

Federal Laws and Regulations
Pertaining to
Even Start Family
Literacy Program

Even Start Family Literacy Program — \$114,992,000 (FY 99)			
Goal: To help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program.			
Objectives	Indicators	Source and Next Update	Strategies
Participating families improve their literacy level			
1. The literacy of participating families will improve.	<p>1.1 Adult literacy achievement. Increasing percentages of adults will achieve significant learning gains on literacy measures. <i>In 1996, 53 % of adults achieved a moderate- to large-sized gain between pretest and posttest on a test of functional math skills, 19% on a test of functional reading skills, 17% on a test of math achievement, and 14% on a test of reading achievement.</i></p> <p>1.2 Adult educational attainment. Increasing percentages of adults will obtain their high school diploma or equivalent. <i>In 1996, 10% of adults earned a GED since participating in Even Start.</i></p> <p>1.3 Children's school readiness and success. Increasing percentages of children participating in Even Start will attain significant gains on measures of school readiness and achievement. <i>In 1996, 80% of children made better than expected gains on a test of school readiness, and 63% achieved moderate to large gains on a test of language development.</i></p> <p>1.4 Parenting skills. Increasing percentages of parents will show significant gains on measures of parenting skills, knowledge, and expectations for their children. <i>In 1996, 41% of parents scored 75% or higher correct on the posttest measuring the quality of cognitive stimulation and emotional support provided to children in the home.</i></p>	<p>1.1 National Even Start Evaluation, sample study, 1997.</p> <p>1.2 National Even Start Evaluation, 1997.</p> <p>1.3 National Even Start Evaluation, sample study, 1997; Synthesis of Research on Intergenerational Literacy, 1998.</p> <p>1.4 National Even Start Evaluation, sample study, 1997.</p>	<p>□ Improve Even Start programs by</p> <ul style="list-style-type: none"> — identifying and disseminating model projects through Staff Mentoring Sites project; and — disseminating best practices through newsletters, commissioned papers, and regional meetings.

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Participating families improve their self-sufficiency outcomes			
2. Self-sufficiency outcomes of participating families will improve.	<p>2.1 Adult employment. Increasing percentages of adults will attain employment during or after participating in Even Start. <i>In 1996, 13% of parents unemployed at intake found employment by the end of the year.</i></p> <p>2.2 Continuing adult education. Increasing percentages of adults will continue in their education.</p>	<p>2.1 Synthesis of Research on Intergenerational Literacy, 1998; National Even Start Evaluation, 1997.</p> <p>2.2 National Even Start Evaluation, 1998; Synthesis of Research on Intergenerational Literacy, 1998.</p>	<p>□ Improve Even Start programs by</p> <ul style="list-style-type: none"> — identifying and disseminating model projects through Staff Mentoring Sites project and — disseminating best practices through newsletters, commissioned papers, and regional meetings.
Even Start projects provide high-quality instructional and support services to families most in need			
3. Even Start projects will reach their target population of families that are most in need of services.	3.1 Recruitment of most in need. The projects will recruit low-income, disadvantaged families with low literacy levels. <i>In 1996, 71% of families had less than \$12,000 in annual income and 47% of parents had less than a ninth grade education at intake.</i>	3.1 National Even Start Evaluation, 1997.	<p>□ Work with states to encourage targeting families most in need of services by</p> <ul style="list-style-type: none"> — disseminating models and discussing targeting issues at state coordinators meetings and — reviewing local applications during integrated reviews for statements on serving families most in need.

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4. Local Even Start projects will provide comprehensive instructional and support services of high quality to all families in a cost-effective manner.	4.1 Service hours. Projects will offer increasingly higher levels of service hours annually. <i>In 1996, projects averaged 371 hours of adult education, 201 hours of parenting education, and 530 hours of early childhood education.</i>	4.1 National Even Start Evaluation, 1997.	<ul style="list-style-type: none">□ Improve Even Start programs by<ul style="list-style-type: none">— identifying and disseminating model projects through Staff Mentoring Sites project; and— disseminating best practices through newsletters, commissioned papers, and regional meetings; and— conducting an analysis and evaluation of the quality and costs associated with Even Start.
	4.2 Participation, retention and continuity. Projects will increasingly improve retention and continuity of services. <i>In 1996, 60% of families were expected to continue. The adult education participation national average in 1996 was 114 hours, parenting education, 27 hours.</i>	4.2 National Even Start Evaluation, 1997.	
	4.3 Local collaborations. Projects will increasingly promote high-quality, cost-effective collaborations. <i>In 1996, on average, projects had 11 collaborators.</i>	4.3 National Even Start Evaluation, 1997; Building State Alliances study, 1998.	
High-quality and customer-responsive federal administration			
5. The Department of Education will provide effective guidance and technical assistance and will identify and disseminate reliable information on effective approaches.	5.1 Federal technical assistance. An increasing percentage of local project directors will be satisfied with technical assistance and guidance.	5.1 National Even Start Evaluation, 1998.	<ul style="list-style-type: none">□ Disseminate best practices through high-quality evaluation studies, an Internet listserv, newsletters, and commissioned papers.

EVEN START STATUTE SHOWING AMENDMENTS MADE THROUGH 12/1/1999

PART B--EVEN START FAMILY LITERACY PROGRAM

Title I, Part B, Elementary and Secondary Education Act of 1965

SEC. 1201. [20 U.S.C. 6361] STATEMENT OF PURPOSE.

It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as "Even Start". The program shall--

- (1) be implemented through cooperative projects that build on existing community resources to create a new range of services;
- (2) promote achievement of the National Education Goals; and
- (3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards.

SEC. 1202. [20 U.S.C. 6362] PROGRAM AUTHORIZED.

*a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.*__

(1) IN GENERAL.--For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 1002(b) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for--

- (A) children of migratory workers;
- (B) the outlying areas; and
- (C) Indian tribes and tribal organizations.

(2) SPECIAL RULE.--If the amount of funds made available under this subsection exceeds \$4,600,000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

(b) RESERVATION FOR FEDERAL ACTIVITIES--From amounts appropriated under section 1002(b), the Secretary may reserve not more than three percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) of subsection (a) for the fiscal year 1994, whichever is greater, for purposes of--

- (1) carrying out the evaluation required by section 1209; and

(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

(c) *RESERVATION FOR GRANTS-*

^(1) GRANTS AUTHORIZED- From funds reserved under section 2260(b)(3), the Secretary shall award grants, on a competitive basis, to States to enable such States to plan and implement statewide family literacy initiatives to coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education and Family Literacy Act, the Head Start Act, this part, part A of this title, and part A of Title IV of the Social Security Act.

(2) CONSORTIA-

(A) ESTABLISHMENT.- To receive a grant under this subsection, a State shall establish a consortium of State-level programs under the following laws:

- (i) This title (other than part D).
- (ii) The Head Start Act.
- (iii) The Adult Education and Family Literacy Act.
- (iv) All other State-funded preschool programs and programs providing literacy services to adults.

(B) PLAN- To receive a grant under this subsection, the consortium established by a State shall create a plan to use a portion of the State's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in such State.

(C) COORDINATION WITH PART C OF TITLE II- The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State established under section 2253(d), if the State educational agency receives a grant under section 2253.

(3) READING INSTRUCTION- Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research (as such term is defined in section 2252).

(4) TECHNICAL ASSISTANCE- The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to States receiving a grant under this subsection.

(5) MATCHING REQUIREMENT- The Secretary shall not make a grant to a State under this subsection unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

(d) *STATE ALLOCATION.--*

(1) IN GENERAL.--From amounts appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c), the Secretary shall make grants to States from allocations under paragraph (2).

(2) ALLOCATIONS.--Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under part A to that State bears to the total amount allocated under that section to all the States.

(3) MINIMUM.--No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than \$250,000, or one-half of 1 percent of the amount appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

(e) DEFINITIONS.--For the purpose of this part--

(1) the term “eligible entity” means a partnership composed of both--

(A) a local educational agency; and

(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

(2) the term “eligible organization” means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

(3) the term “family literacy services” means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

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

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences;

(4) the terms “Indian tribe” and “tribal organization” have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act; and

(5) the term “State” includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1203. [20 U.S.C. 6363] STATE PROGRAMS.

(a) *STATE LEVEL ACTIVITIES*.--Each State that receives a grant under section 1202(d)(1) may use not more than 5 percent of the grant funds for the costs of--

(1) administration; and

(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b); and

(3) carrying out section 1210

(b) SUBGRANTS FOR LOCAL PROGRAMS.--

(1) IN GENERAL.--Each State shall use the grant funds received under section 1202(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

(2) MINIMUM.--No State shall award a subgrant under paragraph (1) in an amount less than \$75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than \$75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of \$75,000 or greater, less than \$75,000 is available to the State to award such subgrants.

SEC. 1204. [20 U.S.C. 6364] USES OF FUNDS

(a) IN GENERAL.--In carrying out an Even Start program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing family-centered education programs that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

(b) FEDERAL SHARE LIMITATION.—

(1) IN GENERAL.—(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

(ii) 80 percent in the second such year;

(iii) 70 percent in the third such year;

(iv) 60 percent in the fourth such year;

(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

(vi) 35 percent in any subsequent such year. [H.R. 3424, §306(a), as incorporated by P.L. 106-113, §1000(a)(4), 11/29/99]

(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this Act.

(2) Waiver.--The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity--

(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

(3) PROHIBITION.--Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1202(a)(1)(C) demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

SEC. 1205 [20 U.S.C. 6365] PROGRAM ELEMENTS

Each program assisted under this part shall--

(1) include the identification and recruitment of families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this part, including testing, referral to necessary counselling, other developmental and support services, and related services;

(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this part, such as--

(A) scheduling and locating of services to allow joint participation by parents and children;

(B) child care for the period that parents are involved in the program provided under this part; and

(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

(4) include high-quality instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

(5) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

(6) provide and monitor integrated instructional services to participating parents and children through home-based programs;

(7) operate on a year-round basis, including the provision of some program services, instructional or enrichment, during the summer months;

(8) be coordinated with--

(A) programs assisted under other parts of this title and this Act;

(B) any relevant programs under the Adult Education and Family Literacy Act, the Individuals with Disabilities Education Act, and the Job Training Partnership Act; and ¹

(C) the Head Start program, volunteer literacy programs, and other relevant programs;

(9) ensure that the programs will serve those families most in need of the activities and services provided by this part; and

(10) provide for an independent evaluation of the program.

SEC. 1206. [20 U.S.C. 6366] ELIGIBLE PARTICIPANTS.

(a) IN GENERAL.--Except as provided in subsection (b), eligible participants in an Even Start program are--

(1) a parent or parents--

(A) who are eligible for participation in adult education and literacy activities under the Adult Education and Family Literacy Act [P.L. 105-220 §251(b)(2)(C)]; or

(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.--

(1) IN GENERAL.--Family members of eligible participants described in subsection (a) may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

¹

The amendment made by section 405(1)(13)(A) of Public Law 105-277(112 Stat. 2681-431) takes effect on July 1, 2000 and is as follows:

(13) Elementary and Secondary Education Act of 1965—
(A) Section 1205—Section 1205(8)(B) is amended by striking “the Job Partnership Act and”.

(2) SPECIAL RULE.--Any family participating in a program assisted under this part that becomes ineligible for such participation as a result of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which--

(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of eight.

SEC. 1207.[20 U.S.C. 6307] APPLICATIONS.

(a) SUBMISSION.--To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

(b) REQUIRED DOCUMENTATION.--Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed--

(1) to develop, administer, and implement an Even Start program under this part; and

(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

(c) PLAN.--

(1) IN GENERAL.--Such application shall also include a plan of operation for the program which shall include--

(A) a description of the program goals;

(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1205;

(C) a description of the population to be served and an estimate of the number of participants to be served;

(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

(E) a statement of the methods that will be used--

(i) to ensure that the programs will serve families most in need of the activities and services provided by this part;

(ii) to provide services under this part to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose; and

(F) a description of how the plan is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

(2) DURATION OF THE PLAN.--Each plan submitted under paragraph (1)(A) shall-

(A) remain in effect for the duration of the eligible entity's participation under this part; and

(B) be periodically reviewed and revised by the eligible entity as necessary.

(d) CONSOLIDATED APPLICATION.--The plan described in subsection (c)(1)(F) may be submitted as part of a consolidated application under section 14302.

SEC. 1208.[20 U.S.C. 6368] AWARD OF SUBGRANTS.

(a) SELECTION PROCESS.--

(1) IN GENERAL.--The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that--

(A) are most likely to be successful in--

(i) meeting the purpose of this part; and

(ii) effectively implementing the program elements required under section 1205;

(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, including a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A;

(C) provide services for at least a three-year age range, which may begin at birth;

(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

(E) include cost-effective budgets, given the scope of the application;

(F) demonstrate the applicant's ability to provide the Federal share required by section 1204(b);

(G) are representative of urban and rural regions of the State; and

(H) show the greatest promise for providing models that may be adopted by other local educational agencies.

(2) PRIORITY FOR SUBGRANTS.--The State educational agency shall give priority for subgrants under this subsection to applications that--

(A) target services primarily to families described in paragraph (1)(B);

or

(B) are located in areas designated as empowerment zones or enterprise communities.

(3) REVIEW PANEL.--A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one or more of the following individuals:

(A) A representative of a parent-child education organization.

(B) A representative of a community-based literacy organization.

(C) A member of a local board of education.

(D) A representative of business and industry with a commitment to education.

(E) An individual who has been involved in the implementation of programs under this title in the State.

(b) DURATION.--

(1) IN GENERAL.--Subgrants under this part may be awarded for a period not to exceed four years.

(2) STARTUP PERIOD.--The State educational agency may provide subgrant funds to an eligible recipient, at such recipient's request, for a three- to six-month startup period during the first year of the four-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

(3) CONTINUING ELIGIBILITY—In awarding subgrant funds to continue a program under this part after the first year, the State educational agency shall review the progress of each eligible entity in meeting the goals of each eligible entity

in meeting the goals of the program referred to in section 1207(c)(1)(A) and shall evaluate the program based on the indicators of program quality developed by the State under section 1210. {H.R. 3424. §306 Ch)(1), as incorporated by P.L. 106-113 §1000(a)(4), 11/29/99

(4) **INSUFFICIENT PROGRESS--** The State educational agency may refuse to award subgrant funds if such agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 1210, after—

- (A) providing technical assistance to the eligible entity; and
- (B) affording the eligible entity notice and opportunity for a hearing.

(5) **GRANT RENEWAL.--** (A) An eligible entity that has previously received a subgrant under this part may reapply under this part for additional subgrants.

(B) The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.

SEC. 1209. [20 u.s.c. 6369] EVALUATION.

From funds reserved under section 1202(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this part--

(1) to determine the performance and effectiveness of programs assisted under this part;

(2) to identify effective Even Start programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

(3) to provide States and eligible entities receiving a subgrant under this part, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure local evaluations undertaken under section 1205(10) provide accurate information on the effectiveness of programs assisted under this part.

SEC. 1210. [20 U.S.C. 6369a] INDICATORS OF PROGRAM QUALITY.

Each State receiving funds under this part shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this part. Such indicators shall be used to monitor, evaluate, and improve such programs within the State. Such indicators shall include the following:

- (1) With respect to eligible participants in a program who are adults--
 - (A) achievement in the areas of reading, writing, English language acquisition, problem solving, and numeracy;
 - (B) receipt of a high school diploma or a general equivalency diploma;
 - (C) entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

- (D) such other indicators as the State may develop.
- (2) With respect to eligible participants in a program who are children--
 - (A) improvement in ability to read on grade level or reading readiness;
 - (B) school attendance;
 - (C) grade retention and promotion; and
 - (D) such other indicators as the State may develop.

SEC. 1211. [20 U.S.C. 6369b] RESEARCH.

- (a) IN GENERAL- The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, to use--
 - (1) to improve the quality of existing programs assisted under this part or other family literacy programs carried out under this Act or the Adult Education and Family Literacy Act; and
 - (2) to develop models for new programs to be carried out under this Act or the Adult Education and Family Literacy Act.
- (b) DISSEMINATION- The National Institute for Literacy shall disseminate, pursuant to section 2258, the results of the research described in subsection (a) to States and recipients of subgrants under this part..

SEC. 1212. [20 U.S.C. 6370] CONSTRUCTION.

Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

Single Audit Act of 1984
P.L. 98-502 (98 Stat. 2327)

An Act

To establish uniform audit requirements for State and local governments receiving Federal financial assistance.

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

Short Title; Purpose

Sec. 1 This Act may be cited as the "Single Audit Act of 1984" (31 USC 7501). It is the purpose of this Act

- 1.to improve the financial management of State and local governments with respect to Federal financial assistance programs;
- 2.to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;
- 3.to promote the efficient and effective use of audit resources; and
- 4.to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

Amendment To Title 31, United States Code

Sec. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

Chapter 75 -- Requirements for Single Audits

Sec.

7501. Definitions.

7602. Audit requirements; exemptions.

7503. Relation to other audit requirements.

7504. Cognizant agency responsibilities.

7505. Regulations.

7506. Monitoring responsibilities of the Comptroller General.

7507. Effective date; report.

Sec. 7501. Definitions (31 USC 7501)

As used in this chapter, the term

- 1.'cognizant agency' means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.
- 2.'Comptroller General' means the Comptroller General of the United States.
- 3.'Director' means the Director of the Office of Management and Budget.

4. 'Federal financial assistance' means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.
5. 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.
6. 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.
7. 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.
8. 'independent auditor' means
 1. an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or
 2. a public accountant who meets such independence standards.
9. 'internal controls' means the plan of organization and methods and procedures adopted by management to ensure that
 1. resource use is consistent with laws, regulations, and policies;
 2. resources are safeguarded against waste, loss, and misuse; and
 3. reliable data are obtained, maintained, and fairly disclosed in reports.
10. 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
11. 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.
12. 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed
 1. \$20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$7,000,000,000;
 2. \$19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$6,000,000,000 but are less than or equal to \$7,000,000,000;
 3. \$16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$5,000,000,000 but are less than or equal to \$6,000,000,000;
 4. \$13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$4,000,000,000 but are less than or equal to \$5,000,000,000;
 5. \$10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$3,000,000,000 but are less than or equal to \$4,000,000,000;
 6. \$7,000,000 in the case of a State or local government for which such total

expenditures for all programs exceed \$2,000,000,000 but are less than or equal to \$3,000,000,000;

7.\$4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$1,000,000,000 but are less than or equal to \$2,000,000,000;

8.\$3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed \$100,000,000 but are less than or equal to \$1,000,000,000; and

9.the larger of:

1.\$300,000, or

2.3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed \$100,000 but are less than or equal to \$100,000,000.

13.'public accountants' means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

14.'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi- State, regional, or interstate entity which has governmental functions, and any Indian tribe.

15.'subrecipient' means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

Sec. 7502. Audit Requirements; Exemptions (31 USC 7502)

1.Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of \$100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

2.Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of \$25,000 but less than \$100,000 in any fiscal year of such government shall

1.have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

2.comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

3.Each State and local government that receives a total amount of Federal financial assistance which is less than \$25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with:

1.the audit requirements of this chapter; and

2.any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance

provided to such government or that permits a Federal agency or the Comptroller General access to such records

4. For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

1. Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

2. If a State or local government is required

1. by constitution or statute, as in effect on the date of enactment of this chapter, or
2. by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date, to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

3. Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

1. Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

4. Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government

1. such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

2. such audit may exclude public hospitals and public colleges and universities.

5. Each such audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether

1. the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

2. the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

6. the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

7. the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program. In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

1. Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be

reported.

2. The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.
3. Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of \$25,000 or more under chapter 67 of this title (31 USC 6701 et seq.) (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.
4. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.
8. Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides \$25,000 or more of such assistance in any fiscal year to a subrecipient, shall
 1. if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or
 1. if the subrecipient does not conduct an audit in accordance with the requirements of this chapter
 2. determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and
 3. ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.
9. Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.
5. The report made on any audit conducted pursuant to this section shall, within thirty days after completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.
6. If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title. (31 USC 3512)

Sec. 7503. Relation to Other Audit Requirements (31 USC 7503).

1. An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its

responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

2. Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.
3. The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.
4. Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.
5. A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

Sec. 7504. Cognizant Agency Responsibilities (31 USC 7504.)

1. The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.
2. A cognizant agency shall
 1. ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;
 2. ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and
 1. coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and
 2. ensure that such additional audits build upon the audits conducted pursuant to this chapter.

Sec. 7505. Regulations (31 USC 7505)

1. The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.
 1. The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.
 2. The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the ratio of: the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to the total cost of such audits, to exceed (B) the

ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

2. Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

Sec. 7506. Monitoring Responsibilities of the Comptroller General (31 USC 7506).

The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing

1. the committee that reported such bill or resolution; and
 1. the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or
 2. the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

Sec. 7507. Effective Date; Report (31 USC 7507)

1. This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.
2. The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.
3. The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority. (Tennessee Valley Authority 31 USC 7501 note.)
4. The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:
75. Requirement for Single Audits

Approved October 19, 1984.

Legislative History S. 1510 (H.R. 4821):

House Report No. 98-708 accompanying H.R. 4821
(Comm. on Government Operations)

Senate Report No. 98-234
(Comm. on Governmental Affairs).

Congressional Record:

Vol. 129 (1983): Nov. 2, considered and passed Senate.

Vol. 130 (1984): May 15, H.R. 4821 considered and passed House; S. 1510, amended, passed in lieu.

Oct. 3, Senate concurred in House amendments with amendments.

Oct. 4 House concurred in Senate amendments.

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THE CIVIL RIGHTS ACT OF 1964

Document Number: PL 88-352

Date: 02 JUL 64

88th Congress, H. R. 7152

An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

TITLE I--VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall--

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974--74e; 74 Stat. 88): Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of

applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

"(3) For purposes of this subsection-

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)": "(f) When used in subsection (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

"(h) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief justice of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

An appeal from the final judgment of such court will lie to the Supreme Court. "In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the

acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

TITLE II--INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

(1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b);

(2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a

foreign country.

(d) Discrimination or segregation by an establishment is supported by State action within the meaning of this title if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

(e) The provisions of this title shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule, or order of a State or any agency or political subdivision thereof.

SEC. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202.

SEC. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(b) In any action commenced pursuant to this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under subsection (a) before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

(d) In the case of an alleged act or practice prohibited by this title which occurs in a State, or political subdivision of a State, which has no State or local law prohibiting

such act or practice, a civil action may be brought under subsection (a): Provided, That the court may refer the matter to the Community Relations Service established by title X of this Act for as long as the court believes there is a reasonable possibility of obtaining voluntary compliance, but for not more than sixty days: Provided further, That upon expiration of such sixty-day period, the court may extend such period for an additional period, not to exceed a cumulative total of one hundred and twenty days, if it believes there then exists a reasonable possibility of securing voluntary compliance.

SEC. 205. The Service is authorized to make a full investigation of any complaint referred to it by the court under section 204(d) and may hold such hearings with respect thereto as may be necessary. The Service shall conduct any hearings with respect to any such complaint in executive session, and shall not release any testimony given therein except by agreement of all parties involved in the complaint with the permission of the court, and the Service shall endeavor to bring about a voluntary settlement between the parties.

SEC. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every

way expedited.

SEC. 207. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law.

(b) The remedies provided in this title shall be the exclusive means of enforcing the rights based on this title, but nothing in this title shall preclude any individual or any State or local agency from asserting any right based on any other Federal or State law not inconsistent with this title, including any statute or ordinance requiring nondiscrimination in public establishments or accommodations, or from pursuing any remedy, civil or criminal, which may be available for the vindication or enforcement of such right.

TITLE III--DESEGREGATION OF PUBLIC FACILITIES

SEC. 301. (a) Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof, other than a public school or public college as defined in section 401 of title IV hereof, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly progress of desegregation in public facilities, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection

(a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

SEC. 302. In any action or proceeding under this title the United States shall be liable for costs, including a reasonable attorney's fee, the same as a private person.

SEC. 303. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in any facility covered by this title.

SEC. 304. A complaint as used in this title is a writing or document within the meaning of section 1001, title 18, United States Code.

TITLE IV--DESEGREGATION OF PUBLIC EDUCATION

DEFINITIONS

SEC. 401. As used in this title--

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

SURVEY AND REPORT OF EDUCATIONAL OPPORTUNITIES

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

TECHNICAL ASSISTANCE

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

TRAINING INSTITUTES

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

GRANTS

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of--

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

PAYMENTS

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

SUITS BY THE ATTORNEY GENERAL

SEC. 407. (a) Whenever the Attorney General receives a complaint in writing--

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection

(a) of this section when such person or persons are unable, either directly or through

other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

SEC. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

TITLE V--COMMISSION ON CIVIL RIGHTS

SEC. 501. Section 102 of the Civil Rights Act of 1957 (42 U.S.C. 1975a; 71 Stat. 634) is amended to read as follows:

"RULES OF PROCEDURE OF THE COMMISSION HEARINGS

"SEC. 102. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

"(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpoena.

"(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

"(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

"(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or

testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpoena additional witnesses.

"(f) Except as provided in sections 102 and 105 (f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

"(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than one year.

"(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

"(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

"(j) A witness attending any session of the Commission shall receive \$6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of \$10 per day for expenses of subsistence including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

"(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

"(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organization including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published."

SEC. 502. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 634) is amended to read as follows:

"SEC. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of \$75 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C 73b-2; 60 Stat. 808)."

SEC. 503. Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975(b); 71 Stat. 634) is amended to read as follows:

"(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended (5 U.S.C. 835--42; 63 Stat. 166)."

SEC. 504. (a) Section 104(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a); 71 Stat. 635), as amended, is further amended to read as follows:

"DUTIES OF THE COMMISSION "SEC. 104. (a) The Commission shall-

"(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

"(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion or national origin or in the administration of justice;

"(3) appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion or national origin or in the administration of justice;

"(4) serve as a national clearinghouse for information in respect to denials of equal protection of the laws because of race, color, religion or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

"(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election; and

"(6) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

(b) Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b); 71 Stat. 635), as amended, is further amended by striking out the present subsection "(b)" and by substituting therefor:

"(b) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than January 31, 1968."

SEC. 505. Section 105(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(a); 71 Stat. 636) is amended by striking out in the last sentence thereof "\$50 per diem" and inserting in lieu thereof "\$75 per diem."

SEC. 506. Section 105(f) and section 105(g) of the Civil Rights Act of 1957 (42 U.S.C. 1975d (f) and (g); 71 Stat. 636) are amended to read as follows:

"(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpoenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

"(g) In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

SEC. 507. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 636), as amended by section 401 of the Civil Rights Act of 1960 (42 U.S.C. 1975d(h); 74 Stat. 89), is further amended by adding a new subsection at the end to read as follows:

"(i) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act."

TITLE VI--NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

SEC. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such non-compliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

SEC. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

TITLE VII--EQUAL EMPLOYMENT OPPORTUNITY

DEFINITIONS

SEC. 701. For the purposes of this title--

(a) The term "person" includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof, (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: Provided, That during the first year after the effective date prescribed in subsection (a) of section 716, persons having fewer than one hundred employees (and their agents) shall not be considered employers, and, during the second year after such date, persons having fewer than seventy-five employees (and their agents) shall not be considered employers, and, during the third year after such date, persons having fewer than fifty employees (and their agents) shall not be considered employers: Provided further, That it shall be the policy of the United States to insure equal employment opportunities for Federal employees without discrimination because of race, color, religion, sex or national origin and the President shall utilize his existing authority to effectuate this policy.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) one hundred or more during the first year after the effective date prescribed in subsection (a) of section 716, (B) seventy-five or more during the second year after such date or fifty or more during the third year, or (C) twenty-five or more thereafter, and such labor organization--

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local

labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, The Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

EXEMPTION

SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.

DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

SEC. 703. (a) It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or

tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization--

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the

Subversive Activities Control Act of 1950.

(g) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if--

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d)).

(i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

OTHER UNLAWFUL EMPLOYMENT PRACTICES

SEC. 704. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an

employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed, any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) The Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2201-2209), is further amended--

(1) by adding to section 105 thereof (5 U.S.C. 2204) the following clause: "(32) Chairman, Equal Employment Opportunity Commission"; and

(2) by adding to clause (45) of section 106(a) thereof (5 U.S.C. 2205(a)) the following: "Equal Employment Opportunity Commission (4)."

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this title.

(g) The Commission shall have power-

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to advise, consult, and assist the Attorney General on such matters.

(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(i) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(j) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 706. (a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this title has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine, after such

investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(c) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State, which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(d) A charge under subsection (a) shall be filed within ninety days after the alleged unlawful employment practice occurred, except that in the case of an unlawful employment practice with respect to which the person aggrieved has followed the procedure set out in subsection (b), such charge shall be filed by the person aggrieved within two hundred and ten days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(e) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) (except that in either case such period may be extended to not more than sixty days upon a determination by the Commission that further efforts to secure voluntary compliance are warranted), the Commission has been unable to obtain voluntary compliance with this title, the Commission shall so notify the person aggrieved and a civil action may, within thirty days thereafter, be brought against the respondent named in the charge (1) by the person claiming to be aggrieved, or (2) if such charge was filed by

a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (b) or the efforts of the Commission to obtain voluntary compliance.

(f) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice). Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex or national origin or in violation of section 704(a).

(h) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101-115), shall not apply with respect to civil actions brought under this section.

(i) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under subsection (e), the Commission may commence proceedings to compel compliance with such order.

(j) Any civil action brought under subsection (e) and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code.

(k) In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable

attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

SEC. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

EFFECT ON STATE LAWS

SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

INVESTIGATIONS, INSPECTIONS, RECORDS, STATE AGENCIES

SEC. 709. (a) In connection with any investigation of a charge filed under section 706, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this title and is relevant to the charge under investigation.

(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements and under which no person may bring a civil action under section 706 in any cases or class of cases so specified, or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

(c) Except as provided in subsection (d), every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may (1) apply to the Commission for an exemption from the application of such regulation or order, or (2) bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

(d) The provisions of subsection (c) shall not apply to any employer, employment agency, labor organization, or joint labor-management committee with respect to matters occurring in any State or political subdivision thereof which has a fair employment practice law during any period in which such employer, employment agency, labor organization, or joint labor-management committee is subject to such law, except that the Commission may require such notations on records which such employer, employment agency, labor organization, or joint labor-management committee keeps or is required to keep as are necessary because of differences in

coverage or methods of enforcement between the State or local law and the provisions of this title. Where an employer is required by Executive Order 10925, issued March 6, 1961, or by any other Executive order prescribing fair employment practices for Government contractors and subcontractors, or by rules or regulations issued thereunder, to file reports relating to his employment practices with any Federal agency or committee, and he is substantially in compliance with such requirements, the Commission shall not require him to file additional reports pursuant to subsection (c) of this section.

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than one year.

INVESTIGATORY POWERS

SEC. 710. (a) For the purposes of any investigation of a charge filed under the authority contained in section 706, the Commission shall have authority to examine witnesses under oath and to require the production of documentary evidence relevant or material to the charge under investigation.

(b) If the respondent named in a charge filed under section 706 fails or refuses to comply with a demand of the Commission for permission to examine or to copy evidence in conformity with the provisions of section 709(a), or if any person required to comply with the provisions of section 709 (c) or (d) fails or refuses to do so, or if any person fails or refuses to comply with a demand by the Commission to give testimony under oath, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply with the provisions of section 709 (c) or (d) or to comply with the demand of the Commission, but the attendance of a witness may not be required outside the State where he is found, resides, or transacts business and the production of evidence may not be required outside the State where such evidence is kept.

(c) Within twenty days after the service upon any person charged under section 706 of a demand by the Commission for the production of documentary evidence or for permission to examine or to copy evidence in conformity with the provisions of section 709(a), such person may file in the district court of the United States for the judicial district in which he resides, is found, or transacts business, and serve upon the Commission a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this title or with the limitations generally applicable to compulsory process or upon any constitutional or other legal right or privilege of such person. No objection which is not raised by such a petition may be urged in the defense to a proceeding initiated by the Commission under subsection (b) for enforcement of such a demand unless such proceeding is commenced by the Commission prior to the expiration of the twenty-day period, or unless the court determines that the defendant could not reasonably have been aware of the availability of such ground of objection.

(d) In any proceeding brought by the Commission under subsection (b), except as provided in subsection (c) of this section, the defendant may petition the court for an order modifying or setting aside the demand of the Commission.

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from or, summaries of, the pertinent provisions of this title and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than \$100 for each separate offense.

VETERANS' PREFERENCE

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 714. The provisions of section 111, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties.

SPECIAL STUDY BY SECRETARY OF LABOR

SEC. 715. The Secretary of Labor shall make a full and complete study of the factors which might tend to result in discrimination in employment because of age and of the consequences of such discrimination on the economy and individuals affected. The Secretary of Labor shall make a report to the Congress not later than June 30, 1965, containing the results of such study and shall include in such report such recommendations for legislation to prevent arbitrary discrimination in employment

because of age as he determines advisable.

EFFECTIVE DATE

SEC. 716. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

TITLE VIII--REGISTRATION AND VOTING STATISTICS

SEC. 801. The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of section 9 and chapter 7 of title 13, United States Code, shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this title: Provided, however, That no person shall be compelled to disclose his race, color, national origin, or questioned about his political party affiliation, how he voted, or the reasons therefore, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information.

TITLE IX--INTERVENTION AND PROCEDURE AFTER REMOVAL IN CIVIL RIGHTS CASES

SEC. 901. Title 28 of the United States Code, section 1447(d), is amended to read as follows:

"An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, except that an order remanding a case to the State court from which it was removed pursuant to section 1443 of this title shall be reviewable by appeal or otherwise."

SEC. 902. Whenever an action has been commenced in any court of the United

States seeking relief from the denial of equal protection of the laws under the fourteenth amendment to the Constitution on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

TITLE X--ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

SEC. 1001. (a) There is hereby established in and as a part of the Department of Commerce a Community Relations Service (hereinafter referred to as the "Service"), which shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director is authorized to appoint, subject to the civil service laws and regulations, such other personnel as may be necessary to enable the Service to carry out its functions and duties, and to fix their compensation in accordance with the Classification Act of 1949, as amended. The Director is further authorized to procure services as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55(a)), but at rates for individuals not in excess of \$75 per diem.

(b) Section 106(a) of the Federal Executive Pay Act of 1956, as amended (5 U.S.C. 2205(a)), is further amended by adding the following clause thereto: "(52) Director, Community Relations Service."

SEC. 1002. It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce. The Service may offer its services in cases of such disputes, disagreements, or difficulties whenever, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby, and it may offer its services either upon its own motion or upon the request of an appropriate State or local official or other interested person.

SEC. 1003. (a) The Service shall, whenever possible, in performing its functions, seek and utilize the cooperation of appropriate State or local, public, or private agencies.

(b) The activities of all officers and employees of the Service in providing conciliation assistance shall be conducted in confidence and without publicity, and the Service shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No officer or employee of the Service shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the Service. Any officer or other employee of the Service, who shall make public in any manner whatever any information in violation of this subsection, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than one year.

SEC. 1004. Subject to the provisions of sections 205 and 1003(b), the Director shall, on or before January 31 of each year, submit to the Congress a report of the activities of the Service during the preceding fiscal year.

TITLE XI--MISCELLANEOUS

SEC. 1101. In any proceeding for criminal contempt arising under title II, III, IV, V,

VI, or VII of this Act, the accused, upon demand therefor, shall be entitled to a trial by jury, which shall conform as near as may be to the practice in criminal cases. Upon conviction, the accused shall not be fined more than \$1,000 or imprisoned for more than six months.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to writs, orders, or process of the court. No person shall be convicted of criminal contempt hereunder unless the act or omission constituting such contempt shall have been intentional, as required in other cases of criminal contempt.

Nor shall anything herein be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

SEC. 1102. No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission.

SEC. 1103. Nothing in this Act shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General or of the United States or any agency or officer thereof under existing law to institute or intervene in any action or proceeding.

SEC. 1104. Nothing contained in any title of this Act shall be construed as indicating an intent on the part of Congress to occupy the field in which any such title operates to the exclusion of State laws on the same subject matter, nor shall any provision of this Act be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this Act, or any provision thereof.

SEC. 1105. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 1106. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Approved July 2, 1964.

Acknowledging Federal Support

Disclosure of Federal Participation (Stevens Amendment)

Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment), enacted in October 1988, requires that, ``when issuing statements, press releases for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program."

**Certification Regarding Debarment, Suspension, Ineligibility and
Voluntary Exclusion -- Lower Tier Covered Transactions**

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled ACertification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,@ without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

U.S. Department of Justice
Civil Rights Division
Coordination and Review Section

The Americans with Disabilities Act

The Americans with Disabilities Act

The Americans with Disabilities Act (ADA) gives civil rights protections to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin, and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications.

I. Employment

- Employers with 15 or more employees may not discriminate against qualified individuals with disabilities. For the first two years after July 26, 1992, the date when the employment provisions of the ADA go into effect, only employers with 25 or more employees are covered.
- Employers must reasonably accommodate the disabilities of qualified applicants or employees, unless an undue hardship would result.
- Employers may reject applicants or fire employees who pose a direct threat to the health or safety of other individuals in the workplace.
- Applicants and employees are not protected from personnel actions based on their current illegal use of drugs. Drug testing is not affected.
- Employers may not discriminate against a qualified applicant or employee because of the known disability of an individual with whom the applicant or employee is known to have a relationship or association.
- Religious organizations may give preference in employment to their own members and may require applicants and employees to conform to their religious tenets.
- Complaints may be filed with the Equal Employment Opportunity Commission. Available remedies include back pay and court orders to stop discrimination.

II. Public Accommodations

- Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers, may not discriminate on the basis of disability, effective January 26, 1992. Private clubs and religious organizations are exempt.
- Reasonable changes in policies, practices, and procedures must be made to avoid discrimination.
- Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities so that they can have an equal opportunity to participate or benefit, unless an undue burden would result.
- Physical barriers in existing facilities must be removed if removal is readily achievable (i.e., easily accomplishable and able to be carried out without much difficulty or expense). If not, alternative methods of providing the services must be offered, if those methods are readily achievable.
- All new construction in public accommodations, as well as in "commercial facilities" such as office buildings, must be accessible. Elevators are generally not required in buildings under three stories or

with fewer than 3,000 square feet per floor, unless the building is a shopping center, mall, or a professional office of a health care provider.

- Alterations must be accessible. When alterations to primary function areas are made, an accessible path of travel to the altered area (and the bathrooms, telephones, and drinking fountains serving that area) must be provided to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations. Elevators are required as described above.
- Entities such as hotels that also offer transportation generally must provide equivalent transportation service to individuals with disabilities. New fixed-route vehicles ordered on or after August 26, 1990, and capable of carrying more than 16 passengers, must be accessible.
- Public accommodations may not discriminate against an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.
- Individuals may bring private lawsuits to obtain court orders to stop discrimination, but money damages cannot be awarded.
- Individuals can also file complaints with the Attorney General who may file lawsuits to stop discrimination and obtain money damages and penalties.

III. Transportation

Public bus systems

- New buses ordered on or after August 26, 1990, must be accessible to individuals with disabilities.
- Transit authorities must provide comparable paratransit or other special transportation services to individuals with disabilities who cannot use fixed route bus services, unless an undue burden would result.
- New bus stations must be accessible.
Alterations to existing stations must be accessible. When alterations to primary function areas are made, an accessible path of travel to the altered area (and the bathrooms, telephones, and drinking fountains serving that area) must be provided to the extent that the added accessibility costs are not disproportionate to the overall cost of the alterations.
- Individuals may file complaints with the Department of Transportation or bring private lawsuits.

Public rail systems

- New rail vehicles ordered on or after August 26, 1990, must be accessible.
- Existing rail systems must have one accessible car per train by July 26, 1995.
- New rail stations must be accessible. with new bus stations, alterations to existing rail tions must be made in an accessible manner.
- Existing “key stations” in rapid rail, commuter rail, and light rail systems must be made accessible by July 26, 1993, unless an extension of up to 20 years is granted (30 years, in some cases, rapid and light rail).
- Existing intercity rail stations (Amtrak) must be made accessible by July 26, 2010.
- Individuals may file complaints with the Department of Transportation or bring private lawsuits.

Privately operated bus and van companies

- New over-the-road buses ordered on or after July 26, 1996 (July 26, 1997, for small companies), must be accessible. After completion of study, the President may extend the deadline by one year, if appropriate.

- Other new vehicles, such as vans, must be accessible, unless the transportation company provides service to individuals with disabilities that is equivalent to that operated for the general public.
- Other private transportation operations, including station facilities, must meet the requirements for public accommodations.
- Individuals may file complaints with the Attorney General or bring private lawsuits under the public accommodations procedures.

IV. State and local government operations

- State or local governments may not discriminate against qualified individuals with disabilities. All government facilities, services, and communications must be accessible consistent with the requirements of section 504 of the Rehabilitation Act of 1973.
- Individuals may file complaints with Federal agencies to be designated by the Attorney General or bring private lawsuits.

V. Telecommunications Relay Services

- Companies offering telephone service to the general public must offer telephone relay services to individuals who use telecommunications devices for the deaf (TDD's) or similar devices.
- Individuals may file complaints with the Federal Communications Commission.

This document is available in the following accessible formats:

- Braille
- Large Print
- Audiotape
- Electronic file on computer disk and electronic bulletin board (202) 514-6193

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“PART F—GUN POSSESSION

“SEC. 14601. GUN-FREE REQUIREMENTS.

“(a) Short Title.—This section may be cited as the ‘Gun-Free Schools Act of 1994’.

“(b) Requirements.—

“(1) In general.—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

“(2) Construction.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student’s regular school setting from providing educational services to such student in an alternative setting.

“(3) Special rule.—

“(A) Any State that has a law in effect prior to the date of enactment of the Improving America’s Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement. “(B) The period of time shall be the period beginning on the date of enactment of the Improving America’s Schools Act and ending one year after such date.

“(4) Definition.—For the purpose of this section, the term ‘weapon’ means a firearm as such term is defined in section 921 of title 18, United States Code.

“© Special Rule.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

“(d) Report to State.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

“(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and “(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

“(A) the name of the school concerned;

“(B) the number of students expelled from such school; and “© the type of weapons concerned.

“(e) Reporting.—Each State shall report the information described in subsection © to the Secretary on an annual basis.

“(f) Report to Congress.—Two years after the date of enactment of the Improving America’s Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

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SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.

SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.