabilities Education Act (IDEA) Part B grants to states; discipline provisions for children with disabilities; authorization for up to seven states to eliminate a wide range of program requirements in return for increased accountability in terms of pupil outcomes; and requirements regarding pest management in schools.</p> <p>From both the House- and Senate-passed versions: Major performance bonuses or sanctions for <i>states</i>.</p>

a. Both the DEOA and other legislation have placed explicit limits on federal control or influence. The DEOA provides that

Section 103 ... The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and local school systems and other instrumentalities of the States.

(b) No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system, over any accrediting agency or association or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

Almost identical provisions are contained in the GEPA. Further, parallel language prohibiting federal control of education systems was adopted in the Improving America’s Schools Act (IASA, P.L. 103-382), the most recent legislation which comprehensively amended and extended the ESEA before enactment of the NCLB. That version of the ESEA, now replaced by the NCLB, stated that nothing in the ESEA shall be construed to authorize the federal government to “mandate, direct, or control” a state or LEA’s curriculum or allocation of state and local resources, or to incur any costs not paid for by aid under ESEA programs.

All of these provisions remain in effect after enactment of the NCLB (including the previous ESEA provision, which is continued in the revised Act).

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