GE: accountability

COMPARISON CHART ON TITLE I ACCOUNTABILITY

BUSH PROPOSAL	CURRENT LAW	CLINTON ESEA PROPOSAL
State Tests Title I schools are required to test students on academic basics every year. Tests chosen and administered by the state.	State Assessments Requires that, by 2001, all States have final State assessment systems in place to measure the performance of students in Title I schools against the State's standards.	State Assessments No change.
Clear expectation that State tests should measure progress on State standards, but no specifics offered. No definition of what subjects are included in "academic basics."	Specifies that State assessments be designed to assess students' performance in mastering complex skills and challenging subject matter and be administered in at least reading and mathematics at some time during grades 3-5, 6-9, and 10-12.	No change.
Silent on testing of LEP students although much of his rhetoric was about closing the achievement gap. In addition, Texas is making strides on developing and implementing assessments in Spanish, as well as a clearly defined policy on including LEP students in State assessments. Specifics on Texas: TX recently developed a Spanish version of the State assessment (TAAS) in reading and math for grades 3-6 and writing for grade 4. LEP students must fall into one of the following categories: 1) students can be exempted and given an alternative assessment on the state approved list 2) student given Spanish version of TAAS 3) or given English version of TAAS	Requires States to assess limited English proficient (LEP) children, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what these students know and can do.	Adds requirements that: (1) in content areas other than English, Spanish-speaking LEP children be assessed with tests written in Spanish (if the tests are likely to produce more accurate results than English-language tests), and (2) all students who have attended U.S. schools for three or more consecutive years be assessed in reading and language arts using tests written in English.

Rewarding Performance If a Title I school improves its test scores thus demonstrating that it is making progress toward the state standard, a school will be rewarded with a grant and special recognition. No specifics on whether the Title I school has to previously have been a low-performing school . States that make the greatest progress in closing the gap between high- and low-poverty students and schools within each state that make the greatest gains in moving Title I students toward the state standards will be rewarded through an "Achievement in Education" bonus fund.	Rewarding Performance States designate schools as distinguished if the school has demonstrated that it has exceeded the State's definition of adequate yearly progress for three consecutive years. States can urge these schools to act as models and mentors for other Title I schools and can reward them with additional funds.	Rewarding Performance States must set criteria to designate Title I schools and school districts as "Distinguished Schools" and "Distinguished School Districts." Criteria could include: if the schools make continuos and substantial gains in student performance on the state assessments for three consecutive years, have nearly all their students meet the State proficient or advanced levels on the state assessment, or the Title I school improves equity in participation and achievement. Secretary will reward those States that demonstrate significant statewide achievement gains in core subjects for three consecutive years, is closing the gap between low- and high-performing students, and has in place strategies for continuous improvement, including improvement in reducing the practices of social promotion and retention. Rewards could include: giving competitive priority to States for competitions in ESEA, providing State with increased flexibility, or providing bonus funds to State.

Fixing Failing Schools

Key programs that relate to fixing failing schools

	2000		2001			
	Proposed	Enacted	Agency Request	Passback	Appeal	
Title I	7,996	7,941	8,800	8,194	8,507	
Title II	1,206	1,206	1,700	503	1,473	
After-School	600	454	1,000	525	700	
Class Size	1,400	1,300	1,700	1,500	1,500	
CSRD	150	170	200	170	170	
Reading Excell.		286	260	386	286	286
S&E	386	383	427	383	427	

Proposal: Work with ED to implement an action strategy to ensure that Federal funds are used effectively by States and districts to turn around failing schools. Some programs related to fixing failing schools would receive additional program funds, above the passback level, if ED agrees to implement a feasible but aggressive school improvement plan.

Background: A number of ED programs support the goal of improving achievement of disadvantaged students, specifically Title I, Reading Excellence, Class Size Reduction, after-school programs, special education, bilingual education, and Comprehensive School Reform Demonstrations. ED's strategy for turning around failing schools has been to produce an idea book, develop guidance, and provide additional funds for accountability efforts. By focusing on a clear goal, in particular one that is the foundation for most other learning, the Administration can leave a legacy that is defined in results, not dollars, while also developing better methods of improving program effectiveness through a more strategic use of ED's resources.

A great deal of groundwork on accountability issues has been laid, but much more needs to be done. All States are required to develop systems for identifying schools in need of improvement, and are supposed to provide assistance to help them turn around. The $134 million accountability set-aside in Title I supports these efforts at the school district level. However, most schools currently identified for school improvement report that they have not received assistance, and many States will have difficulty meeting the FY 2000 deadline for having final student assessment tied to high standards in place.

Action Components

Any implementation initiative would need to be developed collegially with ED. However possibilities for action might include the following components. Unless otherwise noted, these actions could be taken without amending statutory language.

For All States:

- Negotiate State-by-State **goals for turning around failing schools** so that by a date certain, all schools in school improvement will either improve or be closed. These goals must include achievement goals for population subgroups, and State plans must address how each of the targeted programs will contribute to meeting these goals. By seeking to improve failing schools, the initiative would support the work of the Hispanic Education Action Plan and its goal of improving educational outcomes for Hispanic students. The State goals should be benchmarked against the top performing States on NAEP reading and math tests, based on both State averages and scores of subpopulations. This could be accomplished by either amending the consolidated application provision in ESEA, or by issuing guidance on the program application provisions.

- Work with every State on establishing its **data collection system** and on using data to implement policy. A great deal of groundwork has already been laid in this area and it is an area in which ED has expertise. ED has identified data collection and the use of data to improve schools as a high priority. ED is developing a system to access State data if State systems are compatible. Connecticut, the State with the highest NAEP reading scores and a conscious strategy for improving them, has used data to inform policy decisions as a key strategy in its dramatic reading improvement over the past six years. In addition, 36 States already produce report cards, one of the key forms of using data to monitor performance and improve instruction, and all States would be required to produce them under the Administration's ESEA proposal.

- Set high-visibility, **national goals for turning around failing schools** and issue public statements when key milestones are met. Or, implement a **national report card**, similar to the one required of States in Title XI of the ESEA proposal, but include factors addressing accountability systems.

For Low-Performing States:

If in any year a State does not meet its negotiated targets, ED would play a more intensive role in program improvement. In particular, ED would address how the States uses its proposed 2.5% Title I accountability set-aside, and possibly take away some State discretion in its choice of improvement strategies. The trigger for Federal involvement would be based on objective data and be somewhat automatic to shield ED from accusations of unnecessary intervention at the State level. Currently, there are eight States with a very high portion of Title I schools that are low performing (over 30%); these might be the type of States that require increased attention.

If identified as needing improvement, States could receive assistance or interventions in several ways:

- States making little progress in turning around failing schools could be partnered with high-performing States, which would receive a small grant to provide on-going technical assistance on policies and strategies for school improvement.

- ED could provide a peer review team to re-evaluate State accountability plans, goals and timelines, and help low-performing States work with districts to develop a strategy for implementing programs that research shows work.

- If after one to two years satisfactory improvement is not made, ED could make a portion of State administrative funds contingent upon the State adopting strategies for improving low-performing schools from one of the high-performing States, or other research-based strategies.

<u>ED's Internal Systems</u>

ED could take a number of actions internally to improve implementation:

- Link ED's data systems to State data systems. ED is currently working on a data collection system to improve GRPA reporting. ED should work with States to ensure that it can be linked to State systems.

- Develop an analysis of where each State stands on its establishment of the components of an accountability system including standards, tests, and support for research-based programs, in order to tailor technical assistance to the needs of each State.

- Increase integrated monitoring for low-performing States. ED has instituted a monitoring system in which teams comprised of representatives from each major program office work with regional groupings of 6-8 States and complete site visits to each of those States every three years. The site visits could be redesigned so that low-performing States are visited every year; with ED and the partner States alternating in conducting the reviews.

- Identify specialists within each regional team to work on a more consistent basis with low-performing States and their partner States. Train those specialists in utilizing data to improve performance.

- Develop a strategy for training and enhancing State Title I school support teams. Each State has established a team of distinguished educators that provides technical assistance to low-performing schools. These teams provide a crucial network of practitioners whose work will be supported by the State accountability set-aside. ED should play a role in training these teams, and possibly expanding their membership, to ensure the teams are capable of helping low-achieving schools use data for program improvement and implement proven reading strategies.

Dissemination

- Produce practical, analytical profiles of the most effective State strategies for turning around low-performing schools. The National Education Goals Panel recently released such a report on the impressive reading gains in Connecticut, including the State and district policies and approaches that led to improvements, which could easily be used by other States to replicate effective practices.

- The technical assistance provisions in the ESEA reauthorization proposal provide States and districts with the most students in poverty the ability to purchase technical assistance from providers of their choosing. ED should play an aggressive role in identifying high quality technical assistance services and providers for turning around low-achieving schools, possibly providing States and districts an accepted menu of providers who meet a high standard of effectiveness.

Enforcement

- ED would include the details of its strategy in its GPRA plan to be made public in March and, in general, be held accountable for implementing the components of its fixing failing schools plan through reports to Congress, the White House, and the public.

Budget Implications

Option 1: Tie increases in base programs to an aggressive ED implementation plan

At the settlement level, provide additional funds to key base programs if ED agrees to an aggressive and comprehensive accountability implementation strategy that is at least as strong as the components described in this paper. If ED devises and commits to such a plan, then the Budget would provide the following above the guidance level:

Base Program Increases:

- **+$XXX increase for Title I**

- **+$XXX increase for Title II**

- **$XXX increase for 21st Century Community Learning Centers**, and set competitive priorities in this program so that funds help turn around failing schools.

- **$XXX small increase in S&E** for 1) grants to high performance States for partnering efforts; 2) implementation of ED's integrated performance and benchmarking data bank and its work with States on their data systems; and 3) a slight increase for other staffing needs to implement this plan.

Option 2: Create an incentive program for the States

The implementation proposal could be strengthened further if there were a financial incentive for States to set and achieve accountability and school improvement goals. One type of incentive would be to make some portion of new funds in Title I (and possibly Title II) above the prior appropriations year, or all of the State's portion of the Title I accountability set-aside (30% of the total), contingent upon a State implementing its accountability system and meeting its goals for turning around failing schools.

Alternatively, new funds could be provided to States under Title XI of the ESEA reauthorization proposal to support the implementation of accountability systems at the State and local levels.

To: Jennifer Kron
From: JB Buxton
Re: Test Prep for Low-income kids
Date: December 29, 1999

As requested, here's an overview of the Test Prep initiative:

Free SAT/ACT Preparation for Low-Income Students

This program will provide competitive grants to local education agencies or high schools to offer free test preparation services to low-income students for the Scholastic Assessment Test (SAT) and the American College Test (ACT). Schools or districts are expected to partner with test preparation companies or community-based organizations with proven track records, established curriculum, and a sustained and rigorous preparation program. Courses will be delivered on-site and on-line. Students in the top 50% of their class who fall under 200% of the poverty line will be eligible for services. A competitive priority will be given to schools that couple test preparation with other relevant services such as college counseling, application assistance, and financial aid counseling.

If you need more in the way of program description, some other elements under consideration include:

- Grants will be given to schools with a high level of poverty, low college attendance rates, and demonstrated school-based efforts to improve the school's college preparatory curriculum and college attendance rates.
- Programs will have to offer a minimum of 25 hours of instruction over no less than 4 weeks to ensure rigor and quality and discourage one-time preparation activities.
- Programs would be provided up to $400 per student, half the cost of a commercial test program and the full cost of an on-line course. Partnerships would be expected to provide the balance of the funds needed to support the program and offer the services. Students could be charged no more than $5 for participation in the program.

Funding

The Test Prep program is going to be part of the High School Reform Program, which has a price tag of $120 million. That includes the Small Schools money. I think that is also meant to include some small grants to states that ED wants to do—I am not sure as they haven't given us any details for us to look at yet. That said, as I understand it, we have $10 million out of that package being earmarked for Test Prep programs.

Below is some potential appropriations language, Let me know if it works or if you need something more comprehensive or if I have the 'format" wrong. As for authorization language, I am inclined to wait to send something until we have more details fleshed out on the small schools piece of the High School Reform package. If you need authorization language for just test prep, let me know and I can put something together.

Appropriations:

For carrying out the High School Reform Program, $120,000,000 shall be made available to the Department of Education. *Provided,* that $10,000,000 is used to fund competitive grants to local educational agencies or high schools, in partnership with test preparation organizations with proven track records, to offer free SAT/ACT preparation services for eligible low-income students: *Provided further*, that $_________ is used to fund competitive grants to school districts that submit a plan to create smaller learning environments for their students, including breaking up larger schools using strategies such as creating schools-within-schools, establishing career academies, restructuring the school day and other innovations. (There may be other ED programs that go here.)

October 5, 1999

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Andrew Rotherham

SUBJECT: Education Accountability Strategy

While most of our education reform agenda will be bound up with ESEA reauthorization next year, we should press for accountability measures as part of this year's appropriations as well. This memo lays out our accountability agenda and outlines our options for injecting it into the budget debate.

I. Overview

In the State of the Union, the President proposed an Education Accountability Act (which we sent Congress in May as part of our omnibus ESEA bill) conditioning federal education assistance to states and school districts on five basic steps:

1. **Turning around failing schools** by setting aside 2.5 percent of each state's Title I allocation for an accountability fund to intervene in and turn around or close failing schools. The President's FY2000 budget request includes $200 million in Title I for this accountability fund.

2. **Improving teacher quality** by ending the practice of hiring emergency certified teachers and out-of-field teaching. Our proposal would require that within four years at least 95 percent of a state's teachers must be fully certified or working toward certification through an alternative route. States would also have to ensure that at least 95 percent of secondary school teachers have academic training or demonstrated competence in the field they teach.

3. **Increasing public accountability through school report cards** by requiring states, school districts, and schools to furnish parents with school report cards that include information on student achievement (disaggregated where appropriate), teacher qualifications, class size, and school safety.

4. **Ending social promotion and grade retention** within 4 years by ensuring that states hold students accountable for subject mastery at key transition points, including high school graduation. States would be required to provide educational supports to ensure students meet challenging academic standards.

5. **Improving school discipline** by requiring that states hold school districts accountable for implementing sound discipline policies.

II. Accountability and Appropriations

Most of these elements will be difficult to achieve through the appropriations process, for three reasons. First, the Republican leadership dislikes our accountability agenda perhaps even more than our spending programs. Their approach to education policy is based on block grants, local flexibility, and a smaller federal role. Second, Republicans will be under even more pressure than usual not to authorize on appropriations, given how angry authorizers were that we got class size that way last year. This year, the leadership has the additional excuse that Goodling and Jeffords are in the midst of reauthorizing ESEA. Finally, our traditional allies in this budget battle – Hill Democrats and the education groups – support some elements of our accountability agenda, but not with our level of enthusiasm.

Nevertheless, we can and should press our case in a few areas:

1. Accountability Fund for Failing Schools: The most important element of our accountability agenda – and perhaps the only one with any realistic chance of being enacted as part of this year's appropriations – is our fund to turn around failing schools. In theory, our accountability fund for Title I should win bipartisan acceptance, because (1) virtually everyone across the spectrum – from George W. Bush in Texas to Jim Hunt in North Carolina to the civil rights community – agrees that we should target failing schools; (2) we're earmarking new money, not changing existing formulas; and (3) even Congressional Republicans concede that the federal government has a right to expect accountability in Title I schools. But so far, neither House nor Senate version of the Labor/HHS bill includes our set-aside for accountability. The House bill funds Title I at last year's level; the Senate bill includes a $320 million increase (compared to a $264 million increase in our budget), but does not earmark any of that money for accountability.

When the Senate resumes debate on Labor/HHS this week, Senators Bingaman, Reed, and Kerry will offer an amendment to set aside $200 million for this purpose. (For parliamentary reasons, the Bingaman-Reed-Kerry amendment will incorporate corrective action provisions from current Title I law rather than our ESEA proposal, but will otherwise mirror our failing schools provision.) We should press this issue with the Democratic leadership, and make it a high priority in any negotiations on Labor/HHS. The President highlighted the absence of this provision in his statement on both the House and Senate bills, and every time we talk about education, we should continue to make this clear linkage between more investment and more accountability.

2. Class Size and Teacher Quality. Last fall, Republicans voted for (and campaigned on) our class size proposal, but this year their objective is to kill it. Their line of attack has generally been that we focus on class size to the exclusion of teacher quality. The House Labor/HHS bill consolidates the class size initiative into the Teacher

Empowerment Act, which we pledged to veto. The Senate bill includes $1.2 billion ($200 million below our request) for a block grant. Both the House and Senate bills make even that funding contingent on authorization, which they know will never happen.

We should continue to stand firm for the core elements that distinguish our approach from the Republicans' block grant: making sure the money actually leads to class size reduction in the early grades; preserving a separate revenue stream for this purpose, and targeting high-poverty schools. George Miller made a good case to us today that if we end up in negotiations on Labor/HHS, we should press for stronger teacher quality provisions as well. His argument is that House Republicans already included his teacher quality package as part of their Teacher Empowerment Act, and will be hard-pressed to object if we raise it. As a matter of policy, Republicans may not like that deal: Miller's provisions are more prescriptive than ours, and would require <u>all</u> teachers to be certified, not 95% -- a goal few states could meet. But Miller is right that after months of using the teacher quality argument to criticize class size, some Republicans like Goodling may have come to regard it as <u>their</u> issue, and might view some provisions in this area as a partial victory. We will continue to pursue this strategy with Miller.

3. After-School and Ending Social Promotion: When the President announced that his budget would triple spending for after-school, he called on Congress to give priority to communities that are ending social promotion and are using after-school and summer school programs to end it the right way. We have already criticized both House and Senate bills for underfunding after-school: the House increases it by $100 million, the Senate by $200 million (we called for a $400 million increase). We could also try to get language authorizing Education to give some kind of priority for communities that end social promotion. While this makes great sense from a policy standpoint, we will have to overcome opposition not only from those who oppose our position on social promotion, but also from the child care community and from Jeffords, who created the after-school grant program.

file: accountability

COUNCIL OF CHIEF STATE SCHOOL OFFICERS

One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431 • 202/408-5505 • FAX 202/408-8072
http://www.ccsso.org

OFFICE OF FEDERAL-STATE RELATIONS
COUNCIL OF CHIEF STATE SCHOOL OFFICERS
ONE MASSACHUSETTS AVE, NW, SUITE 700
WASHINGTON, DC 20001
TELEPHONE: (202) 336-7009
FAX: (202) 408-8072
WWW.CCSSO.ORG

FACISMILE TRANSMITTAL SHEET

Attention: Mike Cohen
Ann O'Leary

From: Carnie Hayes

Company:

Date: 1/13

Facsimile: 456-2828
205-0303

Pages: 4
(including cover)

CCSSO letter on Title I accountability

COUNCIL OF CHIEF STATE SCHOOL OFFICERS

One Massachusetts Avenue, NW, Suite 700, Washington, DC 20001-1431 • 202/408-5505 • FAX 202/408-8072
http://www.ccsso.org

January 13, 2000

Michael Cohen
Assistant Secretary of Elementary and Secondary Education
United States Department of Education
400 Maryland Avenue, S.W., Room 3W315
Washington, DC 20202

Dear Assistant Secretary Cohen:

On behalf of the nation's state commissioners and superintendents of elementary and secondary education, I write to provide our views on the guidance you and your staff are developing for implementation of the Title I school improvement provision included in the FY2000 Labor-HHS-Education Appropriations bill recently signed into law. The provision would allocate $134 million through SEAs to LEAs to carry out Section 1116(c) of ESEA.

The Council has long supported efforts to identify and assist schools in need of improvement as determined by the inadequate progress of students toward meeting high state and local standards of academic achievement. To this end, we commend the Administration for requesting an increase in the state set-aside for program improvement to 2.5%, growing to 3.5%, in its ESEA reauthorization proposal. Our "First in the World" reauthorization proposal includes similar provisions. States are making substantial progress toward implementing standards-based accountability systems that both raise expectations for student success and teacher quality and hold educators responsible for meeting those goals. To assist communities in reaching these high standards, SEAs are also providing supplemental supports and resources to those students, schools, and districts that require additional assistance. This dual system of accountability and support is reflected in the Title I reauthorization proposals of both the Administration and the Council. Both reflect the view that adequate resources and supports are necessary to get the job done.

The provision earmarking $134 million in FY2000 Title I funds for program improvement addresses the need to expand systemic support for low-performing Title I schools. However, we recognize, as does the Administration, that this provision as crafted reflects the recommendations of neither the President nor the Council. It provides an investment that is neither stable nor integrated, nor which ensures a support structure adequate to address the needs and goals for which it is intended.

Thus, while the Council supports the goals, we offer a number of guidance recommendations aimed at ensuring the provision is implemented in a manner that conforms with and enhances current efforts, does not distract from the ultimate goals of school improvement, and creates an appropriate transition to expansion of the state set-aside as proposed by the Administration and our Council.

Allocations. While the provision is silent on the question of how funds are to be allocated to LEAs, we understand your intentions are to allow SEAS to target funds proportionately based on local need. We support the provisions of current law targeting services under the existent program improvement set-aside to those schools farthest from meeting state standards. We urge that priorities and/or criteria be included in the guidance to provide SEAs with adequate flexibility to address the unique needs of each state and local district. The guidance for the allocations to LEAs should include such factors as the number of schools in need of improvement, the number of students affected, the degree of low performance (i.e., corrective action or school improvement status), the capacity of LEAs, the need for the allocation to be of sufficient scale to have an impact, and the availability and use of existent support for program improvement. We also suggest that LEAs be provided similar flexibility and criteria in order to best address the unique needs of their low-performing schools.

Coordination. We further urge that SEAs be provided the flexibility to most effectively leverage and coordinate these additional resources with the existing supports assisted through the 0.5% state set-aside for school improvement. For example, receipt of funds should remain contingent upon an SEA-approved district improvement plan in order to ensure accountability for the effective use of the new funds. In addition, the new funds should be made available for use under the existing system of state support authorized through Sections 1116 and 1117. States are currently providing supplemental resources and technical assistance directly to local districts and schools, and LEAs and schools should have the option to use these new funds to expand current SEA-supported efforts, such as school support teams, which have proven effective. To simplify and enhance coordination with these ongoing supports, LEAs should have the option of receiving all or part of their allocation directly in the form of SEA services. Inadequate success in SEA program improvement support comes most often from lack of resources rather than from poor system design. This additional $134 million in federal funds should be used to expand services to more schools and students, not reinvent the system.

Use of Funds. The appropriations bill also includes a provision requiring LEAs to provide public school choice to students attending schools identified as needing improvement within the constraints of its capacity, as well as state and local law. We urge you to provide guidance that does not encourage LEAs to use these new resources solely for student transportation and other costs of public school choice, but rather clarifies that funds are intended to allow LEAs to meet their needs by choosing from all options available under Section 1116(c) for school improvement and corrective action, including technical assistance, professional development, reconstitution, and public school choice. Similarly, we urge you to provide guidance allowing SEAs and LEAs to broadly interpret the school choice option so as to both count existing policies such as open enrollment as meeting the requirements and to prevent situations which are logistically and administratively cumbersome, costly and ultimately unfeasible, and which divert community attention and resources from the goal of improving rather than abandoning low-performing public schools. The Council urges guidance that encourages the infusion of additional resources and energies into improving low-performing schools, rather than encourages abandonment of such schools.

Thank you for your attention to our recommendations. Please contact me or Carnie Hayes at (202) 336-7009 if we can provide any further assistance.

Sincerely,

Gordon M. Ambach
Executive Director

File: accountability

GUIDANCE ON $134 MILLION FY 2000 APPROPRIATION FOR SCHOOL IMPROVEMENT

A. TITLE I SCHOOL IMPROVEMENT REQUIREMENTS

B. ALLOCATION OF FUNDS FROM THE DEPARTMENT TO STATES

- By Title I formula
- State application to ED
- State may not keep any of the funds (100% to LEAs)

C. ALLOCATION OF FUNDS FROM STATES TO LOCAL EDUCATIONAL AGENCIES

- Eligibility
- Targeting, concentration, and priorities
- LEA application to State

D. PUBLIC SCHOOL CHOICE

- Purpose
- Which LEAs must implement choice?
- Timing of implementation, continuation
- Range of choice LEA must offer
- Federal civil rights law
- "Lack of capacity"
- "Equitable basis"
- "Consistent with State and local law"; effect of existing open enrollment or choice plans

E. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES AND SCHOOLS

- Transportation costs
- Administrative costs
- Where should the money go? School improvement vs. choice
- Who controls the money? LEAs vs. schools
- "Supplement not supplant"
- Dollars don't follow child

GUIDANCE ON $134 MILLION FY 2000 APPROPRIATION FOR SCHOOL IMPROVEMENT

In November 1999, as part of the FY 2000 appropriation for Title I of the Elementary and Secondary Education Act, Congress enacted provisions targeting $134 million to local educational agencies for the purpose of carrying out their school improvement and corrective action responsibilities under section 1116(c) of Title I. The appropriations statute provides:

- That "$134 million shall be allocated among the States in the same proportion as funds are allocated among the States under section 1122, to carry out section 1116(c)";

- That "100 percent of these funds shall be allocated to local educational agencies for the purposes of carrying out section 1116(c) and that local educational agencies shall provide all students enrolled in a school identified under section 1116(c) with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under section 1116(c)"; and

- That "if the local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency lacks the capacity to provide all students with the option to transfer to another public school, and after giving notice to the parents of children affected that it is not possible, consistent with State and local law, to accommodate the transfer request of every student, the local educational agency shall permit as many students as possible (who shall be selected by the local educational agency on an equitable basis) to transfer to a public school that has not been identified for school improvement under section 1116(c)."

The purpose of this guidance is to clarify for State education officials, local school boards, superintendents, and principals the process and criteria by which the U.S. Department of Education will and the States may allocate the new school improvement funds, the permissible uses of these funds, and the nature and scope of local educational agencies' obligation to implement public school choice. The guidance in this document does not impose any requirements beyond those specified by the FY 2000 appropriations statute or by other applicable Federal statutes or regulations. While State and local educational agencies are free to develop alternative approaches to complying with the appropriations statute and other Federal laws, Department officials, including the Inspector General, will consider State and local recipients that follow this guidance to be in compliance.

INTRODUCTION

help turn around

The FY 2000 appropriations statute responds to the pressing need to improve educational opportunities for students in low-performing schools. By providing new money for local educational agencies to ~~intervene in~~ low-performing schools while offering students in those schools the opportunity to transfer to better schools, the appropriations statute reflects Congress's recognition that substantial resources are needed to turn around low-performing schools and that, where possible, students should have the opportunity to attend a better public school right away. Consistent with the statute, the Department expects local educational agencies receiving these funds to implement school improvement activities and public school choice concurrently, so that all students—both those who transfer out of schools identified for improvement and those who remain—learn to high academic standards.

Specifically, the appropriations statute states that the $134 million Title I set-aside must be used by local educational agencies "for the purposes of carrying out section 1116(c)." Section 1116(c) establishes the basic framework through which States and local educational agencies work collaboratively to bring about improvement in low-performing schools. It requires local educational agencies to fulfill a number of responsibilities, including identifying for improvement schools that fail to make adequate progress for two consecutive years, providing technical assistance to help schools develop and implement improvement plans, and taking corrective action to improve schools that fail to make adequate progress for three consecutive years following identification for improvement.

What does it say about the States' Role in the collaboration?

Should we go here

While the FY 2000 appropriation provides local educational agencies with Title I funds specifically for carrying out section 1116(c), it is important to note that local educational agencies are responsible for carrying out section 1116(c) independently of the FY 2000 appropriation. Indeed, section 1003(a) of Title I allows States to devote up to half a percent of Title I funds (and, in any event, not less than $200,000) to various school improvement activities, including helping local educational agencies take corrective actions to turn around chronically low-performing schools. Moreover, local educational agencies may use any portion of their regular Title I allocation to identify, assist, and turn around low-performing schools. The $134 million FY 2000 set-aside supplements these as well as other non-Federal funds for school improvement, enhancing the capacity of local educational agencies to carry out their existing section 1116(c) obligations.

The infusion of new school improvement funds is both timely and important. Because low-performing schools are often located in high-poverty communities with inadequate financial and human resources to plan and implement necessary reforms, States and school districts must provide the critical impetus and support for change. Currently, however, States and school districts cannot help all schools that need it. Although local educational agencies identified nearly 8,000 schools for improvement under Title I in 1997-98, only 47 percent of schools reporting that they had been identified for improvement also reported that they had received additional professional development or technical assistance as a result. The new school improvement funds will enable local educational agencies to better fulfill their responsibility to turn around low-performing schools.

The appropriations statute also requires local educational agencies receiving these funds to provide students in schools identified for improvement with an option to transfer to another public school within the agency that is not identified for improvement. If a local educational agency can demonstrate to its State educational agency that it lacks the capacity to provide a transfer option to all students at schools identified for improvement, then the local educational agency must provide transfer opportunities to as many students as possible, selected on an equitable basis. Thoughtfully designed and carefully implemented, public school choice can provide students in low-performing schools with better educational opportunities and can increase parental involvement in education. The contours of the statute's public school choice requirement are discussed in greater detail below.

This guidance consists of questions and answers organized under five headings:

A. **Title I School Improvement Requirements**

B. **Allocation of Funds from the Department to States**

C. **Allocation of Funds from States to Local Educational Agencies**

D. **Public School Choice**

E. **Uses of Funds by Local Educational Agencies and Schools**

The guidance also contains several appendices, including helpful resources on turning around low-performing schools.

* * * *

A. TITLE I SCHOOL IMPROVEMENT REQUIREMENTS

A1. Under Title I, what are a local educational agency's school improvement responsibilities?

Title I establishes an accountability framework designed to promote school and district accountability for student performance. The framework consists of challenging State academic content standards, student performance standards, aligned assessments used to measure the progress of schools toward enabling students to meet State standards, and a system for rewarding successful schools and districts as well as identifying and intervening in schools and districts that continually fail to make adequate progress.

Section 1116(c) describes local educational agencies' responsibilities for identifying schools for improvement or corrective action, and for pursuing appropriate interventions.

Appendix A contains the full text of section 1116(c). Its key provisions are the following:

- Each local educational agency receiving Title I funds must review annually the progress of each Title I school to determine whether the school is making adequate progress toward enabling its students to meet State standards.
- Each local educational agency must identify for improvement schools that are not making adequate progress for two consecutive years.
- A school that has been identified for improvement must:
  - develop or revise its school plan;
  - submit the new or revised plan to the local educational agency for approval; and
  - devote, over two consecutive years, an amount equivalent to 10 percent of its annual Title I allocation to professional development, or otherwise demonstrate that the school is effectively carrying out professional development activities.
- Each local educational agency must make available technical or other assistance to identified schools as they develop and implement their new or revised plans.
- After providing technical assistance and taking other remediation measures, a local educational agency may, at any time, take corrective action to turn around a school identified for improvement.
- A local educational agency must take corrective action to improve schools that fail to make adequate progress after the third year following identification for improvement.

A2. Do the school improvement responsibilities under section 1116(c) apply to local educational agencies that receive none of the new school improvement funds?

Yes. Local educational agencies are responsible for carrying out section 1116(c) regardless of whether they receive new school improvement funds.

A3. What factors should schools and local educational agencies take into account in developing or reviewing school improvement plans?

A school identified for improvement must develop or revise its school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards. The plan must be developed in consultation with parents, the local educational agency, and any school support team established by the State under section 1117(c)(1) of Title I that is assisting the school. The new or revised plan must be submitted to the local educational agency for approval.

Planning for school improvement is a systemic and collaborative process that involves developing a new or refined vision of educational excellence, as well as setting priorities and aligning school operations and all available resources to implement that vision. School and district staff, parents, and community members together should review data on student performance in relation to State standards, identify students' learning needs, and examine factors that affect the quality of teaching and learning, such as instructional strategies, resource allocations, professional development, and the school's governance and organizational structure. School and district staff should use the knowledge gained from such analysis to select research-based strategies that address the needs of teachers and students, with particular attention to the educational needs of low-performing students. The plan should include student performance targets and other indicators that can be used to evaluate the effectiveness of the plan and to make revisions as needed.

Resources to help schools and districts think through the planning process include *Turning Around Low-Performing Schools* (U.S. Department of Education, 1998), which provides detailed information on strategies that have improved student achievement, classroom practices, and school atmosphere in low-performing schools, as well as *Implementing Schoolwide Programs—An Ideabook on Planning* (U.S. Department of Education, 1998), which describes effective methods and useful resources for planning schoolwide programs and measuring their success. Appendix A of this guidance includes two tables, "Continuum of Evidence of Effectiveness" and "Continuum of Effectiveness for Reading Instruction or Professional Development," which pose illustrative questions that States, local educational agencies, and schools can ask to evaluate the effectiveness of school reform models as well as reading instruction and professional development programs.

Schools and districts also should consider the planning process used by schools that use Title I funds for schoolwide programs or schools that participate in the Comprehensive School Reform Demonstration (CSRD) program or Reading Excellence Act (REA) programs. Both the schoolwide and CSRD approaches take the view that school improvement must address all aspects of school effectiveness, including rigorous curriculum and high standards, efficient school governance, solid community-school partnerships, ongoing staff development, up-to-date technology, and increased parent involvement. Local educational agencies and schools that receive CSRD and REA funds should consider how these funds, in addition to Class Size Reduction funds and other Title I funds, may be used together and in coordination with other Federal, State, local, or private funds to leverage school improvement. Moreover, schools should consider having their improvement plans peer-reviewed by individuals outside the school or district, such as school support team members. The peer review process often serves as a useful mechanism for technical assistance to improve school plans.

A thoughtful and thorough planning process, including a process for gathering input from stakeholders and making revisions, is critical to turning around low-performing schools. A lengthy process, however, can delay implementation of needed changes. Districts and schools should consider limiting the initial planning period to three months.

A4. When must local educational agencies identify schools for improvement?

A local educational agency must identify for school improvement any school served under Title I that:

- has not made adequate yearly progress toward meeting the State standards for two consecutive years, unless almost every student in such school is meeting the State's advanced level of performance; or
- is failing to meet the criteria the State has adopted through its transitional accountability mechanism for two consecutive years.

A5. If a local educational agency identifies a school for improvement, and if the school believes the identification is in error, is there anything the school can do to reverse the decision?

Yes. Before identifying a school for school improvement, the local educational agency must provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification was in error for statistical or other reasons, the school may provide evidence to the local educational agency to support that belief. The local educational agency should consider such evidence before making a final decision.

A6. When must local educational agencies take corrective action to turn around schools identified for improvement?

A local educational agency must take corrective action to turn around schools that fail to make adequate progress for three years following identification for improvement. Note that a local educational agency may, after providing technical assistance and taking other remediation measures, take corrective action at any time to turn around a school identified for improvement.

A7. What are appropriate corrective actions?

Corrective actions may take many forms, consistent with State and local law. For example, a local educational agency could implement a new research-based curriculum, along with appropriate professional development, that offers substantial promise of improving educational achievement for low-performing students. Or, a local educational agency could require a school to implement a comprehensive school reform model. Other corrective actions available to a local educational agency include withholding funds or specifying their use; otherwise decreasing school-level decision-making authority; reconstituting the school staff; making alternative governance arrangements such as the creation of a public charter school; or authorizing students to transfer to other public schools served by the local educational agency.

A8. May the section 1116(c) requirements for school improvement and corrective action be waived by the Department?

The basic duties that section 1116(c) imposes on local educational agencies—i.e., to identify schools in need of improvement, to develop and implement a school improvement plan, to provide effective professional development, to provide technical assistance and other remediation measures, and to take corrective action to turn around chronically failing schools—may not be waived because they go to the very intent and purposes of Title I. Specific aspects of how these requirements are implemented, however, are waivable. For example, the Department has granted a waiver of section 1116(c)(1)(B) to allow identification of schools for school improvement on the basis of one year of data, rather than two consecutive years of data. On the other hand, the Department likely would not look favorably on a request to waive section 1116(c)(7) to permit schools to exit school improvement status on the basis of one year of achievement gains, because one-year gains are generally not sufficient to ensure that systemic improvement has occurred.

A9. May a State that has been granted Ed-Flex authority waive school improvement and corrective action requirements?

No. Title I requires the development and implementation of a Statewide accountability system based on performance against State standards as measured by the State assessment system. Section 1111 of Title I requires each State to demonstrate in its State plan the criteria it will use to identify schools and local educational agencies in need of improvement, and sections 1116 and 1117 set out requirements to ensure that such schools and local educational agencies receive sufficient assistance to improve. Ed-Flex authority does not extend to State-level requirements.

*   *   *   *

B. ALLOCATION OF SCHOOL IMPROVEMENT FUNDS FROM THE DEPARTMENT TO STATES

B1. How will the Department allocate school improvement funds to States?

The Department will allocate school improvement funds among States in the same proportion as funds are allocated among the States under sections 1124 (basic grants) and 1124A (concentration grants) of Title I.

B2. Must a State amend its consolidated or Title I application to receive school improvement funds?

Yes. Pursuant to section 76.140 of the Education Department General Administrative Regulations, the Department is requiring States to amend their State plans in order to receive school improvement funds. The amendment must describe: (1) the criteria the State will use to determine which local educational agencies, among those eligible (see Question C1), will receive funds; (2) the criteria the State will use to determine how much each local educational agency will receive; and (3) the steps the State will take to ensure that each local educational agency receiving funds implements public school choice consistent with the appropriations statute.

The Department will allocate funds to any State whose submission demonstrates: (1) that the criteria the State will use to determine which local educational agencies will receive funds and how much each will receive bear a rational relationship to carrying out section 1116(c) of Title I and are otherwise consistent with the appropriations statute; and (2) that the State will ensure that each local educational agency receiving these funds implements public school choice consistent with the appropriations statute.

B3. When will school improvement funds become available to States?

The Department expects to make allocations to States on or about July 1, 2000. States must submit their amended State plans to the Department no later than May 1, 2000 in order to receive their allocations in early July.

B4. May a State educational agency, pursuant to sections 1003(a) and 1603(c) of Title I, reserve one percent of its allocation of school improvement funds for State administration or half a percent for State-level school improvement activities?

No. According to the appropriations statute, 100 percent of the school improvement funds that a State receives must be allocated to local educational agencies in the State. This requirement overrides the authority that sections 1003(a) and 1603(c) give to States to reserve funds from the amount they receive under section 1002(a).

B5. May a State educational agency use school improvement funds to meet its obligations under section 1116(c)(6) to provide technical assistance to schools or to take corrective action in schools where a local educational agency has failed to carry out its responsibilities?

No. As noted above, 100 percent of school improvement funds must be allocated to local educational agencies. A State educational agency must use funds it has reserved under section 1003(a) for school improvement or under section 1603(c) for State administration to carry out its responsibilities under section 1116(c)(6).

B6. Will the Outlying Areas and the Bureau of Indian Affairs receive school improvement funds?

Under section 1121 of Title I, the Outlying Areas and the Bureau of Indian Affairs will receive one percent of the funds appropriated under section 1002(a), which include the $134 million set-aside for school improvement.

* * * *

C. ALLOCATION OF SCHOOL IMPROVEMENT FUNDS FROM STATES TO LOCAL EDUCATIONAL AGENCIES

C1. Which local educational agencies are eligible to receive school improvement funds?

To be eligible to receive school improvement funds, a local educational agency:

- must have one or more schools identified for improvement or corrective action under section 1116(c) of Title I; and
- must be prepared to offer public school choice consistent with the appropriations statute at the same time that it implements school improvement activities supported by the new funds (see Question D4).

A local educational agency need not itself be identified for improvement in order to receive funds. Moreover, a local educational agency that has identified all schools at a certain grade level for improvement or that has only one school at a certain grade level, and is therefore unable to allow students at that grade level to transfer to another school not identified for improvement, remains eligible to receive funds.

C2. How should a State educational agency allocate school improvement funds to eligible local educational agencies?

Although the appropriations statute does not prescribe how States must allocate school improvement funds to eligible local educational agencies, the Department strongly encourages State educational agencies to distribute funds in ways that target local educational agencies with the greatest need for assistance and that provide each recipient with an amount large enough to make a difference. States may allocate funds on a competitive or formula basis, provided that funds go only to eligible local educational agencies. Among local educational agencies with at least one school identified for improvement, States should consider priorities such as these:

- local educational agencies with schools in corrective action;
- local educational agencies with the greatest number or percentage of schools in school improvement or corrective action;
- local educational agencies with schools that have been in school improvement or corrective action for the longest period of time;
- local educational agencies with schools farthest from making adequate yearly progress; and
- local educational agencies with schools that have fared the worst on State assessments.

C3. May a State educational agency allocate school improvement funds to local educational agencies on the basis of the Title I formula?

States may not allocate these funds to all local educational agencies in the State according to the Title I formula. That formula distributes funds to local educational agencies on the basis of poverty, without regard to whether a local educational agency has identified schools for improvement. Once States have determined which local educational agencies, among those eligible, will receive school improvement funds (see Question C2), States then may allocate funds by formula to those local educational agencies. The Department strongly encourages each State, whether or not it chooses to use a formula, to target greater amounts of funds to local educational agencies with greater needs.

C4. Must a State educational agency allocate funds to every local educational agency with schools identified for improvement or corrective action?

No. Moreover, the amount of funds likely will not be sufficient for State educational agencies to provide each eligible local educational agency with enough funds to make a significant impact. In allocating funds among local educational agencies that meet Federal as well as State-created eligibility criteria, State educational agencies may take into account whether a given local educational agency is receiving other funds for school improvement activities, such as Comprehensive School Reform Demonstration program funds or funds reserved by the State under section 1003(a) of Title I. Note that regardless of whether it receives new school improvement funds, each local educational agency is still responsible for carrying out its school improvement responsibilities under section 1116(c).

C5. Is there a required minimum or maximum allocation?

No. However, the Department strongly encourages State educational agencies not to make small allocations to as many local educational agencies as possible, but rather to target local educational agencies with the greatest needs and to provide each local educational agency receiving funds with an amount sufficient to make a difference. According to the 1992 Interim Report of the National Assessment of Chapter 1 (as Title I was called between 1981 and 1994), small amounts of funds spread diffusely across many local educational agencies do not effectively leverage change.

C6. May a State educational agency require its local educational agencies to amend their local plans to explain how they will use school improvement funds?

Yes. Indeed, the Department encourages State educational agencies to require local educational agencies that seek funding to describe:

- the technical assistance they will provide under section 1116(c)(4) to schools identified for improvement;
- the corrective actions they will take under section 1116(c)(5), where appropriate; and
- the plan they will implement to offer public school choice to students in Title I schools identified for improvement.

C7. Must a State educational agency seek advice from its Committee of Practitioners regarding the criteria it will use to allocate school improvement funds?

Yes. By statute, a State's Committee of Practitioners, the majority of whom must represent local educational agencies, is designed to provide State educational agencies with a wide range of viewpoints on rules, regulations, or binding policies that will affect local educational agencies' implementation of Title I programs. The Committee is thus well-suited to provide input on a State's criteria for allocating school improvement funds.

C8. Must a State educational agency allocate all the school improvement funds it has received at one time, or may it allocate some of the funds at a later time?

School improvement funds are available for obligation by local educational agencies through September 30, 2002. Accordingly, a State educational agency has considerable flexibility as to when it allocates those funds, as long as its local educational agencies have sufficient time to obligate them before the period of availability ends.

C9. May a local educational agency refuse to accept school improvement funds?

Yes. However, the local educational agency is still responsible for carrying out its school improvement responsibilities under section 1116(c).

C10. How long are school improvement funds available for obligation?

School improvement funds are available for obligation by local educational agencies for a maximum of 27 months. They become available to the Department on July 1, 2000 and will be allocated to States on or about that date. They remain available for obligation by local educational agencies under the initial period of availability for 15 months (until September 30, 2001). Under section 421(b) of the General Education Provisions Act, any funds that remain unobligated may be carried over for obligation for an additional 12 months (until September 30, 2002).

C11. Must a local educational agency account separately for the school improvement funds?

With the exception of school improvement funds used in schoolwide program schools, a local educational agency must account for school improvement funds separately because those funds were appropriated for a specific purpose. School improvement funds used in a school operating a schoolwide program may be combined with the other Federal funds being used in the schoolwide program to carry out the school's plan. Of course, such a school would need to demonstrate that it is continuing to meet its responsibilities under section 1116(c).

* * * *

D. PUBLIC SCHOOL CHOICE

D1. What is the purpose of the public school choice requirement?

Public school choice, as required by the FY 2000 appropriations statute, offers students in low-performing schools an opportunity to attend higher-quality schools and provides parents a mechanism for holding schools accountable for helping their children learn to high standards. When all students—including students with disabilities and limited English proficient students—are provided high-quality educational options, and when all parents receive enough information to make intelligent choices among those options, public school choice can increase both equity and excellence in education.

D2. Which local educational agencies are required to implement public school choice?

Only local educational agencies that have one or more Title I schools identified for improvement and that receive funds from the $134 million FY 2000 set-aside must implement public school choice. Of course, local educational agencies that do not receive funds under the set-aside may choose to develop and implement choice programs using other Federal, State, or local funds, consistent with applicable requirements. no carryover should be mentioned here

D3. Do local educational agencies with existing choice or open enrollment policies satisfy the choice requirement in the appropriations statute?

Perhaps. Such a policy satisfies the choice requirement if it allows all students in Title I schools identified for improvement to transfer to another school within the local educational agency not identified for improvement. A policy also may satisfy the requirement if the State educational agency is satisfied that the local educational agency lacks the capacity to provide all such students an option to transfer (see Question D9), if the local educational agency notifies the students' parents that it cannot accommodate the transfer request of every student, and if the policy allows as many students as possible, selected by the local educational agency on an equitable basis, to transfer (see Question D10).

D4. If a local educational agency wants to receive new school improvement funds but does not already have in place a choice policy consistent with the appropriations statute, when must it implement such a policy?

A local educational agency receiving new school improvement funds should offer public school choice to students in Title I schools identified for improvement at the beginning of the 2000-01 school year—i.e., at the same time that it uses the new funds to implement school improvement activities. In no event may a local educational agency defer implementation of public school choice beyond the 2001-02 school year, the carryover period for obligating the new school improvement funds (see Question C10). The Department encourages States to ensure thoughtful, careful design of choice programs by requiring each local educational agency to explain, as part of its local plan amendment, how it plans to implement public school choice in a way that is fair, educationally sound, and consistent with the appropriations statute (see Question C6). Strong emphasis first year 00-01

Although the choice requirement does not extend beyond the period in which a local educational agency uses the FY 2000 school improvement funds, the Department encourages local educational agencies to pursue choice policies that ensure continuity in students' educational experiences. Moreover, States may choose to impose continuation requirements on local educational agencies as a condition of receiving the new school improvement funds. Where students have transferred from one school to another under a choice policy implemented pursuant to the appropriations statute, it may make little educational sense for the local educational agency to reassign those students after it has spent its FY 2000 school improvement funds.

D5. How should a local educational agency determine the range of schools to which eligible students may transfer?

The appropriations statute requires local educational agencies to provide students in Title I schools identified for improvement with "the option to transfer to *another* public school within the local educational agency ... that has not been identified for improvement." Thus, although receiving schools must be schools that have not been identified for improvement, local educational agencies have discretion under the statute to determine which schools, among those not identified for improvement, will comprise the range of public school choice for students eligible to transfer.

The Department expects local educational agencies, in determining this range, to consider first and foremost which schools are most likely to offer students in low-performing schools, including students with disabilities and limited English proficient students, the best opportunities to learn to high standards. This educational judgment should take into account students' learning needs, the availability of resources to meet such needs in receiving schools, and the degree to which various options provide transferring students with continuity and coherence in their educational experiences. In short, public school choice must offer students in low-performing schools real alternatives for obtaining a better education.

The Department also expects local educational agencies to determine the range of public school choice with attention to the time, resources, and infrastructure required for sound implementation. Fair and effective public school choice requires that all students have a comparable range of school choices and that all parents have the information they need to make timely and intelligent choices among schools. Because access to receiving schools may depend on the availability of transportation, transportation costs may be a factor in defining the geographic range of choices that a local educational agency can offer to students at a given school. In addition, the experiences of school districts that have effectively implemented public school choice suggest that active outreach through community- or school-based parent information centers is necessary to ensure that all parents have the opportunity to make timely, informed choices.

Moreover, State and local law—for example, a desegregation order by a State court or agency; State or local policies, including school board-approved local educational agency policies, implementing voluntary affirmative action or requiring open enrollment or reduced class size; or any requirements imposed by States on local educational agencies as a condition of receiving these funds—may affect the range of school choice a local educational agency can offer.

D6. How do Federal civil rights laws apply to local educational agencies implementing public school choice?

A local educational agency must ensure that its public school choice program, like all of its educational programs, does not discriminate on the basis of race, color, national origin, sex, disability, or age, consistent with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990 (ADA), and the Age Discrimination Act of 1975.

In general, these statutes and applicable regulations require local educational agencies implementing choice to provide each student with a range of school choices such that all students, including limited English proficient students and students with disabilities, have equal educational opportunities. In addition, whatever the range of choice it offers, a local educational agency must provide students covered by the Individuals with Disabilities Education Act, section 504, or Title II of the ADA with a free, appropriate public education. The duty not to discriminate also requires local educational agencies to ensure effective communication with limited English proficient parents and parents with disabilities. Moreover, a local educational agency implementing public school choice must ensure that its choice program is consistent with applicable desegregation requirements. For more information on compliance with these and other civil rights requirements, please contact the Department's Office for Civil Rights.

D7. May public charter schools be included in the range of school choices offered by local educational agencies receiving funds?

Yes. A local educational agency may provide students in schools identified for improvement an option to transfer to public charter schools located within the local educational agency, as long as such schools have not been identified for improvement. Public charter schools should be among the schools that a local educational agency considers in determining the range of school choice available.

D8. May a local educational agency provide eligible students with an option to transfer to schools outside of the district?

Yes. A local educational agency may provide such an option if it has developed cooperative agreements with other local educational agencies in the area. However, a local educational agency is not required to provide such an option; the appropriations statute directs local educational agencies to provide an option to transfer only "to another public school within the local educational agency."

D9. What if a local educational agency lacks the capacity to provide all eligible students a within-district transfer option?

Under the appropriations statute, if a local educational agency demonstrates to the satisfaction of the State educational agency that it lacks the capacity to provide all eligible students with a transfer option, and if the local educational agency notifies parents of eligible students that it cannot accommodate the transfer request of every student, then the local educational agency must "permit as many students as possible (who shall be selected by the local educational agency on an equitable basis) to transfer to a public school that has not been identified for school improvement."

D10. What factors should a State educational agency consider when determining whether a local educational agency lacks the capacity to provide all eligible students with a transfer option?

The Department believes that the term "capacity" may be understood to refer to the number of empty seats in schools not identified for improvement within the local educational agency. The Department also believes that the statute allows States to consider other factors affecting a local educational agency's capacity to provide choice, such as desegregation obligations, local school board-approved student assignment policies, and the availability of staff and financial resources for transportation, parental outreach, and other infrastructure necessary to implement public school choice fairly and effectively.

D11. Where a local educational agency lacks the capacity to accommodate every transfer request, what constitutes an equitable basis for selecting students for transfer?

To the extent that choice is a strategy for helping educationally disadvantaged students, an "equitable" method of selecting students for transfer may be to give priority to the lowest-performing students, to students in the lowest-performing schools, or to students who have attended low-performing schools the longest time—in other words, to the students who stand to benefit most from attending a better school. Alternatively, consistent with the statute authorizing the Federal Public Charter School Program, a random lottery may be an "equitable" method of selecting students when not all students can be accommodated. Whatever the "equitable basis" for selecting students, it must be consistent with Federal civil rights law.

D12. What if all schools within a local educational agency that are grade-appropriate for students eligible to transfer have been identified for improvement?

In such cases, the local educational agency need not permit any student to transfer because it is not possible to provide any student an option to transfer to a school not identified for improvement within the local educational agency. However, as stated in Question C1, such a local educational agency remains eligible to receive the new school improvement funds.

* * * *

E. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES AND SCHOOLS

E1. What are the permissible uses of school improvement funds?

Local educational agencies and schools may use school improvement funds to cover any reasonable cost associated with carrying out the school improvement and corrective action responsibilities described in section 1116(c). Schools may use funds to develop and implement school improvement plans, to conduct required professional development, to strengthen curriculum, and to enhance parental involvement. Local educational agencies may use funds to provide technical assistance to schools as they develop and implement school improvement plans and, where appropriate, to take corrective actions. Technical assistance may be provided directly by the local educational agency or, with the local educational agency's approval, by an institution of higher education, a private non-profit organization, an educational service agency, or one of the Department's Comprehensive Regional Assistance Centers.

A local educational agency also may use these funds to carry out the requirement that it provide students who attend schools identified for improvement with the option to transfer to another public school within the local educational agency that has not been identified for improvement. In particular, funds may be used for parent outreach costs and, with some limitations, for transportation costs (see Questions E3 and E6).

E2. May school improvement funds be used to benefit schools that receive students transferring from Title I schools identified for improvement?

No. Receiving schools are schools that have not been identified for improvement. They are not the intended beneficiaries of school improvement activities under section 1116(c).

E3. Does the Title I "supplement not supplant" requirement apply to the use of school improvement funds?

Yes. Like other Title I funds, school improvement funds must be used to supplement the level of funds that, in the absence of the Title I funds, would be made available from non-Federal sources for the education of children participating in Title I programs. For example, if a local educational agency is required by State or local law to provide transportation to students who choose to transfer to another school under an existing choice plan, it may not use school improvement funds to supplant the State or local funds that it otherwise would use to provide transportation, even though transportation costs generally are an allowable use of school improvement funds.

E4. Who primarily should decide how school improvement funds are spent—schools or local educational agencies?

It depends. Where a State has targeted its school improvement funds to local educational agencies with schools in corrective action, local educational agencies may want to retain control of the funds in order to take forceful steps toward improving persistently low-performing schools. By comparison, where a local educational agency is working with a school newly identified for improvement, it may want to allocate funds directly to the school so that school officials may take the lead in developing and implementing an improvement plan. School improvement efforts ultimately involve buy-in and reform at the school level, but they also benefit from ongoing district-level support and, at times, require district-initiated intervention. The proper allocation of control will depend on the circumstances within a particular local educational agency—the degree to which its schools are underperforming, whether the underperformance is due to lack of resources or inefficient use of resources, and what capacity its schools have to use new funds effectively. Whatever the distribution of control, local educational agencies must ensure that both they and their schools have sufficient funds to carry out their respective responsibilities under section 1116(c).

E5. May local educational agencies use a portion of school improvement funds for administrative costs?

In general, a local educational agency may use a portion of its Title I funds for reasonable and necessary administrative costs incurred in implementing Title I programs. Because a local educational agency is responsible for carrying out activities required by section 1116(c), notwithstanding its receipt of new school improvement funds, presumably it is already using some of its Title I funds to cover administrative costs associated with section 1116(c) activities. Those administrative funds should be sufficient to cover costs associated with administering any new school improvement funds. Where a local educational agency initiates a public school choice policy or program in order to comply with the appropriations statute, it may use a portion of the new school improvement funds to cover reasonable and necessary administrative costs associated with planning and implementation. Of course, where a local educational agency is already implementing an open enrollment or choice policy consistent with the appropriations statute, it may not use new school improvement funds to supplant funds already used to cover administrative costs.

E6. May school improvement funds be used to pay for transportation costs associated with the public school choice requirement?

Yes. Title I explicitly authorizes the use of funds for transportation costs when public school choice is implemented as a corrective action. A local educational agency must take at least one corrective action to turn around a school that fails to make adequate progress for three consecutive years following identification for improvement, and it may take any corrective action to turn around a school identified for improvement at any time after it has provided technical assistance and taken other remediation measures to help that school. Thus, the new school improvement funds may be used for transportation costs associated with transferring students not only out of schools subject to mandatory corrective action, but also out of schools identified for improvement as long as the local educational agency has first provided assistance to such schools.

A local educational agency would frustrate the intent of the appropriations statute if it spent all of its school improvement funds on transportation instead of school improvement activities. However, it may use these funds to cover transportation costs necessary to implement public school choice fairly and effectively, subject to two limitations. First, in a targeted assistance school, transportation may only be provided for students who receive Title I services. Second, the costs to Title I must be supplemental to the transportation costs the local educational agency would otherwise incur. For example, if a local educational agency currently transports a child two miles to attend a school identified for improvement, Title I funds may be used only to pay for the additional cost of transporting the child to a school not identified for improvement (i.e., the amount beyond what is already being spent to transport that student to the identified school). Local educational agencies, especially those with existing open enrollment programs, should consider whether transportation costs are already covered through another source, so that school improvement funds will be used only for purposes not currently funded.

E7. What is the proper balance between using school improvement funds to implement public school choice and using the funds to support school improvement activities?

The proper distribution of funds between school improvement and public school choice activities may be different for each local educational agency, depending on the resources, policies, and activities already in place. The Department encourages States to ensure that each local educational agency receiving funds has sufficient total resources (Federal, State, and local) to effectively fulfill both its school improvement responsibilities under section 1116(c) and its obligation to provide public school choice under the appropriations statute. Note that the appropriations statute does not require local educational agencies to use school improvement funds to implement public school choice and that local educational agencies currently implementing State or local open enrollment policies may already meet the public school choice requirement (see Questions D3 and E3).

E8. If a child transfers out of her or his school of residence under a choice plan, should a local educational agency include that child (a) in the count of children used to determine the Title I allocation to the school of residence, or (b) in the

count used to determine the Title I allocation to the school of enrollment?

In general, Title I eligibility and Title I allocations of basic and concentration grant funds are based on the count of poor children who reside in the school attendance area of a given school. A local educational agency may also designate as eligible and serve a school that is not in an eligible attendance area if the percentage of poor children enrolled in the school is equal to or greater than the percentage of poor children in a participating school attendance area. Accordingly, a local educational agency should include children who transfer as part of the count of children in the school attendance area of residence—unless the local educational agency uses enrollment to identify and serve one or more schools. This general rule could be superseded, however, by a State law that, for example, defines a child's school of residence as the child's school of choice.

E9. May school improvement funds be used to improve Title I programs for eligible children in private schools?

Yes. As summarized in the Title I Policy Manual, if an LEA determines that its Title I program serving private school children has not made adequate progress for two consecutive school years, the LEA must develop a program improvement plan that has the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards. Accordingly, the LEA may use school improvement funds to improve its Title I program for private school children.

E10. May funds be used to support a school that does not participate in Title I but whose lack of progress would qualify it for school improvement under section 1116(c)?

No. Only Title I schools identified for school improvement or corrective action under section 1116(c) may receive school improvement funds.

* * * *

APPENDICES

- Fiscal year 2000 allocations to States
- Statutory provisions (both 1116 and appropriations)
- Components of CSRD School Reform
- CSRD Continuum of Evidence of Effectiveness
- REA Continuum of Criteria to Judge Effectiveness of Strategies, Programs, or

Models

- Executive Summary of NRC report on reading.

Note: Need to find some place for the boilerplate that recipients that follow the guidance will be considered in compliance with applicable Federal statutes and regulation

Additional resources:

- Turning around failing school guidance
- Ending social promotion guide