

1 **SEC. 1021. FLEXIBILITY FOR EQUITABLE PER-PUPIL FUND-**
2 **ING.**

3 (a) REORGANIZATION.—Title I (20 U.S.C. 6571 et
4 seq.), as amended by this part, is further amended—

5 (1) by striking parts E through H;

6 (2) by redesignating part I as part F;

7 (3) by striking sections 1907 and 1908; and

8 (4) by redesignating sections 1901, 1902, 1903,
9 1905, and 1906, as sections 1601, 1602, 1603,
10 1604, and 1605, respectively.

11 (b) IN GENERAL.—Title I (20 U.S.C. 6571 et seq.),
12 as amended by this part, is further amended by inserting
13 after section 1432 the following:

14 **“PART E—FLEXIBILITY FOR EQUITABLE PER-**
15 **PUPIL FUNDING**

16 **“SEC. 1501. FLEXIBILITY FOR EQUITABLE PER-PUPIL FUND-**
17 **ING.**

18 “(a) PURPOSE.—The purpose of the program under
19 this section is to provide local educational agencies with
20 flexibility to consolidate eligible Federal funds and State
21 and local education funding in order to create a single
22 school funding system based on weighted per-pupil alloca-
23 tions for low-income and otherwise disadvantaged stu-
24 dents.

1 “(b) AUTHORITY.—

2 “(1) IN GENERAL.—The Secretary is authorized
3 to enter into local flexibility demonstration agree-
4 ments—

5 “(A) for not more than 3 years with local
6 educational agencies that are selected under
7 subsection (c) and submit proposed agreements
8 that meet the requirements of subsection (d);
9 and

10 “(B) under which such agencies may con-
11 solidate and use funds in accordance with sub-
12 section (d) in order to develop and implement
13 a school funding system based on weighted per-
14 pupil allocations for low-income and otherwise
15 disadvantaged students.

16 “(2) FLEXIBILITY.—Except as described in
17 subsection (d)(1)(I), the Secretary is authorized to
18 waive, for local educational agencies entering into
19 agreements under this section, any provision of this
20 Act that would otherwise prevent such agency from
21 using eligible Federal funds as part of such agree-
22 ment.

23 “(c) SELECTION OF LOCAL EDUCATIONAL AGEN-
24 CIES.—

1 “(1) IN GENERAL.—The Secretary may enter
2 into local flexibility demonstration agreements with
3 not more than 50 local educational agencies with an
4 approved application under subsection (d).

5 “(2) SELECTION.—Each local educational agen-
6 cy shall be selected based on such agency—

7 “(A) submitting a proposed local flexibility
8 demonstration agreement under subsection (d);

9 “(B) demonstrating that the agreement
10 meets the requirements of such subsection; and

11 “(C) agreeing to meet the continued dem-
12 onstration requirements under subsection (e).

13 “(3) EXPANSION.—Beginning with the 2019–
14 2020 academic year, the Secretary may extend fund-
15 ing flexibility authorized under this section to any
16 local educational agency that submits and has ap-
17 proved an application under subsection (d), as long
18 as a significant majority of the demonstration agree-
19 ments with local educational agencies described in
20 paragraph (1) meet the requirements of subsection
21 (d)(2) and subsection (e)(1) as of the end of the
22 2018–2019 academic year.

23 “(d) REQUIRED TERMS OF LOCAL FLEXIBILITY
24 DEMONSTRATION AGREEMENT.—

1 “(1) APPLICATION.—Each local educational
2 agency that desires to participate in the program
3 under this section shall submit, at such time and in
4 such form as the Secretary may prescribe, an appli-
5 cation to enter into a local flexibility demonstration
6 agreement with the Secretary in order to develop
7 and implement a school funding system based on
8 weighted per-pupil allocations that meets the re-
9 quirements of this section. The application shall in-
10 clude—

11 “(A) a description of the school funding
12 system based on weighted per-pupil allocations,
13 including—

14 “(i) the weights used to allocate funds
15 within such system;

16 “(ii) the local educational agency’s
17 legal authority to use State and local edu-
18 cation funds consistent with this section;

19 “(iii) how such system will meet the
20 requirements of paragraph (2); and

21 “(iv) how such system will support the
22 academic achievement of students, includ-
23 ing low-income students, the lowest-achiev-
24 ing students, English learners, and chil-
25 dren with disabilities;

1 “(B) a list of funding sources, including el-
2 igible Federal funds, the local educational agen-
3 cy will include in such system;

4 “(C) a description of the amount and per-
5 centage of total local educational agency fund-
6 ing, including State and local education funds
7 and eligible Federal funds, that will be allocated
8 through such system;

9 “(D) the per-pupil expenditures (which
10 shall include actual personnel expenditures, in-
11 cluding staff salary differentials for years of
12 employment, and actual nonpersonnel expendi-
13 tures) of State and local education funds for
14 each school served by the agency for the pre-
15 ceding fiscal year;

16 “(E) the per-pupil amount of eligible Fed-
17 eral funds each school served by the agency re-
18 ceived in the preceding fiscal year,
19 disaggregated by the programs supported by
20 the eligible Federal funds;

21 “(F) a description of how such system will
22 ensure that any eligible Federal funds allocated
23 through the system will meet the purposes of
24 each Federal program supported by such funds,
25 including serving students from low-income

1 families, English learners, migratory children,
2 and children who are neglected, delinquent, or
3 at risk, as applicable;

4 “(G) an assurance that the local edu-
5 cational agency developed and will implement
6 the local flexibility demonstration agreement in
7 consultation with teachers, principals, other
8 school leaders (including charter school leaders
9 in a local educational agency that has charter
10 schools), administrators of Federal programs
11 impacted by the agreement, parents, community
12 leaders, and other relevant stakeholders;

13 “(H) an assurance that the local edu-
14 cational agency will use fiscal control and sound
15 accounting procedures that ensure proper dis-
16 bursement of, and accounting for, eligible Fed-
17 eral funds consolidated and used under such
18 system;

19 “(I) an assurance that the local edu-
20 cational agency will continue to meet the re-
21 quirements of sections 1117, 1118, and 8501;
22 and

23 “(J) an assurance that the local edu-
24 cational agency will meet the requirements of
25 all applicable Federal civil rights laws in car-

1 rying out the agreement and in consolidating
2 and using funds under the agreement.

3 “(2) REQUIREMENTS OF THE SYSTEM.—(A) A
4 local educational agency’s school funding system
5 based on weighted per-pupil allocations shall—

6 “(i) except as allowed under clause
7 (iv), allocate a significant portion of funds,
8 including State and local education funds
9 and eligible Federal funds, to the school
10 level based on the number of students in a
11 school and a formula developed by the
12 agency under this section that determines
13 per-pupil weighted amounts;

14 “(ii) use weights or allocation
15 amounts that allocate substantially more
16 funding to English learners, students from
17 low-income families, and students with any
18 other characteristics associated with edu-
19 cational disadvantage chosen by the local
20 educational agency, than to other students;

21 “(iii) ensure that each high-poverty
22 school receives, in the first year of the
23 demonstration agreement—

24 “(I) more per-pupil funding, in-
25 cluding from Federal, State, and local

1 sources, for low-income students than
2 such funding received for low-income
3 students in the year prior to entering
4 into a demonstration agreement under
5 this section; and

6 “(II) at least as much per-pupil
7 funding, including from Federal,
8 State, and local sources, for English
9 learners as such funding received for
10 English learners in the year prior to
11 entering into a demonstration agree-
12 ment under this section;

13 “(iv) be used to allocate to schools a
14 significant percentage, which shall be a
15 percentage agreed upon during the applica-
16 tion process, of all the local educational
17 agency’s State and local education funds
18 and eligible Federal funds; and

19 “(v) include all school-level actual per-
20 sonnel expenditures for instructional staff
21 (including staff salary differentials for
22 years of employment) and actual nonper-
23 sonnel expenditures in the calculation of
24 the local educational agency’s State and

1 local education funds and eligible Federal
2 funds to be allocated under clause (i).

3 “(B) In establishing the percentage de-
4 scribed in subparagraph (A)(iv) for the system,
5 the local educational agency shall demonstrate
6 that the percentage—

7 “(i) under such subparagraph is suffi-
8 cient to carry out the purposes of the dem-
9 onstration agreement under this section
10 and to meet each of the requirements of
11 this subsection; and

12 “(ii) of State and local education
13 funds and eligible Federal funds that are
14 not allocated through the local educational
15 agency’s school funding system based on
16 weighted per-pupil allocations, does not un-
17 dermine or conflict with the requirements
18 of the demonstration agreement under this
19 section.

20 “(C) After allocating funds through the
21 system, the local educational agency shall
22 charge schools for the per-pupil expenditures of
23 State and local education funds and eligible
24 Federal funds, including actual personnel ex-
25 penditures (including staff salary differentials

1 for years of employment) for instructional staff
2 and actual nonpersonnel expenditures.

3 “(e) CONTINUED DEMONSTRATION.—Each local edu-
4 cational agency with an approved application under sub-
5 section (d) shall annually—

6 “(1) demonstrate to the Secretary that, as com-
7 pared to the previous year, no high-poverty school
8 served by the agency received—

9 “(A) less per-pupil funding, including from
10 Federal, State, and local sources, for low-in-
11 come students; or

12 “(B) less per-pupil funding, including from
13 Federal, State, and local sources, for English
14 learners;

15 “(2) make public and report to the Secretary
16 the per-pupil expenditures (including actual per-
17 sonnel expenditures that include staff salary dif-
18 ferentials for years of employment, and actual non-
19 personnel expenditures) of State and local education
20 funds and eligible Federal funds for each school
21 served by the agency, disaggregated by each quartile
22 of students attending the school based on student
23 level of poverty and by each major racial or ethnic
24 group in the school, for the preceding fiscal year;

1 “(3) make public the total number of students
2 enrolled in each school served by the agency and the
3 number of students enrolled in each such school
4 disaggregated by each of the subgroups of students,
5 as defined in section 1111(c)(2); and

6 “(4) notwithstanding paragraph (1), (2), or (3),
7 ensure that any information to be reported or made
8 public under this subsection is only reported or
9 made public if such information does not reveal per-
10 sonally identifiable information.

11 “(f) LIMITATIONS ON ADMINISTRATIVE EXPENDI-
12 TURES.—Each local educational agency that has entered
13 into a local flexibility demonstration agreement with the
14 Secretary under this section may use, for administrative
15 purposes, an amount of eligible Federal funds that is not
16 more than the percentage of funds allowed for such pur-
17 poses under any of the following:

18 “(1) This title.

19 “(2) Title II.

20 “(3) Title III.

21 “(4) Part A of title IV.

22 “(5) Part B of title V.

23 “(g) PEER REVIEW.—The Secretary may establish a
24 peer-review process to assist in the review of a proposed
25 local flexibility demonstration agreement.

1 “(h) NONCOMPLIANCE.—The Secretary may, after
2 providing notice and an opportunity for a hearing (includ-
3 ing the opportunity to provide supporting evidence as pro-
4 vided for in subsection (i)), terminate a local flexibility
5 demonstration agreement under this section if there is evi-
6 dence that the local educational agency has failed to com-
7 ply with the terms of the agreement and the requirements
8 under subsections (d) and (e).

9 “(i) EVIDENCE.—If a local educational agency be-
10 lieves that the Secretary’s determination under subsection
11 (h) is in error for statistical or other substantive reasons,
12 the local educational agency may provide supporting evi-
13 dence to the Secretary, and the Secretary shall consider
14 that evidence before making a final determination.

15 “(j) PROGRAM EVALUATION.—From the amount re-
16 served for evaluation activities under section 8601, the
17 Secretary, acting through the Director of the Institute of
18 Education Sciences, shall, in consultation with the rel-
19 evant program office at the Department, evaluate—

20 “(1) the implementation of the local flexibility
21 demonstration agreements under this section; and

22 “(2) the impact of such agreements on improv-
23 ing the equitable distribution of State and local
24 funding and increasing student achievement.

1 “(k) RENEWAL OF LOCAL FLEXIBILITY DEM-
2 ONSTRATION AGREEMENT.—The Secretary may renew for
3 additional 3-year terms a local flexibility demonstration
4 agreement under this section if—

5 “(1) the local educational agency has met the
6 requirements under subsections (d)(2) and (e) and
7 agrees to, and has a high likelihood of, continuing
8 to meet such requirements; and

9 “(2) the Secretary determines that renewing
10 the local flexibility demonstration agreement is in
11 the interest of students served under this title and
12 title III.

13 “(l) DEFINITIONS.—In this section:

14 “(1) ELIGIBLE FEDERAL FUNDS.—The term
15 ‘eligible Federal funds’ means funds received by a
16 local educational agency under—

17 “(A) this title;

18 “(B) title II;

19 “(C) title III;

20 “(D) part A of title IV; and

21 “(E) part B of title V.

22 “(2) HIGH-POVERTY SCHOOL.—The term ‘high-
23 poverty school’ means a school that is in the highest
24 2 quartiles of schools served by a local educational

1 agency, based on the percentage of enrolled students
2 from low-income families.”.

3 **SEC. 1022. GENERAL PROVISIONS.**

4 (a) FEDERAL REGULATIONS.—Section 1601 (20
5 U.S.C. 6571), as redesignated by section 1020(a)(4), is
6 amended—

7 (1) in subsection (a), by inserting “, in accord-
8 ance with subsections (b) through (d) and subject to
9 section 1111(e),” after “may issue”;

10 (2) in subsection (b)—

11 (A) in paragraph (1), by inserting “prin-
12 cipals, other school leaders (including charter
13 school leaders),” after “teachers,”;

14 (B) in paragraph (2), by adding at the end
15 the following: “Such regional meetings and elec-
16 tronic exchanges of information shall be public
17 and notice of such meetings and exchanges
18 shall be provided to interested stakeholders.”;

19 (C) in paragraph (3)(A), by striking
20 “standards and assessments” and inserting
21 “standards, assessments under section
22 1111(b)(2), and the requirement under section
23 1118 that funds under part A be used to sup-
24 plement, and not supplant, State and local
25 funds”;

1 (D) by striking paragraph (4) and insert-
2 ing the following:

3 “(4) PROCESS.—Such process—

4 “(A) shall not be subject to the Federal
5 Advisory Committee Act (5 U.S.C. App.); and

6 “(B) shall, unless otherwise provided as
7 described in subsection (c), follow the provisions
8 of subchapter III of chapter 5 of title V, United
9 States Code (commonly known as the ‘Negotiated
10 Rulemaking Act of 1990’).”; and

11 (E) by striking paragraph (5);

12 (3) by redesignating subsection (c) as sub-
13 section (d);

14 (4) by inserting after subsection (b) the fol-
15 lowing:

16 “(c) ALTERNATIVE PROCESS FOR CERTAIN EXCEP-
17 TIONS.—If consensus, as defined in section 562 of title
18 5, United States Code, on any proposed regulation is not
19 reached by the individuals selected under paragraph
20 (3)(B) for the negotiated rulemaking process, or if the
21 Secretary determines that a negotiated rulemaking proc-
22 ess is unnecessary, the Secretary may propose a regulation
23 in the following manner:

24 “(1) NOTICE TO CONGRESS.—Not less than 15
25 business days prior to issuing a notice of proposed

1 rulemaking in the Federal Register, the Secretary
2 shall provide to the Committee on Health, Edu-
3 cation, Labor, and Pensions of the Senate, the Com-
4 mittee on Education and the Workforce of the
5 House of Representatives, and other relevant con-
6 gressional committees, notice of the Secretary's in-
7 tent to issue a notice of proposed rulemaking that
8 shall include—

9 “(A) a copy of the proposed regulation;

10 “(B) the need to issue the regulation;

11 “(C) the anticipated burden, including the
12 time, cost, and paperwork burden, the regula-
13 tion will impose on State educational agencies,
14 local educational agencies, schools, and other
15 entities that may be impacted by the regulation;

16 “(D) the anticipated benefits to State edu-
17 cational agencies, local educational agencies,
18 schools, and other entities that may be im-
19 pacted by the regulation; and

20 “(E) any regulations that will be repealed
21 when the new regulation is issued.

22 “(2) COMMENT PERIOD FOR CONGRESS.—The
23 Secretary shall—

24 “(A) before issuing any notice of proposed
25 rulemaking under this subsection, provide Con-

1 gress with a comment period of 15 business
2 days to make comments on the proposed regula-
3 tion, beginning on the date that the Secretary
4 provides the notice of intent to the appropriate
5 committees of Congress under paragraph (1);
6 and

7 “(B) include and seek to address all com-
8 ments submitted by Congress in the public rule-
9 making record for the regulation published in
10 the Federal Register.

11 “(3) COMMENT AND REVIEW PERIOD; EMER-
12 GENCY SITUATIONS.—The comment and review pe-
13 riod for any proposed regulation shall be not less
14 than 60 days unless an emergency requires a shorter
15 period, in which case the Secretary shall—

16 “(A) designate the proposed regulation as
17 an emergency with an explanation of the emer-
18 gency in the notice to Congress under para-
19 graph (1);

20 “(B) publish the length of the comment
21 and review period in such notice and in the
22 Federal Register; and

23 “(C) conduct immediately thereafter re-
24 gional meetings to review such proposed regula-
25 tion before issuing any final regulation.”;

1 (5) in subsection (d), as redesignated by para-
2 graph (3), by striking “Regulations to carry out this
3 part” and inserting “Regulations to carry out this
4 title”; and

5 (6) by inserting after subsection (d), as redesign-
6 ated by paragraph (3), the following:

7 “(e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
8 tion affects the applicability of subchapter II of chapter
9 5, and chapter 7, of title 5, United States Code (commonly
10 known as the ‘Administrative Procedure Act’) or chapter
11 8 of title 5, United States Code (commonly known as the
12 ‘Congressional Review Act’).”.

13 (b) **AGREEMENTS AND RECORDS.**—Subsection (a) of
14 section 1602 (20 U.S.C. 6572(a)), as redesignated by sec-
15 tion 1020(a)(4), is amended to read as follows:

16 “(a) **AGREEMENTS.**—In any case in which a nego-
17 tiated rulemaking process is established under section
18 1601(b), all published proposed regulations shall conform
19 to agreements that result from the rulemaking described
20 in section 1601 unless the Secretary reopens the nego-
21 tiated rulemaking process.”.

22 (c) **STATE ADMINISTRATION.**—Section 1603 (20
23 U.S.C. 6573), as redesignated by section 1020(a)(4), is
24 further amended—

25 (1) in subsection (a)—

1 (A) in paragraph (1)—

2 (i) in subparagraph (C), by striking
3 “and” after the semicolon;

4 (ii) in subparagraph (D), by striking
5 the period and inserting “; and”; and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(E)(i) identify any duplicative or con-
9 trasting requirements between the State and
10 Federal rules or regulations; and

11 “(ii) eliminate the State rules and regula-
12 tions that are duplicative of Federal require-
13 ments.”; and

14 (B) in paragraph (2), by striking “the
15 challenging State student academic achievement
16 standards” and inserting “the challenging State
17 academic standards”; and

18 (2) in subsection (b)(2), by striking subpara-
19 graphs (C) through (G) and inserting the following:

20 “(C) teachers from traditional public
21 schools and charter schools (if there are charter
22 schools in the State) and career and technical
23 educators;

24 “(D) principals and other school leaders;

25 “(E) parents;

- 1 “(F) members of local school boards;
- 2 “(G) representatives of private school chil-
- 3 dren;
- 4 “(H) specialized instructional support per-
- 5 sonnel and paraprofessionals;
- 6 “(I) representatives of authorized public
- 7 chartering agencies (if there are charter schools
- 8 in the State); and
- 9 “(J) charter school leaders (if there are
- 10 charter schools in the State)”.