

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 049 - FOLDER -005

[04/20/1999]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Christopher Ashley to Elena Kagan. Re: Financial Disclosure Form. (1 page)	04/20/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[04/20/1999]

2009-1006-F

vz.126

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 09:18:19.00

SUBJECT: Article for School Board Lawyers

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

The National School Boards Assoc's requested an article on the legal standards for high stakes testing from Art Coleman (DAS at Ed-OCR) for publication in the NSBA Council of School Attorney's magaizne. Art sent the article over to WH Counsel for review. It is entitled "High Standards and High Stakes: A Framework For Addressing Test Use Issues When Making Student Promotion Decisions."

The article is taken from a longer piece that Coleman wrote for the Virginia Jouurnal of Social Policy and Law that was published last fall. The article summarizes some of the major legal and educational principles that shuld guide the development and implementation of tests used in student promotion decisions. These are:

-The determination of whether a test is valid cannot be made without knowing the educational objective and purpose of the test,

-Any test with high-stakes consequences for students must be validated for its particular use,

- As a general propostion, there must be an alignment among the curriculum, instruction and material covered on such a high-stakes assesment,

-Test results can provide very valuable guidance in making educational judgments about promotional decision for students. However, since many factors can affect a student's performance on a given day, psychometric standards confirm that a single test score should not be used to make high-stakes educational decisions (i.e., use multiple measures),

- Statitically significant disparities in test scores among discrete student groups (e.g. minority-nonminority) should be a cause for further inquiry. The reasons may reflect causal factors unrelated to the conctruct of the test (i.e., preparation) or problems with the test itself. Systematic monitoring of results over time can help prevent (and quickly cure) any problem of test bias or other related problems.

I have reviewed the article closely. It is an abbreviated version of two earlier peices that Coleman published last year on this subject and does not introduce any new topics. Our ESEA social promotions policy (original or as amended by the groups) would meet the framework laid out in the article. Peter Rundlet (WH Counsel) also reviewed the article and reached the same conclusion. Although we thought we had the entire week to review it -- ED has asked us to expidite our approval (they are late meeting NSBA's publishing deadline). Are you ok if I approve this article ?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:20-APR-1999 09:20:58.00

SUBJECT: Re: racial profiling

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:
Maria --

Please assure me that you will see that the President receives an option to do something more substantial than data collection, and that the pros and cons of all options are presented in a way that gives POTUS the ability to make an informed decision. I thought we had agreed on this process weeks ago, and the ideas of an executive order has been in play for a couple of months.

If DPC is unwilling to present the minority position, or uncomfortable doing so because they think it is so bad, I'd be happy to write a separate memo. Just let me know.

Thanks.

I think it has been a fair presentation of the arguAt 10:23 AM 4/19/99 ,

Maria_Echaveste@who.eop.gov wrote:

>We had discussed more than two weeks ago DPC preparing an options memo for
>president on what the exec order on racial profiling should look like,
>understanding that all agencies and the vast majority of White House staff
>recommend an executive order on data collection; however, President should
>know that there is a vocal minority who would like something more than
data

>collection. It appears that we're on a track to present the President
with

>a fait accompli on an executive order on data collection. That's not what
>we had discussed. Let's get the DPC/DOJ proposal into the President in a
>way so that he has more than a few hours notice. Especially since we've
>been pushing on another front to have the executive order used as a
message

>event in the near future. What's your timetable?

>

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 10:54:27.00

SUBJECT: EPA PSA on Protecting Children from Second Hand Smoke

TO: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

EPA has had ready for a while a series of public service announcements which encourage parents who smoke to do so outside, away from their kids -- a good public health message, but not one that ever seemed right to combine with any of our other tobacco announcements (didn't fit Kick Butts, for example). At this point I'm inclined to have EPA go ahead and do these. What do you think?

P.S. I'm hopelessly overdue in getting back to Gary Guzy at EPA about this. Elena if he calls you that is probably why. Hopefully I can handle this so you don't have to.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 11:08:18.00

SUBJECT: Medicare Q&A on Kennedy drug bill

TO: Gene B. Sperling (CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

CC: Jeanne Lambrew (CN=Jeanne Lambrew/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Here you go.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D15]ARMS29892272Z.136 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000861000000020000D97E23A26C10D6F4F3541E
90B3E079ABD0CD1FE3679A48C2A912F9C5DB81158E94DB12230FF50A2FCCF98F39F45AD93B8808
1455159C6EC11DCAC204E5EADF1F85A9AE82B86FDB9A4909CE3A1E7FFCE3D11C4526997B480D0D
B85E674F5C7890463193E5C9D6C1E127C3A20B101F5CAD6CBC672913C7E7BA951F1BF823A52262
76429ADEB5E31A705A68517553A6D2F481A53721EC6A2CF066F5F0B616984F9D48CB274B5B9762
B75CA7BE8E1C12D95CBDCF73D8711C27E8D96D6EA2F22D5F38C503F68174766840DE9F200C29FC
7EE4A8FFE59D42AAF2FEC58942D677C385609C3DC9898C814DCC9A7D380A4E27D77757726F5FB4
29932740D567FE1DB464BE4B0059E8C464327CCB6858BF0975B9494B31391E025714BF8F8717B3
9DF83459853B9AE252C92529D81270DBD4B623C2314EBB276034265269464757A0D0A5C8096D39
81AB4C9F2C1CC72424A353AE4E1FFBF1CA5ABFD91A961667EE5A489776C0A8070D0E4359AD9D0B
6B469ABDAF900B4D7F0C396A88DC3E52D8701078CED1717D36A1C99350D4E04DB3354D687D71E5

Q: What is your response to the Medicare prescription drug benefit initiative (the Medicare Prescription Drug Coverage Act of 1999) being unveiled today by Senator Kennedy (Rockefeller/Dingell/Stark/Waxman)?

A: We welcome any proposal that thoughtfully addresses one of Medicare's major shortcomings -- the lack of lifesaving prescription drug coverage. The Medicare Prescription Drug Act includes several important elements designed to address short and long-term cost burdens faced by elderly, disabled and low income beneficiaries. We are reviewing it to determine coverage adequacy, administrative feasibility, and affordability -- both to beneficiaries and to the Medicare program.

Senators Kennedy and Rockefeller and Congressmen Dingell, Stark and Waxman deserve praise for their constructive contribution to this debate. Their leadership in improving and strengthening Medicare has been longstanding and consistent. The President looks forward to working with them and others as we develop an affordable prescription drug benefit that will be included and financed in the context the broader reform package he intends to release in the near future.

BACKGROUND: The President has long advocated for adding a meaningful prescription drug benefit to the Medicare program. He discussed it in the 1992 Campaign, included in the Health Security Act, and referenced it in his State of the Union Address -- in the context of broader Medicare reform. Not only are prescription drugs an essential part of modern medicine, but providing coverage through Medicare is more efficient and equitable than today's inadequate, unstable, expensive patchwork payment system. Over 15 million Medicare beneficiaries have no coverage whatsoever and those with coverage are experiencing declines in benefits and increases in costs.

Q: When will the President introduce his plan and will his drug benefit resemble that being unveiled by Senator Kennedy today?

The President is reviewing options on every element of Medicare reform. He has made no decisions at this time, but plans to release his proposal in time for the Congress to consider it this year. (If pushed, you can say weeks not months -- with an emphasis on the plural). The Medicare Prescription Drug Act includes several important elements designed to address short and long-term cost burdens faced by elderly, disabled and low income beneficiaries. We are reviewing it to determine coverage adequacy, administrative feasibility, and affordability -- both to beneficiaries and to the Medicare program.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June Shih (CN=June Shih/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-APR-1999 11:10:29.00

SUBJECT: equal pay draft

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: MITTLEBEEL_E@A1@CD@VAXGTWY (MITTLEBEEL_E@A1@CD@VAXGTWY @ VAXGTWY [UNKNOWN])
READ:UNKNOWN

TEXT:

Draft 4/6/99 6:15 pm
Shih

PRESIDENT WILLIAM J. CLINTON
OPENING STATEMENT EQUAL PAY ROUNDTABLE
THE WHITE HOUSE
APRIL 7, 1999

Acknowledgments: The First Lady, who has worked so hard over the past 25 years on behalf of America's children and families. Sec. Herman; Sen. Harkin and Del. Eleanor Holmes-Norton, who have been champions for equal pay in the Congress.

As Americans, we believe that all people who work hard and play by the rules should be able to build better lives for themselves and their families. And, for the past six years, I have worked to make this vision real for all Americans. Today, we are living in a time of unprecedented prosperity. We have more than 18 million new jobs. The lowest unemployment in a generation. The greatest real wage growth in more than 20 years. Median family income up \$3500. Black poverty and Hispanic unemployment at record lows. And, as the First Lady has said, we have made progress in closing the wage gap between men and women.

But we all know we have much more to do. Imagine working hard every day and taking home just three paychecks for every four collected by a male colleague in the same job. Unfortunately, that's still the reality for too many women across America.

Equal pay is much more than a women's issue. Whenever we deny a woman equal pay for equal work, we aren't just shortchanging her bank account; we are shortchanging her family. With more families relying on two paychecks to pay the mortgage or the rent, every man whose wife is underpaid is himself being taken advantage of! The wage gap can translate into fewer bags of groceries, fewer visits to the doctor; and over a lifetime, hundreds of thousands of dollars in smaller pensions and retirement savings. The CEA estimates that, for a woman who began working in 1963, the wage gap has cost some \$210,000 in lost earnings.

But this is more than just about paychecks. It is about

principle. When we deny a woman equal pay for equal work, whether in the halls of academia or on the factory floor, we are undermining the idea at the heart of the American Dream: Equal opportunity for all.

Today, in this time of abundance, we have a remarkable opportunity to end wage discrimination once and for all. There will never be a better time to act.

Earlier this year, I called on Congress to pass two measures to strengthen our wage discrimination laws and boost enforcement of existing ones. So, on the eve of Equal Pay Day, I renew my call. I again ask Congress to support the \$14 million Equal Pay Initiative in my balanced budget. This initiative would help the EEOC identify and respond to wage discrimination, educate employers and workers about their rights and responsibilities, and help bring more women into better-paying jobs, especially non-traditional ones.

And again, I ask Congress to pass the Paycheck Fairness Act, sponsored by Sen. Daschle and Rep. DeLauro. The Act would put employers on notice that wage discrimination against women is just as unacceptable as discrimination based on race and ethnicity. Under current law, victims of racial wage discrimination can seek compensatory and punitive damages -- this new law would give women the same right. The law would protect employees who share salary information from retaliation. And it would expand training for EEOC workers, strengthen research and establish an award for exemplary employers.

We can do even more. Today, I am pleased to announce that we will strengthen this legislation by requiring the EEOC to determine what more information on worker salaries they need to improve enforcement of wage discrimination laws and to find a way to collect it. Under this new provision, we would call on the EEOC to issue a new rule within 18 months to collect -- in the most effective and efficient way possible -- pay data from companies based on the race, sex and national origin of employees.

Addressing wage discrimination takes courage, as our panelists can tell you. It takes courage as an employee to speak out and to gather the evidence you need to make your case. And, it takes courage as an employer to recognize problems in pay equity and to take steps to remedy them. Just recently, we saw this courage among the administrators and women scientists at MIT, who together, looked at the cold hard facts -- about disparities in everything from lab space to annual salary -- and sought to make things right. I commend them. I hope their success can be replicated in workplaces across the country. I look forward to hearing their stories.

Let's all get to work. This is not a partisan issue. It is about building the America we all want to live in -- and the America we want our daughters and sons to inherit -- an American that is fair, that is just, that truly provides equal opportunity for all.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 11:10:43.00

SUBJECT: Re: EPA PSA on Protecting Children from Second Hand Smoke

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

See Bruce's reponse

Sarah -- unless you guys are eager (and I can't recommend you should be --
this announcement won't break through and will annoy some of the hard line
anti-tobacco folks who think all parents should quit, not just smoke
outside) I'll tell EPA no.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 04/20/99
11:10 AM -----

Bruce N. Reed
04/20/99 11:02:01 AM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
Subject: Re: EPA PSA on Protecting Children from Second Hand Smoke

fine by me

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 13:38:03.00

SUBJECT: Ed-Flex Signing

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Jon suggested I forward this for your feedback. Since Jon is out, would you please let me know if you would like me to do anything with this?
Thanks very much!

----- Forwarded by Jonathan H. Schnur/OPD/EOP on 04/20/99
11:56 AM -----

William H. White Jr.
04/20/99 11:21:39 AM
Record Type: Record

To: Tanya E. Martin/OPD/EOP @ EOP, Jonathan H. Schnur/OPD/EOP @ EOP, Broderick Johnson/WHO/EOP @ EOP
cc: Fred DuVal/WHO/EOP @ EOP, Todd A. Bledsoe/WHO/EOP @ EOP, Patrice L. Stanley/WHO/EOP @ EOP, Mickey Ibarra/WHO/EOP @ EOP
Subject: Ed-Flex Signing

Wanted to touch base on the timing of an Ed-Flex Bill Signing Ceremony and incorporating a Dem and GOP Governor into the program. Fred also suggested the possibility of combining the Ed-Flex signing with our introduction of ESEA, in order to make it bipartisan.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer M. Luray (CN=Jennifer M. Luray/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-APR-1999 13:40:49.00

SUBJECT: EPIC memo

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

If possible, I would like to look at a draft of the memo to POTUS before it goes over. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:20-APR-1999 14:28:30.00

SUBJECT: LRM CJB59 - - Further REVISED EDUCATION Draft Bill on Safe and Drug-Free S

TO: sperlmutter@osophs.dhhs.gov (sperlmutter@osophs.dhhs.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: James Boden (CN=James Boden/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Daniel I. Werfel (CN=Daniel I. Werfel/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Rosalyn J. Rettman (CN=Rosalyn J. Rettman/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Peter Rundlet (CN=Peter Rundlet/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Broderick Johnson (CN=Broderick Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Mary I. Cassell (CN=Mary I. Cassell/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Wayne Upshaw (CN=Wayne Upshaw/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Barbara Chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: OPBRE (CN=OPBRE/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN

TO: justice.lrm (justice.lrm @ usdoj.gov @ inet [UNKNOWN]) (OA)
READ:UNKNOWN

TO: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: tom.herlihy@ost.dot.gov@inet (tom.herlihy@ost.dot.gov@inet [UNKNOWN])
READ:UNKNOWN

TO: Janet R. Forsgren (CN=Janet R. Forsgren/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO: David J. Haun (CN=David J. Haun/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Daniel J. Chenok (CN=Daniel J. Chenok/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Robert G. Damus (CN=Robert G. Damus/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Jeffrey L. Farrow (CN=Jeffrey L. Farrow/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Lynn G. Cutler (CN=Lynn G. Cutler/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Wei-Min C. Wang (CN=Wei-Min C. Wang/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Barry White (CN=Barry White/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: legis (legis @ fema.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: lrm@os.dhhs.gov (lrm@os.dhhs.gov @ inet [UNKNOWN])
READ:UNKNOWN

TEXT:

Please provide comments by 1:00 p.m. Wednesday, April 21, 1999. This deadline is firm due to the need to resolve all issues on the ESEA.

This redraft includes 2 major changes: (1) new language on physical education requirements, and (2) change in the Gun-Free Schools Act (alternative placements). Changes are in boldfaced type. This deadline is firm, due to the need to resolve all issues on this bill this week.

The draft bill language will shortly be placed on the following website as revised language:

<http://tabula.ost.dot.gov/ed>

Use the following identifying information to access the material:

username: lrm
password: text

----- Forwarded by Constance J. Bowers/OMB/EOP on
04/20/99 02:16 PM -----

LRM ID: CJB59

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, April 20, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

FROM: Janet R. Forsgren (for) Assistant Director for
Legislative Reference

OMB CONTACT: Constance J. Bowers

PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: Further REVISED EDUCATION Draft Bill on Safe and
Drug-Free Schools and Communities Act (Title IV of the Elementary and
Secondary Education Act of 1965 (ESEA) Reauthorization)

DEADLINE: 1:00 p.m. Wednesday, April 21, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: This redraft includes 2 major changes: (1) new language on physical education requirements, and (2) change in the Gun-Free Schools Act (alternative placements). Changes are in boldfaced type. This deadline is firm, due to the need to resolve all issues on this bill this week.

The draft bill language will shortly be placed on the following website as revised language:

<http://tabula.ost.dot.gov/ed>

Use the following identifying information to access the material:

username: lrm

password: text

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AGENCIES:

52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760

61-JUSTICE - Jon P. Jennings - (202) 514-2141

89-Office of National Drug Control Policy - John Carnevale - (202) 395-6736

39-Federal Emergency Management Agency - Ernest B. Abbott - (202) 646-4105

EOP:

Barbara Chow

Barry White

Wayne Upshaw

Wei-Min C. Wang

Mary I. Cassell

Iratha H. Waters

Bruce N. Reed

Elena Kagan

Jonathan H. Schnur

Tanya E. Martin

Bethany Little

Lynn G. Cutler

Broderick Johnson

Jeffrey L. Farrow

Peter Rundlet
Robert G. Damus
Rosalyn J. Rettman
Daniel J. Chenok
Daniel I. Werfel
David J. Haun
James Boden
Janet R. Forsgren
James J. Jukes

LRM ID: CJB59 SUBJECT: Further REVISED EDUCATION Draft Bill on
Safe and Drug-Free Schools and Communities Act (Title IV of the Elementary
and Secondary Education Act of 1965 (ESEA) Reauthorization)

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no
comment), we prefer that you respond by e-mail or by faxing us this
response sheet. If the response is short and you prefer to call, please
call the branch-wide line shown below (NOT the analyst's line) to leave a
message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be
connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on
the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT-4/20/99

"TITLE IV - SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT"

SEC. 401. Title IV of the Elementary and Secondary
Education Act of 1965 is amended to read as follows:

"TITLE IV - SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

"SHORT TITLE

"SEC. 4001. SHORT TITLE. This title may be cited as
the 'Safe and Drug-Free Schools and Communities Act.'

"FINDINGS

"Sec. 4002. FINDINGS. The Congress finds that:

"(1) **Safe and Drug-Free Schools and Communities
Programs support achievement of Goal One of the National
Drug Control Strategy - to educate and enable America's
youth to reject illegal drugs, as well as alcohol and
tobacco - and Goal Seven of America's Education Goals -
that every school in the United States will be free of
drugs, violence, and the unauthorized presence of firearms
and alcohol.**

"(2) It is essential for schools to provide a
drug-free, safe, and orderly learning environment for all
students, if all students are to live healthy lives and
achieve to high academic standards.

"(3) Student drug use and school violence are

1 serious educational and public health concerns.
2
3

4 “(4) Safe and Drug-Free Schools and Communities
5
6 programs are most likely to be effective when they are
7
8 based on a thorough assessment of objective data about the
9
10 drug and violence problems in schools and communities, are
11
12 designed to meet measurable goals and objectives, are based
13
14 on sound research or evaluation findings, and are evaluated
15
16 regularly and held accountable for results.
17

18 “(5) Safe and Drug-Free Schools and Communities
19
20 program resources should be targeted at the local level to
21
22 projects in areas that demonstrate need for the funds, have
23
24 developed the best strategic plans for using the funds, and
25
26 are committed to being accountable for results.
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28 “(6) A significant number of students are
29
30 suspended or expelled from school each year or are truant
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32 and receive no educational services while they are out of
33
34 school.
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37 “(7) Lifelong physical activity contributes to
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39 students' well-being, and, consistent with the second of
40
41 America's Education Goals, it is appropriate for the
42
43 Federal government to help strengthen State and local
44
45 efforts in this area.
46

"PURPOSE

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"Sec. 4003. DECLARATION OF PURPOSE. The purpose of this title is to support programs for creating and maintaining drug-free, safe, and orderly environments for learning in and around schools, by awarding Federal financial assistance to-

"(1) State educational agencies for competitive awards to local educational agencies with a demonstrated need for services and the highest quality proposed programming;

"(2) Governors for competitive awards to local educational agencies, as well as community-based organizations and other public entities and nonprofit organizations, for programs that complement and support local educational agency programs;

"(3) State educational agencies and Governors for capacity-building, and technical assistance and accountability services and activities to improve the effectiveness of, and institutionalize, State and local Safe and Drug-Free Schools and Communities programs; and

"(4) Public and private organizations, and individuals, for training programs, demonstrations, evaluations, research projects, direct services, and technical assistance to schools and school systems,

1 developing and disseminating materials and information,
2 drug and violence prevention programs at the postsecondary
3 level, and other activities related to the purposes of this
4 title.

5

6 "AUTHORIZATION OF APPROPRIATIONS

7 "SEC. 4004. AUTHORIZATION. There are authorized to
8 be appropriated--

9 "(1) such sums as may be necessary for fiscal
10 year 2001 and each of the four succeeding fiscal years to
11 carry out Part A;

12 "(2) such sums as may be necessary for fiscal
13 year 2001 and each of the four succeeding fiscal years to
14 carry out Part B; and

15 "(3) such sums as may be necessary for fiscal
16 year 2001 and each of the four succeeding fiscal years to
17 carry out Part C.

18

19 "PART A - STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION
20 PROGRAMS

21 "RESERVATIONS AND ALLOTMENTS

22 "Sec. 4111 (a) RESERVATIONS.-(1) From the amount
23 made available under section 4004(1) to carry out this Part
24 for each fiscal year, the Secretary--

1 “(A) shall reserve 1 percent of such amount
2 for grants under this Part to Guam, America Samoa, the
3 Virgin Islands, and the Commonwealth of the Northern
4 Mariana Islands, to be allotted in accordance with the
5 Secretary’s determination of their respective needs;

6 “(B) shall reserve 1 percent of such amount
7 for the Secretary of the Interior to carry out programs for
8 Indian youth;

9 “(C) shall reserve 0.2 percent of such
10 amount for programs for Native Hawaiians; and

11 “(D) may reserve not more than \$2,000,000
12 for evaluation activities required by section 4117(a).

13 “(2)(A)(i) Funds reserved under paragraph (1)(A)
14 may not be consolidated under the provisions of Title V of
15 Pub. L. 95-134.

16 “(ii) The Governor of Guam, America
17 Samoa, the Virgin Islands, or the Commonwealth of the
18 Northern Mariana Islands may direct the Secretary to
19 consolidate the Governor’s share of funds under this Part
20 with the State educational agency’s share and award the
21 consolidated amount to the State educational agency for
22 administration in accordance with the requirements of this
23 Part applicable to State educational agencies.

1 “(iii) Funds reserved under paragraph
2 (1) (A) shall be used to carry out programs and activities
3 that—

4 “(I) are authorized by this Part
5 and are implemented in a manner that is consistent with the
6 program requirements under section 4114; and

7 “(II) are subject to the
8 application requirements under section 4112(a).

9 “(B) Funds reserved under paragraph (1) (B)
10 shall be used to carry out programs and activities
11 authorized by this Part that meet the needs of Native
12 American youth and that are implemented in a manner that is
13 consistent with the program requirements under section
14 4114.

15 “(C) (i) Funds reserved under paragraph
16 (1) (C) shall be used by the Secretary to award grants or
17 contracts to organizations primarily serving or
18 representing Native Hawaiians to carry out programs and
19 activities authorized by this Part that meet the needs of
20 Native Hawaiian youth and that are implemented in a manner
21 that is consistent with the program requirements under
22 section 4114.

23 “(ii) Recipients of funds reserved
24 under paragraph (1) (C) shall coordinate their programs and

1 activities with programs and activities under this Part
2 carried out by the State educational agency of Hawaii.

3 “(iii) For the purposes of this section,
4 the term ‘Native Hawaiian’ has the same meaning as the term
5 is provided in section 9212 of the Elementary and Secondary
6 Education Act of 1965.

7 “(b) STATE ALLOTMENTS.—(1) Except as provided in
8 paragraph (2), the Secretary shall, for each fiscal year,
9 allocate among the States—

10 “(A) one-half of the remainder not reserved
11 under subsection (a) according to the ratio between the
12 school-aged population of each State and the school-aged
13 population of all the States; and

14 “(B) one-half of such remainder according
15 to the ratio between the amount each State received under
16 section 1122 of Part A of title I of the Act for the
17 preceding year and the sum of such amounts received by all
18 the States.

19 “(2) MINIMUM. For any fiscal year, no State
20 shall be allotted under this subsection an amount that is
21 less than one-half of one percent of the total amount
22 allotted to all the States under this subsection.

23 “(3) REALLOTMENT. The Secretary may reallo
24 any

1 amount of any allotment to a State if the Secretary
2 determines that the State will be unable to use such amount
3 within two years of such allotment. Such reallocations shall
4 be made on the same basis as allotments are made under
5 paragraph (1).

6 “(4) DEFINITIONS. For the purposes of this
7 part—

8 “(A) the term ‘State’ means each of the 50
9 States, the District of Columbia, and the Commonwealth of
10 Puerto Rico; and

11 “(B) the term ‘local education agency’
12 includes educational service agencies and consortia of such
13 agencies.

14

15 “STATE APPLICATIONS

16 “Sec. 4112. (a) STATE APPLICATION. In order to
17 receive an allotment under section 4111(b) for any fiscal
18 year, a State shall submit to the Secretary, at such time
19 and in such manner as the Secretary may require, a 5-year
20 application that—

21 “(1) is submitted jointly by the Governor and
22 the State educational agency of the State;

23 “(2) contains a description of how funds under

1 this part will be coordinated with other programs under
2 this Act and with other Federal education and drug
3 prevention programs;

4 “(3) contains a comprehensive plan for the use
5 of funds by the State educational agency and the Governor
6 to provide safe, orderly, and drug-free school environments
7 that includes—

8 “(A) the results of the State’s needs
9 assessment for drug and violence-prevention programs, which
10 shall be based on the results of ongoing State evaluation
11 activities and include data on the prevalence of drug use
12 and violence by youth in schools and communities in the
13 State;

14 “(B) a list of the State’s results-based
15 performance measures for drug and violence prevention,
16 which shall—

17 “(i) be focused on student behavior
18 and attitudes and derived from the needs assessment;

19 “(ii) be selected from a core set of
20 indicators that the Secretary shall develop in consultation
21 with State and local officials;

22 “(iii) include targets and due dates
23 for the attainment of these indicators; and

1 “(iv) include a description of the
2 procedures the State will use to inform local educational
3 agencies of the State’s results-based performance measures
4 for drug and violence prevention for assessing and publicly
5 reporting progress toward meeting these indicators, or
6 revising them as needed; and

7 “(v) include a description of how the
8 procedures described in subparagraph (C) and subparagraph
9 (D) will support the achievement of the State’s results-
10 based performance measures.

11 “(C) a description of the procedures the
12 State educational agency will use for reviewing
13 applications and awarding funds to local educational
14 agencies on a competitive basis under section 4113(c),
15 including--

16 “(i) the objective criteria the State
17 educational agency will use for determining which local
18 educational agencies are eligible to compete for these
19 funds;

20 “(ii) the criteria the State
21 educational agency will use to assess the relative quality
22 of applications and demonstrated need for funding by these
23 local educational agencies;

1 "(iii) the peer review process the
2 State educational agency will use to review applications;

3 "(iv) how the State educational agency
4 will ensure that the geographical distribution of awards
5 reflects the diversity of local educational agencies in the
6 State; and

7 "(v) how the State educational agency
8 and the Governor will coordinate these programs;

9 "(D) a description of the procedures,
10 including objective criteria, the State educational agency
11 will use for reviewing any applications and awarding any
12 funds to local educational agencies on a non-competitive
13 basis under section 4113(c) (3);

14 "(E) a description of the procedures the
15 Governor will use to award funds to eligible applicants on
16 a competitive basis consistent with section 4115(c),
17 including-

18 "(i) the criteria the Governor will
19 use to assess the relative quality of applications and
20 demonstrated need for funding of eligible applicants;

21 "(ii) the peer review process the
22 Governor will use to review applications;

23 "(iii) how those funds will be used

1 for community resources and activities that support local
2 educational agency programs to create drug-free, safe, and
3 disciplined learning environments in, and passageways to
4 and from schools; and

5 “(iv) how the Governor will ensure
6 that the geographic distribution of awards reflects the
7 diversity of local educational agencies in the State;

8 “(F) a description of how the State
9 educational agency and Governor will use the funds reserved
10 under section 4113(b) and 4115(b) for coordinated capacity-
11 building and technical assistance and program
12 accountability services and activities at the State and
13 local levels, including how the State educational agency
14 and Governor will coordinate their activities with law
15 enforcement, health, mental health, and education programs
16 and officials at the State and local levels;

17 “(G) a description of how the State
18 educational agency and the Governor will monitor local
19 programs; and

20 “(H) a description of how the State
21 educational agency will ensure that local educational
22 agencies not receiving funds under this Part will be
23 provided technical assistance to improve their programs;

24 “(4) contains assurances that the application

1 was developed in consultation and coordination with
2 appropriate State officials, including the head of the
3 State alcohol and drug abuse agency, the heads of the State
4 health and mental health agencies, the head of the State
5 criminal justice planning agency, the head of the State
6 child welfare agency, the head of the State board of
7 education, or their designees, and representatives of
8 parents, students, and community-based organizations; and

9 “(5) contains assurance that the State will
10 cooperate with, and assist the Secretary in conducting the
11 national impact evaluation of programs required by section
12 4117(a).

13 “(b) PEER REVIEW. The Secretary shall use a peer
14 review process in reviewing State applications under this
15 section.

16
17 “STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS

18 “Sec. 4113 (a) ALLOCATION OF FUNDS. In each fiscal
19 year, 80 percent of the total amount allocated to the State
20 under section 4111(b) shall be used by the State
21 educational agency and local educational agencies in the
22 State to carry out programs and activities in accordance
23 with this section that are designed to create and maintain

1 drug-free, safe, and orderly environments for learning, in
2 and around schools in the State.

3 “(b) STATE LEVEL ACTIVITIES.—(1) A State educational
4 agency shall reserve not more than 20 percent of the amount
5 described in subsection (a) for State level activities
6 described in paragraphs (2) and (4).

7 “(2) A State educational agency may use not more
8 than 5 percent of the amount described in subsection (a)
9 for the costs of carrying out its administrative
10 responsibilities under this part.

11 “(3) The State educational agency shall reserve
12 the remainder of the amount described in paragraph (1)
13 after application of paragraph (2), but not less than 10
14 percent of the amount described in subsection (a), for
15 State level activities described in paragraph (4).

16 “(4) (A) The State educational agency and the
17 Governor shall jointly use the amounts reserved under
18 paragraph (3) and section 4115(b)(3) to plan, develop, and
19 implement capacity building and technical assistance and
20 accountability services that are designed to support the
21 effective implementation of local drug and violence
22 prevention activities throughout the State and promote
23 program accountability and improvement.

1 “(B)(i) The State educational agency and
2 Governor may carry out the services and activities
3 described in subparagraph (A) directly, or through
4 subgrants or contracts with public and private
5 organizations, as well as individuals.

6 “(ii) Except as provided under clause
7 (iii), the State educational agency and Governor shall, to
8 the extent practicable, use funds under this paragraph to
9 provide capacity building and technical assistance and
10 accountability services and activities to all local
11 educational agencies in the State, including those that do
12 not receive funds under this part.

13 “(iii) The State educational agency
14 and the Governor may use fund under this paragraph to
15 provide emergency intervention services to schools and
16 communities following a traumatic crisis, such as a
17 shooting, major accident, or drug-related incident that has
18 disrupted the learning environment.

19 “(C) For the purpose of this paragraph-

20 “(i) ‘capacity building’ means
21 activities to improve the knowledge, skills, and expertise
22 of State and local program staff needed to plan, implement,
23 and improve effective research-based programs; and

24 “(ii) ‘technical assistance and

1 accountability services' means activities designed to
2 improve State and local programs and activities under this
3 Part, including dissemination of information and curricula,
4 program evaluation, demonstration programs, peer review of
5 local educational agency applications, and evaluation
6 assistance, such as collecting, monitoring, and reporting
7 program indicator data.

8 “(c) LOCAL-LEVEL ACTIVITIES.-(1) A State educational
9 agency shall use not less than 80 percent of the amount
10 described in subsection (a) for local-level activities
11 described in paragraphs (2) and (3).

12 “(2) (A) A State educational agency shall use at
13 least 70 percent of the amount described in subsection (a)
14 to make competitive subgrants, consistent with subparagraph
15 (C) (i), to local educational agencies (or consortia of
16 local educational agencies) that the State educational
17 agency determines, based on objective data, have need for
18 assistance under this part.

19 “(B) In determining which local educational
20 agencies (or consortia) have need for assistance under this
21 Part, the State educational agency may consider such
22 factors as—

23 “(i) high rates of alcohol, tobacco,
24 or drug use among youth;

1 "(ii) high rates of victimization of
2 youth by violence and crime;

3 "(iii) high rates of arrest and
4 adjudication of youth for violent or drug- or alcohol-
5 related delinquency;

6 "(iv) high rates of bullying, hate-
7 related incidents, racial harassment, sexual harassment, or
8 sexual abuse;

9 "(v) high rates of referrals of youths
10 to drug and alcohol abuse treatment and rehabilitation
11 programs;

12 "(vi) high rates of referrals of
13 youths to juvenile court;

14 "(vii) high rates of expulsions and
15 suspensions of students from schools;

16 "(viii) high rates of reported cases
17 of child abuse and domestic violence;

18 "(ix) the extent of illegal gang
19 activity;

20 "(x) local fiscal capacity to fund
21 such programs without Federal assistance;

22 "(xi) the incidence of drug
23 paraphernalia in schools; and

1 “(xii) high rates of drug-related
2 emergencies or deaths.

3 “(C) (i) The State educational agency shall
4 base the competition it conducts under subparagraph (A) on
5 the quality of the applicant’s proposed program and how
6 closely it is aligned with the principles of effectiveness
7 described in clause (ii).

8 “(ii) For the purpose of this
9 subsection, the State educational agency shall use the
10 following principles of effectiveness:

11 “(I) The applicant’s program is
12 based on a thorough assessment of objective data about the
13 drug and violence problems in the schools and communities
14 to be served.

15 “(II) The applicant has
16 established a set of measurable goals and objectives aimed
17 at ensuring that all schools served by the local
18 educational agency have a drug-free, safe, and orderly
19 learning environment, and has designed its programs to meet
20 those goals and objectives.

21 “(III) The applicant has designed
22 and will implement its programs for youth based on research
23 or evaluation that provides evidence that the program to be

1 used will prevent or reduce drug use, violence,
2 delinquency, or disruptive behavior among youth.

3 “(IV) The applicant will evaluate
4 its program periodically to assess its progress toward
5 achieving its goals and objectives, and will use evaluation
6 results to refine, improve, and strengthen its program, and
7 refine its goals and objectives, as needed.

8 “(D) A State educational agency may make
9 subgrants under this paragraph to not more than 50 percent
10 of the local educational agencies in the State.

11 “(E) Subgrants under this paragraph shall
12 be of sufficient size to support high-quality, effective
13 programs and activities that are designed to create safe,
14 disciplined, and drug-free learning environments in schools
15 and that are consistent with the needs, goals, and
16 objectives identified in the State’s plan under section
17 4112.

18 “(3) (A) A State educational agency may use not
19 more than 10 percent of the amount described in subsection
20 (a) to make non-competitive subgrants to local educational
21 agencies (or consortia of local educational agencies) with
22 the greatest need for assistance as described in paragraph
23 (2) (B) that did not receive a subgrant under (2) (A). A

1 local educational agency may not receive more than one
2 subgrant under this paragraph.

3 “(B) A State educational agency shall not
4 make a subgrant to a local educational agency under this
5 paragraph unless it—

6 “(i) assists the local educational
7 agency in meeting the information requirements under
8 section 4116(a) pertaining to local educational agency
9 needs assessment, results-based performance measures,
10 comprehensive safe and drug-free schools plan, evaluation
11 plan, and assurances; and

12 “(ii) provides continuing technical
13 assistance to the local educational agency to build its
14 capacity to develop and implement high-quality, effective
15 programs consistent with the principles of effectiveness in
16 (c) (2) (C) (ii)..

17 “(d) PROJECT PERIODS AND REALLOCATION.—(1) (A)
18 Subgrants under subsection (c) shall be for project periods
19 not to exceed three years.

20 “(B) In order to receive funds under this
21 section for the second or third year of the project, a
22 local educational agency shall demonstrate to the
23 satisfaction of the State educational agency that the local
24 educational agency’s project is making reasonable progress

1 toward its performance indicators under section
2 4116(a)(3)(c).

3 “(2) A State educational agency may require
4 local educational agencies to return funds awarded to them
5 under this section that they have not expended within one
6 year of the date of the subgrant, and may award such
7 recovered funds to other local educational agencies with
8 the greatest need for them—

9 “(A) through a new competition;

10 “(B) by funding high-quality applications
11 that were not funded in a previous competition; or

12 “(C) by making supplemental awards to
13 current subgrant recipients.

14

15 “LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS

16 “SEC. 4114 (a). PRINCIPLES OF EFFECTIVENESS. Each
17 local educational agency that receives a subgrant under
18 section 4113(c) shall use those funds to support research-
19 based, drug- and violence-prevention services and
20 activities that are consistent with the principles of
21 effectiveness described in section 4113(c)(2)(C)(ii).

22 “(b) OTHER AUTHORIZED ACTIVITIES.—(1) Each local
23 educational agency that receives a subgrant under section
24 4113(c) may also use those funds to carry out, in a manner

1 that is consistent with the most recent relevant research,
2 other services and activities that are consistent with the
3 purposes of this title, such as-

4 "(A) staff training and development;

5 "(B) parental involvement and training;

6 "(C) community involvement activities;

7 "(D) law enforcement and security

8 activities that are related to school safety and drug use;

9 "(E) creating and maintaining safe zones of
10 passage to and from school to prevent violence and drug
11 trafficking;

12 "(F) counseling, mentoring, and referral
13 services, and other student assistance programs;

14 "(G) before- and after-school programs;

15 "(H) alternative education programs for
16 those students who have been expelled from their regular
17 education programs;

18 "(I) programs to assist students to reenter
19 the regular education program upon return from treatment or
20 alternative education settings;

21 "(J) services and activities that reduce
22 the need for suspension and expulsion in maintaining
23 classroom order and school discipline;

1 “(K) services and activities to prevent and
2 reduce truancy; and

3 “(L) activities designed to prevent hate
4 crimes.

5 “(2) A local educational agency may not use more than
6 20 percent of its subgrant for the acquisition or use of
7 metal detectors and security personnel unless it
8 demonstrates in its application under section 4116 to the
9 satisfaction of the State educational agency that it has a
10 compelling need to do so.

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“GOVERNOR’S PROGRAMS

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“SEC. 4115 (a) ALLOCATION OF FUNDS. In each fiscal
year, 20 percent of the total amount allocated to the State
under section 4111(b) shall be used by the Governor to
support community efforts that directly complement the
efforts of local educational agencies to foster drug-free,
safe, and orderly learning environments in and around
schools.

“(b) STATE LEVEL ACTIVITIES.-(1) A Governor shall
reserve not more than 20 percent of the amount described in
subsection (a) for State level activities described in
paragraph (2) and section 4113(b)(4).

1 “(2) A Governor may use not more than 5 percent
2 of the amount described in subsection (a) for costs, direct
3 or indirect, of carrying out the Governor’s administrative
4 responsibilities under this Part.

5 “(3) The Governor shall reserve the remainder of
6 the amount described in paragraph (1), after application of
7 paragraph (2), but not less than 10 percent of the amount
8 described in subsection (a), for State-level activities
9 that are administered jointly with the State educational
10 agency, as described in section 4113(b)(4).

11 “(c) LOCAL LEVEL ACTIVITIES.-(1)(A) A Governor shall
12 use not less than 80 percent of the amount described in
13 subsection (a) to make competitive subgrants to, or
14 contracts with, community-based organizations, local
15 educational agencies, and other public entities and private
16 non-profit organizations, or consortia thereof, to support
17 community efforts that directly complement the efforts of
18 local educational agencies to foster drug-free, safe, and
19 orderly learning environments in and around schools.

20 “(B) To be eligible for a subgrant under
21 this subsection, an applicant (other than a local
22 educational agency applying on its behalf) shall include
23 in its application its written agreement with one or more
24 local educational agencies, or one or more schools within a

1 local educational agency, to provide services and
2 activities in support of such local educational agencies or
3 schools, as well as an explanation of how those services
4 and activities will complement or support the local
5 educational agencies' or schools' efforts to provide a
6 drug-free, safe, and orderly school environment.

7 “(C) The Governor shall base the
8 competition conducted under subparagraph (A)–

9 “(i) on the quality of the applicant's
10 proposed program and how closely it is aligned with the
11 principles of effectiveness described in section
12 4113(c)(2)(C)(ii); and

13 “(ii) on the needs of the schools or
14 local educational agencies to be served, based on the
15 objective criteria determined by the Governor.

16 “(D) Subgrants under this subsection may
17 support community efforts on a Statewide, regional, or
18 local basis and may support the efforts of local
19 educational agencies and schools that do not receive funds
20 under this Part.

21 “(2)(A) Each recipient of a subgrant under this
22 subsection shall use those funds to support research-based
23 services and activities that are consistent with the

1 principles of effectiveness described in section
2 4113(c)(2)(C)(ii).

3 “(B) Each recipient of a subgrant under
4 this subsection may also use those funds to carry out, in a
5 manner that is consistent with the most recent relevant
6 research, other services and activities that are consistent
7 with the purposes of this title, such as—

8 “(i) counseling and mentoring
9 services;

10 “(ii) the support of school resource
11 officers, and other partnerships with law enforcement;

12 “(iii) after school programs;

13 “(iv) activities designed to prevent
14 hate crimes; and

15 “(v) alternative education programs
16 for students removed from their regular educational
17 programs.

18

19 “LOCAL APPLICATIONS

20 SEC. 4116. APPLICATION CONTENTS.—(a)(1) Applicants
21 for subgrants under sections 4113(c)(2), 4113(c)(3), and
22 4115(c) shall submit an application at such time and
23 including such information as the State educational agency

1 or the Governor, as applicable, requires, consistent with
2 paragraph (3).

3 “(2) (A) Applications from local educational
4 agencies for subgrants under section 4113(c) (2), section
5 4113(c) (3), and section 4115 (c) shall be developed in
6 consultation with a local or regional advisory council that
7 includes, to the extent possible, representatives of local
8 government, business, parents, students, teachers, pupil
9 services personnel, mental health service providers,
10 appropriate State agencies, private schools, law
11 enforcement, community-based organizations, and other
12 groups interested in, and knowledgeable about, drug and
13 violence prevention.

14 “(B) Applications from entities other than
15 local educational agencies for subgrants under section
16 4115(c) shall be developed in consultation with the schools
17 or local educational agencies to be served, and to the
18 extent practicable, with the representatives described in
19 subparagraph (A).

20 “(3) Each application for a subgrant described
21 in subsection (a) shall contain—

22 “(A) the results of the applicant’s needs
23 assessment concerning the creation and maintenance of a
24 drug-free, safe, and orderly school environment and include

1 data on the prevalence of drug use and violence by youth in
2 the schools and communities to be served;

3 “(B) a description of how the applicant
4 will target services and activities on the communities,
5 schools, and students with the greatest need for assistance
6 in creating and maintaining drug-free, safe, and orderly
7 learning environments;

8 “(C) the applicant’s results-based
9 performance measures for creating and maintaining a drug-
10 free, safe, and orderly learning environment, which shall
11 be focused on student behavior and attitudes, and include
12 annual targets for each performance measure;

13 “(D) a description of the procedures the
14 applicant will use to assess and publicly report progress
15 toward meeting its performance indicators;

16 “(E) a description of how—

17 “(i) the applicant will use the funds
18 to be awarded, how the activities it will support with
19 those funds address the needs identified under subparagraph
20 (A) and the performance measures identified in subparagraph
21 (C); and

22 “(ii) if the applicant is a local
23 educational agency, how those activities are consistent
24 with the Safe and Drug-Free Schools plan under paragraph

1 (4) (F) or other existing school plan related to safe,
2 disciplined and drug-free environments.

3 "(F) a description of how the applicant
4 will coordinate its activities with local, State, and
5 Federal law enforcement, health, mental health, and
6 education officials;

7 "(G) a description of how the applicant
8 will coordinate its activities under this part with those
9 implemented under the Drug-Free Communities Act, if any;

10 "(H) a description of the applicant's plan
11 for evaluating its project; and

12 "(I) any other information the State
13 educational agency or Governor, as applicable, may require
14 to review applications, and award subgrants, based on the
15 applicant's need for assistance and the quality of the
16 application.

17 "(4) Each applicant for a subgrant under section
18 4113 (c) (2) or 4113 (c) (3) shall also include in its
19 application assurances that it-

20 "(A) has a policy prohibiting the use of
21 tobacco by students and adults at all times in school
22 buildings and on school grounds, consistent with the
23 Tobacco-Free Schools Act;

1 “(B) has a policy, consistent with State
2 law, that requires the expulsion of students who possess a
3 firearm at school consistent with the Gun-Free Schools Act;

4 “(C) has, or will have, a full-or part-time
5 program coordinator whose primary responsibility is
6 planning, designing, implementing, and evaluating the
7 applicant’s programs (unless the applicant demonstrates in
8 its application, to the satisfaction of the State
9 educational agency, that such a program coordinator is not
10 needed);

11 “(D) will evaluate its program every two
12 years to assess its progress toward meeting its goals and
13 objectives, and will use the results of its evaluation to
14 improve its program and refine its goals and objectives, as
15 needed;

16 “(E) will provide for an annual school
17 safety and drug use report card, as required by section
18 4117(d); and

19 “(F) has, or the schools to be served have,
20 a comprehensive Safe and Drug-Free Schools plan that
21 includes—

22 “(i) appropriate and effective
23 discipline policies that prohibit disorderly conduct and
24 the illegal use, possession, distribution, and sale of

1 tobacco, alcohol, and other drugs by students, and that
2 mandate predetermined consequences, sanctions, or
3 interventions for specific offenses;

4 “(ii) school security procedures at
5 school and while students are on the way to and from
6 school;

7 “(iii) early intervention and
8 prevention activities designed to create and maintain safe,
9 disciplined, and drug-free environments;

10 “(iv) school readiness and family
11 involvement activities;

12 “(v) improvements to classroom
13 management and school environment, such as efforts to
14 reduce class size or improve classroom discipline; and

15 “(vi) arrangements for-

16 “(I) referring troubled youth to
17 juvenile justice and other community resources, as
18 appropriate; and

19 “(II) responding to a violent or
20 traumatic crisis that disrupts the learning environment.

21 “(5) Each applicant for a subgrant under section
22 4115 (c) shall also include in its application--

23 “(A) a description of how the services and

1 activities to be supported will be coordinated with
2 relevant programs under this Part that are supported by
3 State educational agencies, including how recipients will
4 share resources, services, and data;

5 “(B) a description of how the applicant
6 will coordinate its activities under this part with those
7 implemented under the Drug-Free Communities Act, if any;
8 and

9 “(C) (i) an assurance that it will evaluate
10 its program every two years to assess its progress toward
11 meeting its goals and objectives, and will use the results
12 of its evaluation to improve its program and refine its
13 goals and objectives as needed, if the applicant is not a
14 local educational agency; or

15 “(ii) the assurances under paragraph
16 (4) if the applicant is a local educational agency.

17 “(b) REVIEW OF APPLICATION. To review applications
18 under this section—

19 “(1) State educational agencies shall use a peer
20 review process; and

21 “(2) Governors may use a peer review process or
22 other methods that ensure that applications are funded on
23 the basis of need and quality.

24

1 "NATIONAL EVALUATIONS AND DATA COLLECTIONS

2 "SEC. 4117(a) NATIONAL EVALUATIONS.-(1) The
3 Secretary shall provide for periodic national evaluations,
4 at least every two years, of the quality and impact of
5 programs under this title and other programs designed to
6 prevent drugs and violence in schools and submit a report
7 of the findings of such evaluations to the President and
8 Congress.

9 "(2) (A) The National Center for Education
10 Statistics shall collect data to determine the frequency,
11 seriousness, and incidence of violence in elementary and
12 secondary schools in the States. The Secretary shall
13 collect the data using, wherever appropriate, data
14 submitted by the States pursuant to subsection (b) (1) (B).

15 "(B) The Secretary shall report to Congress
16 on the data collected under this paragraph, together with
17 such recommendations as the Secretary determines
18 appropriate.

19 "(3) The Secretary of Education and the Attorney
20 General shall publish annual reports on school safety.

21 "(b) STATE REPORTS.-(1) The Governor and State
22 educational agency of each State shall annually report to
23 the Secretary, in such form as the Secretary may require,
24 on the State's progress toward attaining its performance

1 indicators, required under section 4112(a)(1)(c)(ii), for
2 achieving drug-free, safe, and orderly learning
3 environments in its schools. Annual reports shall-

4 “(A) be based on the State’s ongoing
5 evaluation activities;

6 “(B) include data on the prevalence and
7 incidence of drug use and violence by youth in schools and
8 communities;

9 “(C) address the implementation and
10 outcomes of State and local programs under this Part, as
11 well as their effectiveness; and

12 “(D) be made readily available to the
13 public.

14 “(2) Each State shall report to the Secretary,
15 in such form as the Secretary, in consultation with the
16 Secretary of Health and Human services, may require, all
17 school related suicides and homicides within the State
18 within 30 days of the incident.

19 “(c) LOCAL REPORTS.-(1) (A) Each local educational
20 agency that receives a subgrant under section 4113(c)(2) or
21 section 4113(c)(3) shall report annually to the State
22 educational agency and the public on-

1 “(i) the local educational agency’s
2 progress toward meeting its results-based performance
3 indicators for its program;

4 “(ii) the results of its on-going
5 evaluation of its program; and

6 “(iii) any problems the local
7 educational agency has encountered in implementing its
8 program that warrant the provision of technical assistance
9 by the State educational agency.

10 “(B) The State educational agency shall
11 review the annual reports described under paragraph (1) and
12 shall not provide funding for the second or third year of a
13 local educational agency’s program unless it determines
14 that the local educational agency is making reasonable
15 progress toward meeting its objectives.

16 “(2) (A) Each recipient of funds under section
17 4115(c) shall report annually to the Governor and to the
18 public on—

19 “(i) its progress toward meeting its
20 results-based performance measures for its program;

21 “(ii) the results of its on-going
22 evaluation of its program; and

1 “(iii) any problems it encountered in
2 implementing its program that warrant the provision of
3 technical assistance by the Governor.

4 “(B) The Governor shall review the annual
5 reports described under subparagraph (A), and shall not
6 provide funding for subsequent years of a multi-year
7 program unless the Governor determines that the recipient
8 is making reasonable progress toward meeting its
9 objectives.

10

11 “PART B – NATIONAL PROGRAMS

12 “NATIONAL ACTIVITIES

13 “SEC. 4211. (a) PROGRAM AUTHORIZED. From funds
14 appropriated to carry out this Part for each fiscal year
15 under section 4004(2), the Secretary shall carry out-

16 “(1) programs designed to promote drug-free,
17 safe, and orderly learning environments for students at all
18 educational levels, from preschool through the
19 postsecondary level; and

20 “(2) Programs for such students that promote
21 lifelong physical activity.

22 “(b) DRUG-FREE, SAFE AND ORDERLY LEARNING

23 ENVIRONMENTS.—(1) The Secretary may carry out the programs
24 described in subsection (a)(1) directly, or through grants,

1 contracts, or cooperative agreements with public and
2 private organizations and individuals, or through
3 agreements with other Federal agencies, and shall
4 coordinate with other Federal agencies, as appropriate.

5 “(2) Programs under this subsection may include,
6 but are not limited to—

7 “(A) programs to train teachers in
8 innovative techniques and strategies of effective drug and
9 violence prevention;

10 “(B) research and demonstration projects to
11 test innovative approaches to drug and violence prevention;

12 “(C) evaluations of the effectiveness of
13 programs funded under this title, or other programs
14 designed to create safe, disciplined, and drug-free
15 environments;

16 “(D) direct services and technical
17 assistance to schools and school systems, including those
18 afflicted with especially severe drug and violence
19 problems;

20 “(E) developing and disseminating drug and
21 violence prevention materials and information in print,
22 audiovisual, or electronic format, including information
23 about effective research-based programs, policies,
24 practices, strategies, and curriculum and other relevant

1 materials to support drug and violence prevention
2 education;

3 “(F) recruiting, hiring, and training
4 program coordinators to assist school districts in
5 implementing high-quality, effective, research-based drug
6 and violence prevention programs;

7 “(G) the development and provision of
8 education and training programs, curricula, instructional
9 materials, and professional training for preventing and
10 reducing the incidence of crimes or conflicts motivated by
11 bullying, hate, prejudice, intolerance, or sexual
12 harassment and abuse;

13 “(H) programs for youth who are out of the
14 education mainstream, including school dropouts, students
15 who have been suspended or expelled from their regular
16 education program, and runaway or homeless children and
17 youth;

18 “(I) programs implemented in conjunction
19 with other Federal agencies that support local educational
20 agencies and communities in developing and implementing
21 comprehensive programs that create safe, disciplined, and
22 drug-free learning environments and promote healthy
23 childhood development;

1 “(J) services and activities that reduce
2 the need for suspension and expulsion in maintaining
3 classroom order and discipline;

4 “(K) services and activities to prevent and
5 reduce truancy; and

6 “(L) other activities that meet emerging or
7 unmet national needs consistent with the purposes of this
8 title.

9 “(c) LIFELONG PHYSICAL ACTIVITY PROGRAMS.-(1) The
10 Secretary may carry out the programs described in
11 subsection (a)(2) directly, or through grants, contracts,
12 or cooperative agreements with public and private
13 organizations and individuals, or through agreements with
14 other Federal agencies, and shall coordinate with the
15 Centers for Disease Control and Prevention, the President's
16 Council on Physical Fitness, and other Federal agencies, as
17 appropriate.

18 “(2) Programs under this subsection may include,
19 but are not limited to-

20 “(A) the conduct of demonstrations of
21 school-based programs that promote lifelong physical
22 activity, with a particular emphasis on physical education
23 programs that are part of coordinated school health
24 programs;

1 “(B) training, technical assistance, and
2 other activities to encourage States and local educational
3 agencies to implement sound school-based programs that
4 promote lifelong physical activity; and

5 “(C) activities designed to build State
6 capacity to provide leadership and strengthen schools’
7 capabilities to provide school-based programs that promote
8 lifelong physical activity.

9 “(d) PEER REVIEW. The Secretary shall use a peer
10 review process in reviewing applications for funds under
11 this section.

12

13 “PART C - SCHOOL EMERGENCY RESPONSE TO VIOLENCE
14 SEC. 4311.(a) PROJECT SERV.-(1) From funds
15 appropriated to carry out this Part for each fiscal year
16 under section 4004(3), the Secretary is authorized to carry
17 out a program of providing education-related services to
18 local educational agencies in which the learning
19 environment has been disrupted due to a violent or
20 traumatic crisis, such as a shooting or major accident.
21 Such program may be referred to as ‘Project SERV.’

22 “(2) The Secretary may carry out Project SERV
23 directly, or through contracts, grants, or cooperative
24 agreements with public and private organizations and

1 individuals, or through agreements with other Federal
2 agencies.

3 “(b) AUTHORIZED ACTIVITIES.-(1) Project SERV may
4 provide-

5 “(A) assistance to school personnel in
6 assessing a crisis situation, including-

7 “(i) assessing the resources available
8 to the local educational agency and community to respond to
9 the situation; and

10 “(ii) developing a response plan to
11 coordinate services provided at the Federal, State, and
12 local level;

13 “(B) mental health crisis counseling to
14 students and their families, teachers, and others in need
15 of such services;

16 “(C) increased school security;

17 “(D) training and technical assistance for
18 State and local educational agencies, State and local
19 mental health agencies, State and local law enforcement
20 agencies, and communities to enhance their capacity to
21 develop and implement crisis intervention plans;

22 “(E) services and activities designed to
23 identify and disseminate the best practices of school- and
24 community-related plans for responding to crises; and

1 “(F) other needed services and activities
2 that are consistent with the purposes of this Part.

3 “(2) The Secretary, in consultation with the
4 Attorney General, the Secretary of Health and Human
5 Services, and the Director of the Federal Emergency
6 Management Agency—

7 “(A) shall establish such criteria and
8 application requirements as may be needed to select which
9 local educational agencies are assisted under this Part;
10 and

11 “(B) may establish such reporting
12 requirements as may be needed to collect uniform data and
13 other information from all local educational agencies
14 assisted under this part.

15 “(c) (1) There shall be established a Federal
16 Coordinating Committee on school crises comprised of the
17 Secretary, the Attorney General, the Secretary of Health
18 and Human Services, the Director of the Federal Emergency
19 Management Agency, the Director of the Office of National
20 Drug Control Policy, and such other members as the
21 Secretary shall determine. The Secretary shall serve as
22 chair of the Committee.

1 “(2) The Committee shall coordinate the Federal
2 responses to crises that occur in schools or directly
3 affect the learning environment in schools.
4

5 “PART D - RELATED PROVISIONS .

6 “GUN FREE SCHOOLS ACT

7 “SEC. 4411. (a) SHORT TITLE. This section may be
8 cited as the ‘Gun-Free Schools Act.’

9 “(b) REQUIREMENTS.-(1) Each State receiving Federal
10 funds under the Elementary and Secondary Education Act of
11 1965 shall have in effect a State law requiring local
12 educational agencies to expel from school, for a period of
13 not less than one year, a student who is determined to have
14 possessed a firearm at school under the jurisdiction of a
15 local educational agency in that State, except that such
16 State law shall allow the chief administering officer of
17 that local educational agency to modify the expulsion
18 requirement for a student on a case-by-case basis.

19 “(2) For the purpose of this section, the term
20 “firearm” means a firearm as such term is defined in
21 section 921 of title 18, United States Code.

22 “(c) SPECIAL RULE. The provisions of this section
23 shall be construed in a manner consistent with the
24 Individuals with Disabilities Education Act.

1 “(d) REPORT TO STATE. Each local educational agency
2 requesting assistance from the State educational agency
3 under this Act shall provide to the State in its
4 application—

5 “(1) an assurance that such local educational
6 agency is in compliance with the State law required by
7 subsection (b); and

8 “(2) a description of the circumstances
9 surrounding any expulsions imposed under the State law
10 required by subsection (b) including—

11 “(A) the name of the school concerned;

12 “(B) the number of students expelled from
13 such school (disaggregated by gender, race, ethnicity, and
14 educational level); and

15 “(C) the type of weapons concerned.

16 “(e) REPORTING. Each State shall report the
17 information described in subsection (d) to the Secretary on
18 an annual basis.

19

20 “LOCAL POLICIES

21 “SEC. 4412. (a) REQUIRED POLICIES. No funds shall
22 be made available under this Act to any local educational
23 agency unless that agency has a policy requiring—

1 a clear and consistent message that the illegal use of
2 alcohol and other drugs is wrong and harmful.

3 "(b) CURRICULUM. The Secretary shall not prescribe
4 the use of particular curricula for programs under this
5 title, but may evaluate and disseminate information about
6 the effectiveness of such curricula and programs.

7

8 "PROHIBITED USE OF FUNDS

9 "SEC. 4414. PROHIBITED USES. No funds under this
10 title may be used for—

11 "(1) construction (except for minor remodeling
12 needed to accomplish the purposes of this part); and

13 "(2) medical services or drug treatment or
14 rehabilitation, except for pupil services or referral to
15 treatment for students who are victims of, or witnesses to,
16 crime or who use alcohol, tobacco, or drugs.

17

18

19 "TOBACCO- FREE SCHOOLS

20 "SEC. 4415 (a). REQUIRED POLICY. Each State
21 educational agency and local educational agency that
22 receives funds under the Elementary and Secondary Education
23 Act of 1965 shall have a policy that prohibits the use of
24 tobacco, in any form, at any time, and by any person, in

1 school buildings, on school grounds, or at any school-
2 sponsored event.

3 "(b) ASSURANCE. Each local educational agency
4 requesting assistance under this Act from the State
5 educational agency shall include in its application an
6 assurance that it is in compliance with the requirements of
7 this section.

8 "(c) STATE REPORTING. Each State educational agency
9 shall report to the Secretary on an annual basis if any
10 local educational agency is not in compliance with the
11 requirements of subsection (a).

12 "(d) SHORT TITLE. This section may be cited as the
13 'Tobacco-Free Schools Act.'

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"PROHIBITION OF SUPPLANTING

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"SEC. 4416. SUPPLANTING PROHIBITED. Funds under
this title shall be used to increase the level of State,
local, and other non-Federal funds that would, in the
absence of funds under this title, be made available for
programs and activities authorized under this title, and in
no case to supplant such State, local, and other non-
Federal funds.

1 "DEFINITIONS OF TERMS

2 "SEC. 4417. DEFINITIONS. As used in this title—

3 "(1) the term 'drug and violence prevention'

4 means—

5 "(A) with respect to drugs, prevention,
6 early intervention, rehabilitation referral, or education
7 related to the illegal use of alcohol and the use of
8 controlled, illegal, addictive, or harmful substances,
9 including inhalants and anabolic steroids;

10 "(B) prevention, early intervention,
11 smoking cessation activities, or education related to the
12 use of tobacco by children and youth eligible for services
13 under this title; and

14 "(C) with respect to violence, the
15 promotion of school safety, such that students and school
16 personnel are free from violent and disruptive acts,
17 including sexual harassment and abuse and victimization
18 associated with prejudice and intolerance, on school
19 premises, going to and from school, and at school-sponsored
20 activities, through the creation and maintenance of a
21 school environment that is free of weapons and fosters
22 individual responsibility and respect for the rights of
23 others;

1 “(2) the terms ‘drug treatment’ and ‘drug
2 rehabilitation’ include activities to assist regular users
3 of drugs to become drug-free, but do not include
4 alternative education programs for students expelled from
5 school, student assistance programs, or programs to help
6 students who have been expelled to re-enter and succeed in
7 their regular education program;

8 “(3) the term ‘hate crime’ means a crime
9 described in section 1(b) of the Hate Crime Statistics Act
10 of 1990; and

11 “(4) the term ‘medical services’ includes, but
12 is not limited to, the diagnosis and treatment of disease,
13 illness, or injury, but does not include assessments by
14 mental health professionals to determine whether a student
15 poses an imminent threat of harm to himself or others.

16

17

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19

ENVIRONMENTAL TOBACCO SMOKE

20

SEC. 402. The Pro-Children Act of 1994 (20 U.S.C.

21

6081, et seq.) is amended—

22

(1) in section 1042(2)—

23

(A) by striking out “education”; and

1 (B) in subparagraph (A)(i), by striking out
2 "or the Secretary of Education"; and

3 (2) in section 1043—

4 (A) in subsection (a), by striking out
5 "kindergarten, elementary, or secondary education or"; and

6 (B) in subsection (c)—

7 (i) in paragraph (1)—

8 (I) by striking out

9 "KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION OR" from
10 the heading thereof; and

11 (II) by striking out

12 "kindergarten, elementary, or secondary education or"; and

13 (ii) in paragraph (3), by striking out

14 "kindergarten, elementary, or secondary education or".

15

4/20/99

TITLE IV - SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT

SECTION-BY-SECTION ANALYSIS

Section 401 of the bill would amend and restate Title IV of the ESEA, which authorizes assistance to States, local educational agencies, and other public entities and nonprofit organizations for programs to create and maintain drug-free, safe, and orderly schools, as described below.

SHORT TITLE

Section 4001 - Short Title. Section 4001 would rename Title IV of the ESEA as the "Safe and Drug-Free Schools and Communities Act" to update the short title of "Safe and Drug-Free Schools and Communities Act of 1994" in the current law.

FINDINGS

Section 4002 - Findings. Section 4002 would update the findings in section 4002 of the current law to focus them on the need for program quality and accountability.

PURPOSE

Section 4003 - Declaration of Purpose. Section 4003 would contain a revised statement of purpose in section 4003 of the current law to reflect the following overarching changes proposed in Title IV of the bill: (1) a more focused program emphasis on supporting activities for creating and maintaining drug-free, safe, and orderly environments for learning in and around schools, as compared to the more general emphasis under the current program on supporting activities to prevent youth from using drugs and engaging in violent behavior any time, anywhere; (2) improved targeting of resources, through the requirement that State educational agencies (SEAs) award funds competitively to local educational agencies (LEAs) with a demonstrated need for funds and the highest quality proposed programming, as compared to awarding funds to all LEAs in the State noncompetitively, based on student enrollment, under the current law; and (3) stronger coordination between programs funded by the Governors and the SEAs, by requiring that programs funded by the Governors directly complement and support LEA programs, and

by requiring Governors and SEAs to reserve funds at the State level for joint capacity-building and technical assistance, and accountability services, to improve the effectiveness of, and institutionalize, State and local Safe and Drug-Free Schools and Communities (SDFSC) programs.

AUTHORIZATION OF APPROPRIATIONS

Section 4004 - Authorization. Section 4004 of the bill would extend "such sums" authorizations for SDFSC State grants and SDFSC National Programs for fiscal years 2001 through 2005, and establish a new such sums authorization in each of these years for "Project SERV" under Part C of Title IV.

PART A - STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

RESERVATIONS AND ALLOTMENTS

Section 4111(a) - Reservations. Section 4111(a)(1) of the bill would retain the requirements in the current law for the Secretary to reserve, from each fiscal year's appropriation for SDFSC State grant funds, 1 percent for the Outlying Areas, 1 percent for programs for Indian youth, and 0.2 percent for programs for Native Hawaiians, and would increase the amount of SDFSC State Grant funds the Secretary may reserve each fiscal year for evaluation to \$2 million (up from \$1 million under the current law) to support more intensive evaluations that are needed to demonstrate program outcomes and effectiveness.

Section 4111(a)(2)(A)(i) would prohibit the Insular Areas from consolidating their SDFSC funds with other Department of Education program funds, as would otherwise be permitted under Insular Areas Consolidated Grant Authority in Title V of Public Law 95-134. This language would ensure that the SEA and Governor of each Insular Area can coordinate their SDFSC programs as required elsewhere in this Part in sections 4113(b)(4) and 4115(b)(3); without this prohibition, a Governor or SEA may choose to spend its SDFSC funds on other eligible program(s), making it impossible for the Governor and SEA to meet these SDFSC program coordination requirements.

Section 4111(a)(2)(A)(ii) would allow the Governor of an Insular Area to consolidate its SDFSC funds with the Insular Area's SDFSC SEA funds, and allow the Insular Area to administer both SDFSC funding streams under the statutory requirements applicable to SDFSC SEA programs. This provision would address the reduced program flexibility and increased administrative burden the Insular Areas may experience from the prohibition in section 4111(a)(2)(i).

Section 4111(a)(2)(A)(iii) would add cross-references to other provisions in the legislation to explicitly make applicable to the Insular Areas the same SDFSC requirements concerning authorized programs and activities, applications for funding, and coordination between the Governor and the SEA that are applicable to the States.

Section 4111(a)(2)(B) would add cross reference to other provisions in the legislation to explicitly make applicable to the Secretary of the Interior the same SDFSC requirements concerning authorized programs and activities for SDFSC programs for Indian youth that are applicable to the States.

Section 4111(a)(2)(C) would authorize SDFSC programs for Native Hawaiians (which are currently authorized under section 4118) and explicitly make applicable to these programs the same SDFSC requirements concerning authorized programs and activities that are applicable to the States. This section would also delete the language in current section 4118 requiring the Governor of the State of Hawaii to recognize organizations eligible for funding under the SDFSC Native Hawaiian set-aside, and add language requiring that programs funded under this set-aside be coordinated with the Hawaii SEA.

Section 4111(b)(1) - State Allotments. Section 4111(b)(1) would retain the provisions in the current law requiring the Secretary to allocate State grant funds half on the basis of school-aged population, and half on the basis of State shares of ESEA Title I funding for the preceding year.

Section 4111(b)(2) - Minimum. Section 4111(b)(2) would retain the provision in the current law that no State receive less than one-half of one percent of all State grant funding.

Section 4111(b)(3) - Reallotment. Section 4111(b)(3) would retain the provisions in the current law permitting the Secretary to redistribute to other States, on the basis of the formula in section 4111(b)(1), any amount of State grant funds the Secretary determines a State will be unable to use within two year of the initial award.

Section 4111(b)(4) - Definitions. Section 4111(b)(4) would retain the definitions of "State" and "local educational agency" in the current law.

STATE APPLICATIONS

Section 4112(a) - State Applications. Section 4112(a)(1) would change the State grant application requirements in the current law to require that the Governor and SEA apply jointly for funds, to ensure increased coordination between the Governor and SEA, consistent with the new program requirements proposed in section 4113(b)(4) and 4115(b)(3).

Section 4112(a)(2) would retain, with minor technical changes, the requirement in the current law that States include in their SDFSC State grant application a description of how they will coordinate their SDFSC State grant funding with other Federal education and **drug prevention programs.**

Section 4112(a)(3)(A) and (B) would change the current statute to require the States to include in their SDFSC State grant applications: (1) a list of the State's program performance indicators for drug and violence prevention that are (a) outcomes-based, rather than simply "measurable" as under current law, and (b) selected from a core set of indicators to be developed by the Secretary in consultation with State and local officials; and (2) a description of (a) the procedures the State will use to inform its LEAs of the State's performance indicators under this program and for assessing and publicly reporting progress toward meeting those indicators (or revising them as needed), and (b) how the procedures the State will use (as described in the State's application under sections 4112(a)(3)(C), 4112(a)(3)(D), and section 4112(a)(3)(E) below) to select LEAs and other entities for SDFSC State grant funding will support the attainment of the State's results-based performance indicators. These changes would

address the problem that, under current law, many States have weak goals and objectives for their SDFSC programs that are entirely process-oriented and do not tie strategically to the State's needs in this area.

Section 4112(a)(3)(C) would change the current statute to require the States to include in their SDFSC State grant applications a description of the procedures the SEA will use for reviewing applications and awarding funds to LEAs competitively, based on need and quality as required by section 4113(c)(2). These changes constitute a significant departure from current law, under which SEAs award funds to LEAs on the basis of student enrollment and on State-determined "greatest need" criteria.

Section 4112(a)(3)(D) would modify the current statute to require the States to include in their SDFSC State grant applications a description of the procedures the SEA will use for reviewing applications and awarding funds to LEAs non-competitively, based on need and quality as permitted by section 4113(c)(3).

Section 4112(a)(3)(E) would change the current statute to require the Governors to include in their SDFSC State grant applications a description of the procedures the Governor will use for reviewing applications and awarding funds to eligible applicants competitively, based on need and quality, as required by section 4115(c). These changes would significantly strengthen the current law, which does specify any criteria for how Governors must award their funds under this program.

Section 4112(a)(3)(F) would add a requirement for States to include in their applications a description of how the SEA and Governor will use the funds reserved under sections 4113(b) and 4115(b) for coordinated capacity-building and technical assistance and program accountability services and activities at the State and local levels, consistent with the changes in those sections requiring that the SEA and Governor each contribute at least 10 percent of their respective funds to a joint capacity-building and technical assistance and program accountability effort. Section 4112(a)(3)(F) would also retain language in the current law, with minor modifications, requiring the SEA and Governor to describe in their applications how they will coordinate their activities with law enforcement, health, mental health, and

education programs and officials at the State and local levels.

Section 4112(a)(3)(G) would, with minor technical changes, retain the requirement in the current statute for States to include in their applications a description of how the SEA and Governor will monitor local SDFSC programs.

Section 4112(a)(3)(H) would add a new requirement for States to describe in their applications how the SEA will provide technical assistance to LEAs not receiving SDFSC State grant funds to improve their programs, consistent with the requirement in section 4113(b)(4)(B)(ii) that, to the extent practicable, SEAs and Governors use a portion of the funds they reserve for State-level activities to provide capacity building and technical assistance and accountability services to all LEAs in the State, including those that do not receive SDFSC State grant funds.

Section 4112(a)(4) would retain the requirement that the States develop their applications in consultation and coordination with appropriate State officials and representatives of parents, students, and community-based organizations, with minor changes deleting language in the current law that the SEA and Governor develop portions of the application separately, to conform with the requirements in sections 4113(b)(4) and 4115(b)(3) that the SEA and Governor use a portion of the funds they reserve for State-level activities to provide capacity building and technical assistance and accountability services on a joint basis.

Section 4112(a)(5) would retain the language in current law requiring the States to include in their applications an assurance that the State will cooperate with, and assist the Secretary in conducting national impact evaluations of programs required by section 4117(a).

Section 4112(b) would retain the language in the current law under section 4112(d) requiring the Secretary to use a peer review process in reviewing SDFSC State grant applications.

STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS

Section 4113(a) - Allocation of Funds. Section 4113(a) would retain the requirement in current law that

80 percent of the funds allocated to each State under section 4111(b) be awarded to the SEA for use by SEAs and LEAs, with minor changes in language conforming with the revised statement of purpose in section 4003 that the funds be used to carry out programs and activities that are designed to create and maintain drug-free, safe, and orderly learning environments for learning in and around schools.

Section 4113(b) - State-Level Activities. Sections 4113(b)(1) through 4113(b)(3) would depart from the current statute by establishing a new authority requiring SEAs to reserve between 10 percent and 20 percent of their allocations under section 4113(a) for State-level activities. Under this new authority, SEAs may reserve up to 20 percent, but not less than 10 percent, of their total allocations under section 4113(a) to plan, develop, and implement, jointly with the Governor, capacity building and technical assistance and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote program accountability and improvement. Within this 20 percent cap, but in addition to the 10 minimum for State-level activities, SEAs may also use up to 5 percent of their funding (i.e., up to 25 percent of the amount they reserve for State-level activities) for program administration. This allowance for SEA State administrative costs - an increase from the 4 percent allowed under current law - is provided to accommodate the increased administrative responsibilities under the new law of running a State grant competition under section 4113(c), and would provide greater assistance to LEAs for program improvement than under the current law.

Section 4113(b)(4)(A) would require SEAs and Governors to jointly use the amount reserved under section 4113(b)(3) and section 4114(b)(3) to plan, develop, and implement capacity building and technical assistance and accountability services designed to support the effective implementation of local drug and violence prevention activities throughout the State, as well as promote program accountability and prevention.

Section 4113(b)(4)(B)(i) would add new language to the statute clarifying that the SEA and Governor may carry out the services and activities required under section 4113(b)(4)(A) directly, or through subgrants or contracts

with public and private organizations, as well as individuals.

Section 4113(b)(4)(B)(ii) would add new language to the statute requiring that to the extent practicable, SEAs and Governors use funds under section 4113(b)(4)(A) to provide capacity building and technical assistance and accountability services and activities to all LEAs in the State, not just those that receive SDFSC State grants, in order to ensure that: (1) LEAs receiving SDFSC funds receive adequate help to implement and institutionalize high-quality programs; and (2) States can provide at least some program assistance to LEAs that will no longer receive SDFSC awards once funding limited to 50 percent of LEAs in each State under the targeting provisions proposed in section 4113(c)(2)(D).

Section 4113(b)(4)(B)(iii) would permit the SEA and Governor to provide emergency intervention services to schools and communities following a traumatic crisis, such as a shooting or major accident that has disrupted the learning environment.

Section 4113(b)(4)(C) would add definitions of "capacity building" and "technical assistance and accountability services" to clarify the meaning of these terms in the statute.

Section 4113(c)(1) - Local-Level Activities. Section 4113(c)(1) would depart from the current statute to specify that SEAs must use at least 80 percent of their funding for local-level activities, as described in sections 4113(c)(2) and (3), rather than awarding at least 91 percent of their funding to LEAs as is required under current law.

Section 4113(c)(2)(A) would depart from the current statute to require SEAs to use at least **70 percent** of their total SDFSC State grant funding for competitive awards to LEAs that the SEA determines have **need** for assistance, rather than awarding at least 91 percent of their funding to LEAs in the State by formula, based on enrollment (70 percent) and "greatest need" (30 percent).

Section 4113(c)(2)(B) would make minor wording changes to the nine "**need**" factors in the current statute, and **add three additional factors relating to local fiscal capacity to fund drug and violence prevention programs without**

Federal assistance; the incidence of drug paraphernalia in schools; and the high rates of drug-related emergencies or deaths.

Section 4113(c)(2)(C) would depart from the current statute to require SEAs to base their competition under section 4113(c)(2)(A) on the quality of an LEA's proposed program and how closely it is aligned with the following principles of effectiveness: (1) the LEA's program is based on a thorough assessment of objective data about the drug and violence problems in the schools and communities to be served; (2) the LEA has established a set of measurable goals and objectives aimed at ensuring that all schools served by the LEA have a drug-free, safe, and orderly learning environment, and has designed its program to meet those goals and objectives; (3) the LEA has designed and will implement its programs for youth based on research or evaluation that provides evidence that the program to be used will prevent or reduce drug use, violence, **delinquency**, or disruptive behavior among youth; and (4) the LEA will evaluate its program periodically to assess its progress toward achieving its goals and objectives, and will use evaluation results to refine, improve, and strengthen its program, and refine its goals and objectives, as needed.

Section 4113(c)(2)(D) would depart from the current statute to require SEAs to target their competitive awards under section 4113(c)(2)(A) to no more than 50 percent of the LEAs in the State.

Section 4113(c)(2)(E) would require SEAs to make their competitive awards to LEAs under section 4113(c)(2) of sufficient size to support high-quality, effective programs and activities that are designed to create safe, disciplined, and drug-free learning environments in schools and that are consistent with the needs, goals, and objectives identified in the State's plan under section 4112.

Section 4113(c)(3)(A) would depart from the statute to permit SEAs to use up to 10 percent of their total SDFSC State grant funding for non-competitive awards to LEAs with the greatest need for assistance, as described in section 4113(c)(2)(B), that did not receive a competitive award under section 4113(c)(2)(A). **LEA's would be eligible to receive only one subgrant under this paragraph.**

Section 4113(c)(3)(B) would require, for accountability purposes, that in order for an SEA to make a non-competitive award to an LEA under section 4113(c)(3)(A), the SEA must (1) assist the LEA in meeting the information requirements under section 4116(a) pertaining to LEA needs assessment, results-based performance measures, comprehensive safe and drug-free schools plan, evaluation plan, and assurances, and (2) provide continuing technical assistance to the LEA to build its capacity to develop and implement high-quality, effective programs consistent with the principles of effectiveness in section 4113(c)(2)(C)(ii).

Section 4113(c)(4)(A) would depart from the current statute to permit SEAs to use up to 2 percent of their total SDFSC State grant funding or \$50,000, whichever is greater, to provide emergency intervention services to schools and communities following a traumatic crisis, such as a shooting or major accident that has disrupted the learning environment, and explicitly authorize that such services may be provided directly by the SEA or through subgrants or contracts.

Section 4113(c)(4)(B) would specify that the emergency services and activities authorized under Section 4113(c)(4) include (1) helping school personnel assess the situation, including the resources available to address the crisis; (2) developing a response plan to coordinate services from the Federal, State, and local levels; (3) providing short-term and long-term mental health crisis counseling to students, teachers, and others in need of such services; (4) increasing school security; and (5) providing such other services, including coordination services, as necessary.

Section 4113(d) - Project Periods and Reallocations.
Section 4113(d)(1) would depart from the current statute to provide that LEA awards under section 4113(c) be for a project period not to exceed three years, and require that, in order to receive funds under section 4113 for the second or third year of a project, the LEA demonstrate to the satisfaction of the SEA that the LEA's project is making reasonable progress toward its performance indicators under section 4116(a)(3)(c).

Section 4113(d)(2) would make technical changes to the local reallocation provisions in the current statute consistent with the changes proposed in section 4113, by providing that an SEA may require LEAs to return funds awarded to them under this section that they have not expended within one year of the date of the subgrant, and may award such recovered funds to other LEAs with the greatest need for them either (1) through a new competition, (2) by funding high-quality applications that were not funded in a previous competition, or (3) by making supplemental awards to current subgrant recipients.

LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS

Section 4114(a) - Principles of Effectiveness.

Section 4114(a) would depart from the current statute to require that each LEA that receives SDFSC State grant funding under section 4113(c) use those funds to support research-based, drug and violence prevention services and activities that are consistent with the principles of effectiveness in section 4113(c)(2)(C)(ii).

Section 4114(b) - Other Authorized Activities.

Section 4114(b)(1) would permit an LEA that receives SDFSC State grant funding under section 4113(c) to use those funds for activities other than research-based programming, so long as the LEA meets the requirements in section 4114(a), and those additional activities are carried out in a manner that is consistent with the most recent relevant research and with the purposes of this title. Section 4114(b)(1) of the bill also includes an illustrative list of 12 such activities.

Section 4114(b)(2) would retain the 20 percent cap on SDFSC State grant funds that LEAs may spend for the acquisition or use of metal detectors and security personnel, but permit SEAs to waive this cap for an LEA that demonstrates to the satisfaction of its SEA, in its application for funding under section 4116, that it has a compelling need to do so.

GOVERNOR'S PROGRAMS

Section 4115(a) - Allocation of Funds. Section 4115(a) would retain the requirement in the current law that 20 percent of the funds allocated to each State under section 4111(b) be awarded to the Governor, but depart from

the current statute, consistent with the revised statement of purpose in section 4003, by requiring the Governor to use these funds to support community efforts that directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments for learning in and around schools.

Section 4115(b) - State-Level Activities. Sections 4115(b) (1) through 4115(b) (3) would depart from the current statute by establishing a new authority requiring Governors to reserve between 10 percent and 20 percent of their allocations under section 4115(a) for State-level activities. Under this new authority, Governors may reserve up to 20 percent, but not less than 10 percent, of their total allocations under section 4115(a) to plan, develop, and implement, jointly with the SEA, capacity building and technical assistance and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote program accountability and improvement, as described in section 4113(b) (4). Within this 20 percent cap, but in addition to the 10 minimum for State-level activities, the bill would retain the language in the current law authorizing the Governors to use up to 5 percent of their total funding (i.e., up to 25 percent of the amount they reserve for State-level activities) for program administration, with minor changes clarifying that these administrative costs may be direct or indirect.

Section 4115(c) - Local Level Activities. Section 4115(c) (1) (A) would depart from the current statute to specify that a Governor must use at least 80 percent of its SDFSC State grant funding under section 4111(b) to make competitive subgrants to community-based organizations, LEAs, and other public entities and private non-profit organizations to support community efforts that directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments in and around schools. Section 4115(c) (1) (B) would depart from the current statute to require that, to be eligible for a subgrant under this section, an applicant (other than a LEA applying on its own behalf) must include in its application its written agreement with one or more LEAs, or one or more schools within a LEA, to provide services and activities in support of such LEAs or schools, as well as an explanation of how those services and activities will complement or support the LEAs' or schools' efforts to provide a drug-free, safe,

and orderly school environment. Section 4115(c)(1)(C) would depart from current law to require Governors to base the competition conducted under section 4115(c)(1)(A) on (1) the quality of the applicant's proposed program and how closely it is aligned with the principles of effectiveness described in section 4113(c)(2)(C)(ii), and (2) on objective criteria, determined by the Governor, on the needs of the schools or LEAs to be served.

Section 4115(c)(1)(D) would change current law to clarify that subgrants made by Governors under section 4115(c) may support community efforts on a Statewide, regional, or local basis and may support the efforts of LEAs and schools that do not receive SDFSC State grant funds.

Section 4115(c)(2)(A) would change the statute to require that recipients under section 4115(c) to use those funds generally to support research-based, drug and violence prevention services and activities that are consistent with the principles of effectiveness in section 4113(c)(2)(C)(ii).

Section 4115(c)(2)(B) would change the statute to permit a Governor's award recipient under section 4115(c) to use those funds for activities other than research-based programming, provided that these additional activities are carried out in a manner that is consistent with the most recent relevant research and with the purposes of this title. Section 4115(c)(2)(B) also includes an illustrative list of 5 such activities.

LOCAL APPLICATIONS

Section 4116 - Application Contents. Section 4116(a)(1) would: (1) retain language in current statute, with minor technical changes, requiring applicants for subgrants from the SEA to submit an application that meets the requirements in section 4116(a)(3) to the SEA at such time, and includes such other information, as the SEA may require; and (2) add a corresponding requirement not in the current statute, requiring applicants for subgrants from the Governor to submit an application that meets the requirements in section 4116(a)(3) to the Governor at such time, and includes such other information, as the Governor may require.

Section 4116(a)(2)(A) would retain language in the current statute requiring LEAs applying for SEA subgrants under section 4113(c)(2), 4113(c)(3), and 4115(c) to develop their applications in consultation with a local or regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, public school personnel, mental health service providers, appropriate State agencies, private schools, law enforcement, community-based organizations, and other groups interested in, and knowledgeable about, drug and violence prevention.

Section 4116(a)(2)(B) would add language to the current law to require entities other than LEAs applying for subgrants under the Governor's program authorized by section 4115(c) to develop their applications in consultation with the schools or LEAs to be served, and to the extent practicable, with the representatives described in section 4116(a)(2)(A).

Section 4116(a)(3) would: (1) make technical changes to strengthen the LEA application requirements that apply, under current law, to the SEA formula grant program by increasing the emphasis in the application on the applicant's need for assistance and the quality of its proposed programming; and (2) make this revised set of requirements applicable to LEAs that apply to SEAs under the proposed new competitive subgrant authority in section 4113(c)(2) or the new non-competitive subgrant authority in section 4113(c)(3), as well as to LEAs that apply to Governors under the subgrant authority in section 4115(c).

Section 4116(a)(4) would depart from the current statute by adding the requirement that each LEA (or consortium of LEAs, if applying jointly) that applies to its SEA under the proposed new competitive subgrant authority in section 4113(c)(2), or new non-competitive subgrant authority in section 4113(c)(3), include in its application assurances that it: (1) has a policy prohibiting the use of tobacco by students and adults at all times in school buildings and on school grounds, consistent with the Tobacco-Free Schools Act; (2) has a policy, consistent with State law, that requires the expulsion of students who possess a firearm at school consistent with the Gun-Free Schools Act; (3) has, or will have, a full- or part-time program coordinator whose primary responsibility is planning, designing,

implementing, and evaluating the applicant's programs (unless the applicant demonstrates in its application, to the satisfaction of the SEA, that such a program coordinator is not needed); (4) will evaluate its program every two years to assess its progress toward meeting its goals and objectives, and will use the results of its evaluation to improve its program and refine its goals and objectives, as needed; (5) will provide for an annual school safety and drug use report card, as required by section 4117(d); and (6) has, or the schools to be served have, a comprehensive Safe and Drug-Free Schools plan that includes: (a) appropriate and effective discipline policies that prohibit disorderly conduct and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students, and that mandate predetermined consequences, **sanctions, or interventions** for specific offenses; (b) school security procedures at school and while students are on the way to and from school; (c) early intervention and prevention activities designed to create and maintain safe, disciplined, and drug-free environments; (d) school readiness and family involvement activities; (e) improvements to classroom management and school environment, such as efforts to reduce class size or improve classroom discipline; and (f) arrangements for referring troubled youth to juvenile justice and other community resources, as appropriate, and responding to a violent or traumatic crisis that disrupts the learning environment.

Section 4116(a)(5) would depart from the current statute by adding a requirement that any eligible entity that applies to the Governor for a subgrant under section 4115(c) include in its application: (1) a description of how the services and activities to be supported will be coordinated with relevant SDFSC State grant programs that are supported by SEAs, including how recipients will share resources, services, and data; (2) a **description of how the applicant will coordinate its activities under this part with those implemented under the Drug-Free Communities Act, if any;** and (2) an assurance that it will evaluate its program every two years to assess its progress toward meeting its goals and objectives, and will use the results of its evaluation to improve its program and refine its goals and objectives as needed (if the applicant is not an LEA), or the assurances under section 4116(a)(4), if the applicant is an LEA.

Section 4116(b) would modify the language in the current statute that requires Governors to use a peer review process in reviewing local applications for SDFSC State grants, by giving Governors the flexibility to use other methods to ensure that applications under section 4116 are funded on the basis of need and quality, while requiring State educational agencies to use a peer review process.

NATIONAL EVALUATIONS AND DATA COLLECTIONS

Section 4117(a) - National Evaluations. Section 4117(a) would make minor technical changes to current law to give the Secretary increased flexibility in meeting the national evaluation and data collection requirements in this section, and add a new requirement for the Secretary of Education and the Attorney General to publish an annual report on school safety.

Section 4117(b) - State Reports. Section 4117(b) (1) would make minor technical changes to the current law to refocus the State reports required by this section on the State's progress toward attaining its performance indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed throughout Part A of the statute.

Section 4117(b) (2) would add a new requirement for States to report, in such form as the Secretary, **in consultation with the Secretary of Health and Human Services**, may require, all school-related suicides and homicides within the State, whether at school or at a school sponsored function, or on the way to or from school or a school-sponsored function, within 30 days of incident. This requirement will enable the Federal Government to collect longitudinal data on this statistic less expensively than it does currently by collecting these data retrospectively from multiple sources, and will impose little administrative burden on the States.

Section 4117(c) - Local Reports. Section 4117(c) (1) (A) would make minor technical changes to the current law to refocus the local reports required by this section on the LEA's progress toward attaining its performance indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed for the corresponding State

reports under section 4117(a), and would add a new requirement that the LEA include in this report a statement of any problems the LEA has encountered in implementing its program that warrant the provision of technical assistance by the SEA, to assist the SEA in planning its technical assistance activities. These changes would apply to LEAs that receive SDFSC subgrants through their SEA under section 4113(c) (2) or 4113(c) (3).

Section 4117(c) (1) (B) would add new language to the statute requiring SEAs to review the annual LEA reports required under section 4117(c) (1) (A), and to terminate funding for the second or third year of an LEA's program unless it determines that the LEA is making reasonable progress toward meeting its objectives.

Section 4117(c) (2) (A) would add new language to the statute requiring that Governors' award recipients under section 4115(c) submit an annual progress report to the Governor and to the public containing the same type of information required for LEA progress reports under section 4117(c) (1) (A).

Section 4117(c) (2) (B) would add new language to the statute requiring Governors to review the annual progress reports required under section 4117(c) (2) (A), and to terminate funding for the second or third year of a subgrantee's program unless it determines that the subgrantee is making reasonable progress toward meeting its objectives.

Section 4117(d) would add new language to the statute requiring each LEA receiving SDFSC State grant funds to provide to the SEA and the public an annual school-level report card for each of its schools that includes (1) the number of violations of school policies during the previous year for alcohol, marijuana, tobacco, weapons, fights, and attacks on teachers, and (2) information on the sanctions that were imposed for each type of violation, including information about numbers of expulsions, suspensions, referrals to alternative placements, transfers, and other consequences.

PART B - NATIONAL PROGRAMS

NATIONAL ACTIVITIES

Section 4211(a) - Program Authorized. Section 4211(a)(1) would retain the language in the current statute, with changes, to authorize the Secretary to use National Programs funds for programs to promote drug-free, safe, and orderly learning environments for students at all educational levels, from preschool through the postsecondary level **and for programs that promote lifelong physical activity.**

Section 4211(b)(1) would retain the language in the current statute, with minor technical changes, to authorize the Secretary to carry out the National Programs authorized under section 4211(a) directly, or through grants, contracts, or cooperative agreements with public and private organizations and individuals, or through agreements with other Federal agencies, and to coordinate with other Federal agencies as appropriate.

Section 4211(b)(2) would change the current statute to streamline the list of authorized National Programs activities - which are illustrative and not definitive - to the following: (a) programs to train teachers in innovative techniques and strategies of effective drug and violence prevention; (b) research and demonstration projects to test innovative approaches to drug and violence prevention; (c) evaluations of the effectiveness of programs funded under this title, and of other programs designed to create safe, disciplined, and drug-free environments; (d) direct services and technical assistance to schools and schools systems, including those afflicted with especially severe drug and violence problems; (e) developing and disseminating drug and violence prevention materials and information in print, audiovisual, or electronic format, including information about effective research-based programs, policies, practices, strategies, and curriculum and other relevant materials to support drug and violence prevention education; (f) recruiting, hiring, and training program coordinators to assist school districts in implementing high-quality, effective,

research-based drug and violence prevention programs; (g) the development and provision of education and training programs, curricula, instructional materials, and professional training for preventing and reducing the incidence of crimes or conflicts motivated by bullying, hate, prejudice, intolerance, or sexual harassment and abuse; (h) programs for youth who are out of the education mainstream, including school dropouts, students who have been suspended or expelled from their regular education program, and runaway or homeless children and youth; (i) programs implemented in conjunction with other Federal agencies that support LEAs and communities in developing and implementing comprehensive programs that create safe, disciplined, and drug-free learning environments and promote healthy childhood development; (j) services and activities that reduce the need for suspension and expulsion in maintaining classroom order and discipline; (k) services and activities to prevent and reduce truancy; and (l) other activities that meet emerging or unmet national needs consistent with the purposes of this title.

Section 4211(c)(1) would authorize the Secretary to carry out programs for students that promote lifelong physical activity directly, or through grants, contracts, or cooperative agreements with public and private organizations and individuals, or through agreements with other Federal agencies, and to coordinate with the Centers for Disease Control and Prevention, the President's Council on Physical Fitness, and other Federal agencies as appropriate.

Section 4211(c)(2) would illustrate a list of programs that could be carried out to support school-based reform efforts to promote lifelong physical activity. These include: the conduct of demonstrations of school-based programs that promote lifelong physical activity, with a particular emphasis on physical education programs that are a part of a coordinated school health programs; training, technical assistance, and other activities to encourage States and local educational agencies to implement sound school-based programs that promote lifelong physical activity; and activities designed to build State capacity to provide leadership and strengthen schools capabilities' to provide school-based programs that promote lifelong physical activity.

Section 4211(d) - Peer Review. Section 4211(b) would retain the requirement, in the current statute, that the Secretary use a peer review process in reviewing applications for funds under section 4211(a).

PART C - SCHOOL EMERGENCY RESPONSE TO VIOLENCE

Section 4311(a) - Project SERV. Section 4311(a)(1) would add new language to the statute authorizing the Secretary to carry out a program named "Project SERV" for providing education-related services to LEAs in which the learning environment has been disrupted due to a violent or traumatic crisis, such as a shooting or major accident.

Section 4311(a)(2) would add new language to the statute authorizing the Secretary to carry out Project SERV directly, or through contracts, grants, or cooperative agreements with public and private organizations and individuals, or through agreements with other Federal agencies.

Section 4311(b) - Authorized Activities. Section 4311(b) would add new language to the statute authorizing Project SERV to provide (a) assistance to school personnel in assessing a crisis situation, including assessing the resources available to the LEA and community in response to the situation, and developing a response plan to coordinate services provided at the Federal, State, and local level; (b) mental health crisis counseling to students and their families, teachers, and others in need of such services; (c) increases school security; (d) training and technical assistance for SEAs and LEAs, State and local mental health agencies, State and local law enforcement agencies, and communities to enhance their capacity to develop and implement crisis intervention plans; (e) services and activities designed to identify and disseminate the best practices of school- and community-related plans for responding to crises; and (f) other needed services and activities that are consistent with the purposes of Project SERV.

Section 4311(b) would add new language to the statute providing that the Secretary of Education, in consultation with the Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, shall establish criteria and application requirements as may be needed to select which LEAs are

assisted under Project SERV, and may establish reporting requirements as may be needed to collect uniform data and other information from all LEAs assisted under Project SERV.

Section 4311(c)(1) would add new language to the statute requiring the establishment of a Federal Coordinating Committee on school crises comprised of the Secretary (who shall serve as chair of the Committee), the Attorney General, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, the Director of the Office of National Drug Control Policy, and such other members as the Secretary shall determine.

Section 4311(c)(2) would add new language to the statute charging the Federal Coordinating Committee on school crises established under section 4311(c)(1) with coordinating the Federal responses to crises that occur in schools or directly affect the learning environment in schools.

PART D - RELATED PROGRAMS

GUN-FREE SCHOOLS ACT

Section 4411 - Short Title. Section 4411 would rename section 4411 of the ESEA as the Gun-Free Schools Act. The Gun-Free Schools Act is currently authorized under Part F of Title XIV of the ESEA, and is proposed to be moved to Title IV because of its close relationship with the SDFSC program.

Section 4411(b) - Requirements. Section 4411(b)(1) would restate, with minor technical changes, the language in the current Gun-Free Schools Act requiring (1) that each State receiving Federal funds under the ESEA have in effect a State law requiring LEAs to expel from school, for a period of not less than one year, a student who is determined to have possessed a firearm at school under the jurisdiction of the LEA in that State, and (2) that such State law allows the chief administering officer of that LEA to modify the expulsion requirement for a student on a case-by-case basis.

Section 4411(b)(2) would restate the definition of the term "firearm" as used in the current Gun-Free Schools Act.

Section 4411(c) - Special Rule. Section 4411(c) would restate the language in the current Gun-Free Schools Act requiring that the provisions of section 4411 be construed in a manner consistent with the Individuals with Disabilities Education Act.

Section 4411(d) - Report to State. Section 4411(d) would restate, with minor changes, the local reporting requirements in the current Gun-Free Schools Act to require each LEA requesting assistance from the SEA under the ESEA to provide to the State in its application: (1) an assurance that such LEA is in compliance with the State law required by section 4411(b); and (2) a description of the circumstances surrounding any expulsions imposed under the State law required by section 4411(b), including (a) the name of the school concerned; (b) the number of students expelled from such school (disaggregated by gender, race, ethnicity, and educational level), and (c) type of weapons concerned.

Section 4411(e) - Reporting. Section 4411(e) would restate the requirement in the current Gun-Free Schools Act that each State report the information described in section 4411(d) to the Secretary on an annual basis.

LOCAL POLICIES

Section 4412(a) - Required Policies. Section 4412(a)(1) would restate, with minor technical changes, the language in the current law (in ESEA section 14602(a)) requiring that no funds be made available under the ESEA to any LEA unless it has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who possesses a firearm at a school served by such agency.

Section 4412(a)(2) would add an additional, new requirement under section 4412 that no funds may be made available under the ESEA to any LEA unless it also has a policy requiring that any student referred to the criminal justice or juvenile delinquency system under section 4412(a)(1) for possessing a firearm at school, also be referred to a mental health professional for assessment as to whether the student poses an imminent threat of harm to himself or others and needs appropriate mental health services before readmission to school.

Section 4412(a)(3) would add an additional, new requirement under section 4412 that any student who is expelled for possession of a firearm at school be provided services to the extent necessary to enable the student to progress appropriately in the general curriculum.

Section 4412(b) - Special Rule. Section 4412(b) would restate the language in the current Gun-Free Schools Act requiring that the provisions of section 4412 be construed in a manner consistent with the Individuals with Disabilities Education Act.

Section 4412(b) - Definitions. Section 4412(b) would restate the definitions of the terms "firearm" and "school" in the current ESEA (in section 14602(b)) so that these definitions apply to the changes proposed in section 4412.

MATERIALS

Section 4413(a) - "Wrong and Harmful Message". Section 4413(a) would restate the language in the current law (in ESEA section 4132(a)) requiring that drug prevention programs supported under ESEA Title IV convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

Section 4413(b) - Curriculum. Section 4413(b) would restate, with minor technical changes, the language in the current law (in ESEA section 4132(b)) to clarify that the Secretary shall not prescribe the use of particular curricula for programs under ESEA Title IV, but may evaluate and disseminate information about the effectiveness of such curricula and programs.

PROHIBITED USES OF FUNDS

Section 4414 - Prohibited Uses. Section 4414 would restate the language in the current law (in ESEA section 4133) that no funds under ESEA Title IV may be used for (1) construction (except for minor remodeling needed to accomplish the purposes of this part), and (2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, crime or who use alcohol, tobacco, or drugs.

TOBACCO-FREE SCHOOLS

Section 4415(a) - Required Policy. Section 4415(a) would add new language to the ESEA requiring that each SEA and LEA that receives ESEA funds have a policy that prohibits the use of tobacco, in any form, at any time, and by any person, in school buildings, on school grounds, or at any school-sponsored event. This language would replace similar language under current law in the Pro-Children Act of 1994 (Title X, Part B of the Goals 2000: Educate America Act) that (1) generally prohibits smoking in schools or other indoor facilities where services are provided to children that are supported with Federal funds from the Departments of Education, Health and Human Services, or Agriculture, and (2) authorizes civil penalties for persons who violate such prohibition. The proposed new language would also impose more stringent requirements than the Pro-Children Act, in that: (1) the Pro-Children Act pertains only to smoking, whereas the proposed new language would prohibit smoking as well as the use of smokeless tobacco in schools; and (2) the Pro-Children Act prohibitions on smoking pertain to indoor facilities only and apply only during the school day, whereas the proposed new language would prohibit the use of tobacco on school grounds as well as in school buildings, at any time, or at any school-sponsored event. In accordance with this new language in section 4415, section 402 of this bill would amend the Pro-Children Act so it does not apply to schools or other facilities providing services to children funded by the Department of Education.

Section 4415(b) - Assurance. Section 4415(b) would add language to the current law requiring each LEA requesting assistance under the ESEA to include in its application for funding an assurance that it is in compliance with the requirements of section 4415(a).

Section 4415(c) - State Reporting. Section 4415(c) would add language to the current law requiring each SEA to report to the Secretary on an annual basis if any of its LEAs is not in compliance with the requirements of section 4415(a).

Section 4415(d) - Short Title. Section 4415(d) would add language to the current law providing that section 4415 may be cited as the "Tobacco-Free Schools Act."

PROHIBITION OF SUPPLANTING

Section 4416 - Supplanting Prohibited. Section 4416 would add language to the current law that was inadvertently left out of the 1994 reauthorization, requiring that funds under this title be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this title, be made available for programs and activities authorized under this title, and in no case to supplant such State, local, and other non-Federal funds.

DEFINITION OF TERMS

Section 4417 - Definitions. Section 4417 would restate the definitions in the current law for the terms "drug and violence prevention" and "hate crime," and definitions for the terms "drug treatment and drug rehabilitation" and "medical services" to give these terms specific meaning under this title.

ENVIRONMENTAL TOBACCO SMOKE

Section 402 of the bill would amend the Pro-Children Act (Part H of Title X of the Goals 2000: Educate America Act) so it does not apply to schools or other facilities providing services to children funded by the Department of Education, because the education provisions of the Pro-Children Act would be superceded by the Tobacco-Free Schools Act proposed under ESEA section 4415.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 14:58:28.00

SUBJECT: Draft statement

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Attached is the draft statement you requested. I have reviewed it briefly with Broderick Johnson, Tanya, Jon and Julie Green. Please let me know if there is anything else you need. Thanks!

=====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D87]ARMS22848472J.136 to ASCII,
The following is a HEX DUMP:

FF575043F6040000010A02010000000205000000FB0C00000002000000DBFC54733B0705121B071
663BB61E4477E513C59E81D32849407ED0DC8A45E37F38223FEF5C98951656C7754716594C5121
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739EC8F4C8226F04028D9DC9F98EDA7B0BE0D1CEFAC602A1F09A8DBAC5000EB7DE02865234110C

DRAFT
Statement by the President
April 20, 1999

I am pleased that a little more than a year after I proposed the idea of a national Ed-Flex bill to the National Governors' Association, Congress appears ready to send me legislation I can sign. This bill will offer states more flexibility in their use of federal funding in exchange for demonstrated increases in student achievement. I am particularly pleased that the conference report strengthens accountability measures and preserves our effort to reduce class size in the early grades. The bipartisan work on this legislation shows we can and must work together to improve our nation's schools. Now Congress can move on to the most important aspects of the nation's education agenda -- finishing the job of hiring 100,000 well-prepared teachers to reduce class size, passing my initiative to help build and modernize 6,000 public schools, and my plan to hold states and school districts accountable for results.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary Morrison (CN=Mary Morrison/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-APR-1999 15:25:27.00

SUBJECT: disregard

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Please dis-regard a copy of a letter that I sent to you all from Jana Carter about Kosovo - it should have gone to the NSC. Jana might have called you already and I am going to call her now to tell her about the mixup .

Thanks
mm

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer M. Luray (CN=Jennifer M. Luray/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-APR-1999 15:46:09.00

SUBJECT: EPIC

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Ignore my earlier message. Just got off the phone w/Chris. We agreed to hold off on the memo to POTUS until we can get further along on the conscience clause issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kathleen K. Ahn (CN=Kathleen K. Ahn/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-APR-1999 15:50:10.00

SUBJECT: racial profiling

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

For your information, following is from today's NYT , New York Section's front page. Thank you

April 20, 1999

Trenton Charges 2 Troopers With
Falsifying Race of Drivers

By DAVID KOCIENIEWSKI

TRENTON -- In the first official sign that the New Jersey
State

Police may have illegally singled out black and Hispanic
motorists,

the Attorney General Monday announced the indictments of two
troopers accused of falsifying documents to make it appear that
some of

the black motorists they had stopped were white.

Troopers John Hogan and James Kenna, who shot three unarmed men
during a traffic stop last April and are awaiting a grand jury's
ruling on

possible criminal charges, will now face prosecution on 19
misdemeanor

charges each for falsifying records and conducting illegal
searches.

Attorney General Peter Verniero said that after the shooting, his
investigators began an inquiry into the troopers' traffic stops
on the New

Jersey Turnpike. The investigators quickly noticed a disturbing
pattern:

the license plate numbers reported by the officers did not
correspond

with the cars owned by the motorists they had stopped.

After reviewing the logs of 164 troopers in the Cranbury and
Moorestown barracks in southern and central New Jersey,

investigators

found some troopers routinely falsified the race of drivers they stopped.

As many as 10 other troopers could face criminal charges, a law enforcement official said.

Two state police supervisors said it was common practice for troopers

on the turnpike to jot down the license plate number of white motorists

who were not stopped and use them on the reports of blacks who were

pulled over. Officers called the tactic "ghosting."

Although Verniero did not use the term racial profiling, his assistant,

James Gerrow Jr., was more direct. Gerrow said that after conducting

extensive interviews with motorists who had been pulled over by the state

police, prosecutors decided that the racial misidentification was part of a

deliberate plan to conceal the troopers' actions.

"This was not an omission on their part, or a mistake," he said.

"This was

an intentional misrepresentation as to the racial characteristics of the individuals they stopped."

When asked whether the troopers were acting to cover up racial profiling, Gerrow said, "That would be a good way to characterize it."

Verniero's nomination to the State Supreme Court has faced opposition

from civil rights leaders and legal experts who argue that he has been

slow to respond to discrimination charges against the state police.

But by charging the two troopers yesterday, the administration of Gov.

Christine Todd Whitman signaled that it is inching toward an admission

that its troopers have engaged in racial profiling to curb drug trafficking.

"The practices alleged are of particular concern because they may evidence conduct consistent with racial profiling," Verniero said.

The announcement of the indictments today came as the clamor over racial profiling escalated. The Black and Latino Caucus of the

State

Legislature is to hold its next public hearing on Tuesday in Newark, and

at least a dozen motorists and former troopers are expected to testify

about discrimination. On Friday, civil rights leaders have

scheduled a march to commemorate the one-year anniversary of the shooting involving Troopers Kenna and Hogan.

This week the Attorney General is also expected to release the preliminary findings of his review of the state police, and, according to two state officials, he may also announce that he is dropping his appeal of a 1996 Gloucester County judge's ruling that the state police had engaged in racial profiling.

But Verniero dismissed the suggestion that the timing of the announcement was politically motivated.

"Absolutely not," he said at a news conference. "And I'm not going to dignify that with further comment.

Governor Whitman did not attend today's press briefing or issue a public statement.

For decades, black and Latino motorists have complained that state troopers have subjected them to traffic stops and illegal searches for no reason other than the color of their skin. The allegations received more attention last April, when Troopers Kenna and Hogan fired at three unarmed men, two black and one Hispanic, during a traffic stop and wounded them 11 times. The officers said at the time that they shot in self-defense because the van was backing toward them. Their lawyer, Robert Galantucci, did not return repeated calls for comment today.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-APR-1999 17:08:20.00

SUBJECT: VPOTUS and racial profiling

TO: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Loretta M. Ucelli (CN=Loretta M. Ucelli/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Ron Klain (CN=Ron Klain/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

Even though you haven't sent any memo to president re options on exec order on police brutality, apparently there's a desire (at least in some people's heads) to have vp announce when he addresses very large NAACP mtg in detroit on Sat (this is 10,000 people). We've always talked about this as a Presidential event--especially since all the pressure is on the President to be seen speaking on this issue--What's your recommendation (assuming of course that this is actually resolved before Friday)?

----- Forwarded by Maria Echaveste/WHO/EOP on 04/20/99
05:02 PM -----

"Christopher F. Edley, Jr." <edley @ law.harvard.edu>
04/20/99 01:29:35 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP, "Eli_G._Attie@ovp.eop.gov" <Eli_G._Attie @ ovp.eop.gov>

cc:

Subject: VPOTUS and racial profiling

1. Bradley is giving a race speech today, about Diallo, etc.
2. Elaine is enthusiastic about VPOTUS announcing executive order on Sunday.

Professor Christopher Edley, Jr.
Harvard Law School,
Cambridge MA 02138
(617)-495-4614; (f) 496-5156

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 17:12:59.00

SUBJECT: FL To Cut Anti Smoking \$

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Anti-smoking funds in line for deep cuts

are
Many, including GOP Gov. Jeb Bush,
worried the cuts may keep teens from
getting the anti-tobacco message.

By PETER WALLSTEN

20, 1999
. St. Petersburg Times, published April

TALLAHASSEE -- The popular anti-tobacco
campaign that
has won praise from former Surgeon
General C. Everett
Koop, President Clinton and smoking
critics nationwide is
about to be scaled back.

Republican leaders in the state
Legislature agreed late Monday
to slash the campaign's marketing budget
in half, a move the
campaign's fans and even GOP Gov. Jeb
Bush said Monday
could damage efforts to curb teen
smoking.

During this year's legislative session,
GOP leaders were
skeptical that the anti-smoking campaign
was working. But on
Monday, advocates for the campaign
charged that the
Legislature was bowing to the wishes of
the powerful tobacco
industry.

been about (the
an 18-year-old
School who helped
about politics."

the advertising
reduction from the current

overall budget --
school programs and
from this year's

asked for \$61-million,
campaign.

worried aloud Monday

he said. "You've got to
audience."

Program, the effort
Chiles with funds from
tobacco companies.

as legislators
Florida's \$48-billion budget.
the major issues,
later this week.

never had any direct or
industry on the subject. And
it has worked to derail

"This thing in the Legislature has never
campaign's) success," said Jared Perez,
student at Palm Harbor University High
design the edgy "Truth" campaign. "It's

House and Senate leaders agreed to give
campaign \$12-million -- a drastic
year's \$26.6-million budget.

Lawmakers want to cut the pilot program's
which includes local youth partnerships,
enforcement against underage smoking --
\$70-million total to \$45-million.

Bush and the program's supporters had
with \$22-million going for the Truth

If the ad campaign is cut in half, Bush
that teens might not get the message.

"It like running a political campaign,"
make sure your message hits the

Formally called the Anti-Tobacco Pilot
was created last year by Gov. Lawton
Florida's \$13.1-billion settlement with

The agreement on the tobacco program came
wound down their negotiations on
While the House and Senate have agreed on
the fine print will not be known until

House and Senate leaders insist they
indirect contact with the tobacco
the industry has denied accusations that

and Sen. Locke Burt,
criticism.

we've done a good job
Pruitt said.

of controversy in

proposed budget,
anti-smoking

and irritated some
approach.

Florida Youth Tobacco
campaign could have been
teen smoking over the

administration fired the
to question the
funding.

made the change
shift away from
cessation

of the attorneys
industry.

reneged on a
Thrasher's alma

the Truth campaign.

State Rep. Ken Pruitt, R-Port St. Lucie,
R-Ormond Beach, were not deterred by the

"If nobody's happy, that usually means
spending the people's money wisely,"

The Truth campaign has been at the center
the Capitol for weeks.

When the state House announced its first
which included no money for the campaign,
advocates were outraged.

A group of teens protested in the Capitol
legislative leaders with their aggressive

At the same time, the results of the
Survey were released, showing the
responsible for a dramatic decline in
past year.

The plot thickened when the Bush
program's director, prompting Democrats
governor's true commitment to its

State Health Secretary Bob Brooks said he
because he wanted the pilot program to
marketing and more toward education and
programs.

The GOP position also drew fire from one
who represented the state against the

Wayne Hogan, a lawyer from Jacksonville,
\$2-million donation to House Speaker John
mater, Florida State University, after he

read that Thrasher
campaign and shift

Washington-based Campaign for
about 75 percent
campaign, and that the
Republicans.

Steeper, is a prominent
presidential
George W. Bush.

hard to convince the
recognized as the best
DeVitto, a lobbyist for the

wanted to eliminate the anti-smoking
money to medical programs at FSU.

Amid all the activity, the
Tobacco-Free Kids released a poll showing
of Floridians support fully funding the
support holds up even among conservative

The man who conducted the poll, Fred
GOP pollster who worked for George Bush's
campaigns and now works for Texas Gov.

"It is frustrating to have to fight so
Legislature to fund a program that is
program in the country," said Ralph
American Cancer Society.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Christopher Ashley to Elena Kagan. Re: Financial Disclosure Form. (1 page)	04/20/1999	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[04/20/1999]

2009-1006-F

vz126

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 20:08:30.00

SUBJECT: Response to School Shootings

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

BR:

Here are the intial thoughts we discussed...still brainstorming...jc3

1. Initial Response Statement. Tomorrow morning before his departure (or in lieu of his previously scheduled event), the President could make a lengthier statement on the shooting; say he'd met w/Riley and Reno; spoken with the local school superintendent and Mayor; and confirm that the federal government would make available an emergency response team to assist local authorities.

2. School Resource Officers. On Thursday, the President (or the AG in her press availability) could announce that the COPS office would help local school districts hire some 600 police officers to work in schools. We could also encourage all schools and communities to apply by June 1st for the more than \$300 million that will be available under the Safe Schools, Healthy Students initiative. [NB: Both of these proposals were first announced at the White House Conference on School Safety.]

3. Safe and Drug-Free Schools Reauthorization. On Friday (or as part of the Saturday radio address, or later next week), the President could unveil the Safe and Drug-Free Schools proposal that will be included as part of the ESEA reauthorization to be unveiled later this month. The proposal formally authorizes our FEMA-like emergency response teams, requires participating schools to adopt comprehensive school safety plans, and renews the requirement that schools adopt "Zero Tolerance" policies for guns. [NB: If the President speaks or meets with Reno and Riley before then, he should insist that -- in light of the recent shooting -- they review our proposal and ensure that it adequately addresses school safety issues.]

4. Tough New Gun Legislation. Sometime next week -- and just days before the NRA convention takes place in Denver, CO (April 30 through May 2) -- the President could unveil the new firearms provisions to be included in his 21st Century Crime Bill/Initiative, including:

-- Making permanent the Brady waiting period for handgun purchases;
-- Closing the gun show loophole by applying background checks to these sales;

- Banning the continued importation of grandfathered large capacity magazines;
- Banning the possession of handguns by violent juveniles when they turn 21;
- Requiring that child safety locks be issued with every gun sold;
- Holding adults criminally responsible for allowing easy access to firearms; and
- [-- Limiting the purchase of handguns to one per month;]
- Enhancing certain gun penalties, providing for the forfeiture of guns used to commit crimes, strengthening the federal firearms licensing system and procedures, and providing for Brady background checks to purchase explosives, etc.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:20-APR-1999 20:12:16.00

SUBJECT: Public Charge Proposed Regulation summary

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Jeanne Lambrew (CN=Jeanne Lambrew/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

Here's a brief summary of the public charge proposed regulation. I believe the proposed rule gets us to where we and the advocates want us to be on the main issue (ie - receipt of Medicaid and CHIP is not a basis of public charge). We are still waiting to receive the INS field guidance - which is important since it has the effect of requiring that INS officers begin to implement the proposed rule immediately and addresses other issues. I will forward you a draft of the proposed regulation and guidance. I am coordinating comments for DPC, please let me know if you have comments.

DEFINITION OF PUBLIC CHARGE - The DOJ proposed rule defines public charge to mean - an immigrant who is likely to become "primarily dependent on government for subsistence, as demonstrated by either the receipt of (1) public cash assistance for income maintenance or (2) institutionalization for long-term care at government expense." As part of the rationale, a letter from HHS Deputy Secretary Kevin Thurm will be attached to proposed regulation. This letter received concurrence from other agencies.

PUBLIC CHARGE PROGRAMS - The DOJ proposed rule lists the programs upon which a public charge determination may be made - SSI, cash TANF, and state or local cash assistance programs for income maintenance. The only exception is "institutionalization for long-term care at government expense." In addition, the proposed rule provides examples of programs that will NOT be considered in a public charge analysis such as Medicaid, CHIP, emergency medical assistance, Food Stamps, WIC, etc. and similar state and local non-cash benefits.

ADMISSION AND ADJUSTMENT OF STATUS - Under current law, an officer will apply a "totality of the circumstances" test to determine if an immigrant is likely (admission) or has become a public charge (adjustment of status). The factors that must be considered are - age, health, family status, assets, resources, education and skills . Under the proposed regulation, an immigrant is inadmissible or ineligible to adjust their status if after considerations of the factors listed above, the existence of a binding affidavit of support, and other relevant factors, the officer believes the immigrant will become "primarily dependent on government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense". However, no single factor will be controlling not even the past or current receipt of public benefits.

DEPORTABILITY - the proposed rule also clarifies the conditions that must be met to deport an immigrant as a public charge. Based on a 1948 case, Matter of B, the court found to make a finding of public charge deportability, the INS must prove that an immigrant or their sponsor has failed to repay a legal demand for repayment of benefits that were received within the initial 5 years the immigrant entered the country. However, if the immigrant can show that receipt of the benefit was a result of a condition that arose after admission into the country, he/she will not be deportable on public charge grounds. Few immigrants have been found deportable under Matter of B test since there were no binding affidavits of support until welfare reform and therefore no legal obligation to repay benefits. With the creation of binding affidavit of support that establishes such a legal obligation for repayment, DOJ has determined that the Matter of B case is now relevant to the determine public charge deportability. However, the proposed rule limits the application of the Matter of B test to receipt of cash benefits for income maintenance and long-term institutionalization at government expense.