6-2217

① BECAUSE OF THE STEPS I'M TAKING TODAY, FOR THE FIRST TIME EVER $ TO FIX FAILING SCHOOLS

② FIRST TIME EVER REACH THAT RESULT SCHOOL CHOICE

Samir Afridi
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To: See the distribution list at the bottom of this message

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Subject: Radio Address - Draft

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Draft 2/25/00 10:00 am
Sam Afridi

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON EDUCATION ACCOUNTABILITY
February 26, 2000

Good morning. Last month in my State of the Union Address, I called on Congress to help us launch a 21st century revolution in education guided by our faith that every child can learn. This morning, I'm announcing new steps to do just that—by providing tools for states and local communities to turn around their worst-performing schools or shut them down.

If our nation is going to make the most of the promise of the new economy, we must help every American make the most of their God-given potential. But students can't aim high in schools that perform low. Every child deserves a high-quality education.

Over the last seven years, we have followed a common sense strategy to improve our schools by investing more in education and demanding more in return. I'm proud that my Administration has enacted the largest investment in education in three decades. At the same time, we've worked hard for higher standards, greater accountability and extra help so all children can meet those standards.

But in spite of our success, there's more to do. For example, only about half of our nation's lowest performing schools receive help to improve. That's why I challenged Congress last year to pass my plan to establish the first-ever school accountability fund to help states and local communities fix failing schools. Together, we enacted a landmark initiative that will provide $134 million to states and school districts this year alone.

Today, I'm releasing official guidance to help states and localities use these funds. Our approach is built on the experience of local communities that have carried out common sense reforms to turn around their schools. We know the best way to fix failing schools is by investing in what works—and that's what we'll do.

Under the plan I'm releasing today, the school accountability fund can be used to improve curriculum and put a better focus on the skills students need to reach high standards. The fund can be devoted to professional development—to help teachers in need of improvement upgrade their skills. And it can be used to close a school that isn't making the grade and reopen it under new leadership or as a public charter school.

The plan also expands public school choice. Parents of students in a chronically failing school will have the opportunity to transfer their kids to a high performing public school. Experience with charter schools and other forms of public school choice has shown this is an important component of an overall strategy to improve schools.

We know accountability works—not based on what someone in Washington hopes *may* work—but based on what innovative schools are proving *does* work.

Two years ago, for example, North Carolina drew up a list of the state's 15 worst-performing schools and sent assistance teams to each school. Just a year later, reading and math tests shot up and 14 of those schools improved their performance enough to be taken off the list. I've been to schools all over the country that are achieving in the same way.

Ultimately, it's up to states and local communities to take the reins and turn around a failing school. But the federal government can play its role by granting more flexibility, demanding more accountability, and investing more in education. With today's action, we're declaring as a nation that we will not fail our children by tolerating failing schools.

We must do even more. In the budget for the coming year, I'm proposing to double our investment to turn around failing schools—and to double our support for after-school and summer-school programs so every child in a low-performing school has the opportunity to participate.

I'm also calling on Congress to increase accountability in public education by passing the Education Accountability Act. We also must stay on track to hiring 100,000 high quality teachers to reduce class size in the early grades. We must fulfill our commitment to build and modernize public schools. And we must invest in efforts to mentor disadvantaged students and to help them see the possibilities of a college education.

This entire strategy is rooted in fundamental American values: Everyone counts. Everyone deserves a chance. Everyone has a role to play. And we all do better when we help each other. Fixing broken schools isn't easy—but communities are proving everyday that it can be done. Because we have faith that every child can learn we must help every school succeed. That's what we owe to our children. That's what we owe to America's future.

Thanks for listening.

PRESIDENT CLINTON BOLSTERS NATIONAL EFFORT TO TURN AROUND FAILING SCHOOLS BY DEMANDING MORE FROM THEM AND INVESTING MORE IN THEM

FEBRUARY 26, 2000

In his weekly radio address, President Clinton today will announce the release of official guidelines for his initiative to turn around failing schools. Last year, as part of his strategy to demand more from our schools and invest more in them, the President proposed an Accountability Fund to help states and localities fix failing schools or shut them down. Congress appropriated $134 million for this Accountability Fund, and today President Clinton will release guidelines from the Education Department that will help states and school districts use these resources most effectively, as well as expand public school choice for students in failing schools. The President today will also release state-by-state allocations of funds from this initiative, and will call on Congress to boost the size of the Accountability Fund to $250 million in FY 2001.

FIXING FAILING SCHOOLS BY INVESTING IN WHAT WORKS. Last year, President Clinton challenged Congress to pass his plan to create a first-ever Accountability Fund to help turn around low-performing schools. In the FY 2000 budget, Congress heeded that call and provided $134 million for this initiative. The guidelines the President is releasing today will help states and local school take firm measures to bolster low-performing schools: implementing tougher curricula, overhauling staffing, even closing down schools and reopening them under new leadership or as charter schools. These are proven strategies for reform, and today's guidelines emphasize the importance targeting of investment in what works.

Some states have already demonstrated the power of concerted and targeted investments in accountability. For instance, two years ago North Carolina sent assistance teams to its 15 worst-performing schools. One year later, 14 of those schools had improved enough to be taken off the state's watch list. But nationwide, according to a Department of Education analysis, only half of schools identified by states as low-performing currently receive assistance. The Accountability Fund will help ensure that all failing schools get the help they need to turn themselves around. In his FY 2001 budget, the President nearly doubles the size of the Fund -- from $134 million to $250 million -- and today he will also call on Congress to make this next investment.

EXPANDING PUBLIC SCHOOL CHOICE. President Clinton believes that public school choice can help improve low-performing schools by increasing competition and accountability. Under his Accountability Fund plan, students in failing schools that are receiving assistance may choose to transfer to higher-performing public schools, including charter schools. President Clinton has worked hard to increase choice in public education, through charter schools and other strategies, and his accountability initiative builds on that commitment.

IMPROVING OUR SCHOOLS BY INVESTING MORE AND DEMANDING MORE. The Accountability Fund is one component of the Administration's comprehensive agenda to strengthen public schools by demanding more and investing more. The President's Education Accountability Act would require states and school districts to issue report cards to parents on school performance, increase teacher quality and stop out-of-field teaching, end social promotion the right way by giving all students the tools they need to reach high standards, institute strong but fair discipline codes in schools, and strengthen the accountability initiative the President is highlighting today. The President's FY2001 budget request includes a $4.5 billion increase for education that will, among other goals, expand after-school and summer school programs, reduce class sizes in the early grades, build and modernize public schools, increase teacher quality, and expand charter schools. Today the President will call on Congress to act on his legislative and budget proposals to improve all of our schools and to make accountability in education a reality nationwide.

SUMMARY OF U.S. DEPARTMENT OF EDUCATION GUIDANCE ON THE $134 MILLION FY 2000 APPROPRIATION FOR SCHOOL IMPROVEMENT

Background

- Last year, as part of his FY 2000 budget proposal, President Clinton called for a new national initiative to hold our schools accountable for results.
- Congress responded by enacting an appropriations statute that (a) provides substantial new resources—$134 million of FY 2000 Title I appropriations—to help local educational agencies turn around low-performing schools, and (b) requires local educational agencies receiving these funds to provide students in low-performing schools with an opportunity to choose a higher-quality public school. School improvement activities and public school choice together form an important strategy for improving educational opportunities for students in low-performing schools.
- In his FY 2001 budget proposal, President Clinton is asking Congress to nearly double this accountability fund to $250 million.
- The Administration's proposal to reauthorize the Elementary and Secondary Education Act of 1965 would permanently establish this accountability fund by requiring States to set aside 2.5% of their Title I funds each year (and 3.5% in the year 2003 and beyond) for the purpose of turning around low-performing schools.

Title I school improvement requirements

- Under the appropriations statute, 100% of the $134 million must go to local educational agencies "for the purposes of carrying out section 1116(c)" of Title I. That section sets forth the school improvement and corrective action responsibilities of local educational agencies. Regardless of whether a local educational agency receives funds from the $134 million, it is required to carry out its responsibilities under section 1116(c).
- Section 1116(c) requires local educational agencies to identify for improvement any Title I school that has not made adequate yearly progress (AYP), as defined by the State, for two consecutive years.
- A school identified for improvement must develop or revise its school plan in ways that maximize the likelihood that its students will meet State performance standards. Local educational agencies must make available technical or other assistance to identified schools as they develop or implement their plans.
- After providing technical assistance and other remediation measures, a local educational agencies 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 AYP for three consecutive years following identification for improvement.

Allocation of funds from the Department to States

- *Amount.* Each State will receive an allocation from the $134 million accountability fund based on the proportion of Title I basic and concentration grant funds it receives.
- *Timing.* The earliest date that a State may receive its allocation is on or about July 1. In order to receive its allocation at that time, a State must submit an amendment to its State plan no later than May 1, 2000.
- *Content of State plan amendment.* The amendment may be brief (3-5 pages) and must describe: (1) the criteria the State will use to determine which local educational agencies, among those eligible, 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.
- *No State reservations.* Because the appropriations statute requires that 100% of the $134 million be allocated to local educational agencies, a State may not reserve any of its allocation for administrative costs or for State-administered technical assistance or school improvement activities.

Allocation of funds from States to local educational agencies

- *Eligibility.* To be eligible to receive funds, a local educational agency must have one or more Title I schools identified for improvement or corrective action, and must be prepared to implement public school choice consistent with the appropriations statute. A local educational agency that cannot provide choice because it has only one school at a certain grade level or because it has identified for improvement all schools at a certain grade level remains eligible to receive funds.
- *Targeting.* While the statute does not prescribe how States must allocate funds, the Department strongly encourages States to target funds to local educational agencies with the greatest need for assistance and to provide each recipient with an amount large enough to make a difference in improving low-performing schools. States need not allocate funds to every eligible local educational agency. The guidance suggests several possible categories of local educational agencies that States might prioritize.
- *Use of Title I formula.* States may not allocate funds to local educational agencies simply according to the Title I formula. That formula allocates funds based on poverty, without regard to whether a local educational agency has identified one or more schools for improvement. However, States may use a poverty-based formula to allocate funds among eligible local educational agencies.
- *Local plan amendments.* The Department encourages States to require local educational agencies seeking funds to amend their local plans to describe what school improvement activities and corrective actions they will undertake, as well as how they will provide public school choice to students in Title I school identified for improvement in a manner consistent with the appropriations statute.

Public school choice

- *Basic requirement.* Under the appropriations statute, the basic obligation of local educational agencies is to provide as many students in low-performing Title I schools as possible with a choice to attend another school within the district that has not been identified for improvement under Title I. This obligation applies *only* to local educational agencies that receive funds from the $134 million. The Department expects compliance at the beginning of the 2000-01 school year.
- *Flexibility.* Local educational agencies may take any of several approaches to satisfying the public school choice requirement, including dividing a district into attendance zones and providing transfer options within each zone. Local educational agencies may, but are not required to, provide interdistrict transfer options.
- *Civil rights requirements.* Whatever approach is taken, it must provide equal educational opportunities for all students eligible to transfer, including students with disabilities and limited English proficient students, and it must comply with other applicable civil rights requirements.
- *Lack of capacity.* If a local educational agency plans to provide choice to fewer than all students in its Title I schools identified for improvement, it must first demonstrate to the State educational agency that it lacks the capacity to provide choice to all such students. In determining whether a local educational agency lacks capacity, the State educational agency may consider factors such as limited time or resources for parent outreach or transportation, limited seats in schools not identified for improvement, and competing obligations under State or local law, provided that its criteria do not undermine the choice requirement or Federal nondiscrimination laws.
- *Equitable basis.* If a local educational agency provides choice to fewer than all students in its Title I schools identified for improvement, it must select those students on an equitable basis—for example, by random lottery or by prioritizing the students most in need of attending a higher-quality school.
- *Existing policies.* Open enrollment or public school choice policies already being implemented by some States and local educational agencies may satisfy the choice requirement in the appropriations statute, if consistent with the obligations above.
- *Continuation.* Although the choice requirement is limited to the FY 2000 appropriations cycle, the Department encourages local educational agencies to allow transferring students to remain in receiving schools until they finish the top grade of those schools, even if their original school improves and is no longer identified for improvement.
- *Impossibility.* A local educational agency need not provide choice (but still may receive funds) if it has only one school at a certain grade level or if it has identified for improvement all schools at a certain grade level.

Uses of funds

- *School improvement.* Local educational agencies must use these funds to carry out their school improvement and corrective action responsibilities described in section 1116(c) of Title I. Local educational agencies and schools may spend the funds on developing and implementing school improvement plans, conducting professional development, strengthening curriculum, enhancing parental involvement, providing technical assistance, or any other reasonable costs of school improvement activities.

- *Public school choice.* Local educational agencies also may, but are not required to, use these funds to carry out the public school choice requirement, for example, to cover the costs of planning the choice program or conducting outreach to parents. Local educational agencies may use funds to cover the cost of transporting students from schools in corrective action to higher-quality schools. Local educational agencies also may use funds to cover transportation costs associated with transferring students out of schools identified for improvement, as long as they have first provided such schools technical assistance and other remediation measures.

- *Supplement not supplant.* Title I's "supplement not supplant" requirement applies to these funds. They must be used to supplement other funds that, in the absence of these funds, would be made available from non-Federal sources to serve children participating in Title I. This obligation may limit the amount of these funds that local educational agencies may use for administrative costs. For districts with open enrollment or choice programs already in place, it may also limit the amount of funds they may spend on implementing the choice requirement in the appropriations statute.

- *Proper balance in use of funds.* 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. Note, however, that a local educational agency would frustrate the appropriations statute if it spent all of its funds on transportation instead of school improvement activities.

- *Dollars do not follow child.* Local educational agencies may not use these funds to benefit schools that receive students transferring from Title I schools identified for improvement. Title I dollars do not follow the child.

February 24, 2000

TAPED WEEKLY RADIO ADDRESS

DATE: February 25,2000
LOCATION: Oval Office
TIME: 3:00 PM
FROM: Megan Moloney

I. PURPOSE

You will announce the release of the official guidance to help states and school districts implement your initiative to fix failing schools. You will also call on Congress to continue investing in our schools and demanding more from them.

II. BACKGROUND

In the 1999 State of the Union Address, you called on Congress to pass your plan to help states and localities fix failing schools or shut them down. Last fall Congress heeded this call and appropriated $134 million for your accountability fund. The U.S. Department of Education guidance you will release gives states and school districts additional guidance about how to most effectively use these resources to intervene in low-performing schools and expand public school choice.

States and school districts can undertake several activities with this funding, including implementing a more rigorous curriculum in a low-performing school, overhauling staffing at the school, or even closing the school or reopening it as a charter school.

Your accountability initiative also expands public school choice by giving students in failing schools the option to transfer to higher performing public schools including charter schools. Public school choice is one strategy to help improve low-performing schools by increasing competition.

III. PARTICIPANTS

Briefing 3:00 to 3:10 PM

THE PRESIDENT
Loretta Ucelli
Bruce Reed
Andy Rotherham
Sam Afridi

Taping 3:10 to 3:45 PM

THE PRESIDENT
Megan Moloney
Mary Morrison
White House Communications Agency (WHCA) Personnel
White House Television (WHTV)
White House Photographer
Approx. 80 guests (see attached for list)

IV. PRESS PLAN

The ABC, AP, C-SPAN, CBS, Mutual, Westwood One, Metro, NPR, USA, American Urban, Standard News and Armed Forces Radio networks will carry the address in its entirety to their collective thousands of stations worldwide on Saturday at 10:06 AM ET. The address will also be made available on the White House Website.

V. REMARKS

To be provided by the Office of Speechwriting.

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 may be brief (three to five pages) and 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~~clearly serve the purpose of 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. In order to receive their allocations at that time, States must submit their amended State plans no later than May 1, 2000 to the Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202.

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 Section D).

A local educational agency need not itself be identified for improvement in order to receive funds. Moreover, a local educational agency that has only one school at a certain grade level or that has identified for improvement all schools 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. A local educational agency that otherwise lacks the capacity to provide a transfer option to all students in schools identified for improvement, as determined by the State educational agency (see Question D8), also 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 (there is no minimum or maximum allocation), the Department expects each State to demonstrate in its State plan amendment that its method of allocation clearly serves the purpose of helping local educational agencies carry out their school improvement responsibilities under section 1116(c) of Title I (see Question B2). Accordingly, 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. ~~According to the~~The 1992 Interim Report of the National Assessment of Chapter 1 (as Title I was called between 1981 and ~~1994),~~1994) made clear that small amounts of funds spread diffusely across many local educational agencies do not effectively leverage change.

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.

Within these priority areas, the Department encourages States to target greater amounts of funds to local educational agencies with higher numbers or concentrations of children in poverty.

(We deleted old C7 deleted because it was too open-ended.)

(We create a new question below, which was raised today by groups.)

C7. If a State educational agency denies a local educational agency's application for funding, may the local educational agency appeal?

Yes. In programs administered by the Department, section 432 of the General Education Provisions Act provides local educational agencies with a right of appeal in disagreements between State and local educational agencies, including disagreements over funding decisions. Where a local educational agency alleges that the denial of funding is "a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program," it may, within 30 days, request a hearing from the State educational agency. Once the hearing is held and the State educational agency issues its written ruling, the local educational agency may appeal a negative ruling to the Secretary.

(We changed D8 and D12 to be a little friendlier toward existing choice policies.)

D8. Under what circumstances does a local educational agency "lack the capacity" to provide all students in low-performing schools with an option to transfer?

The Department recognizes that local educational agencies may not be able to provide a transfer option to every student in Title I schools identified for improvement in the 2000-01 academic year due to limited time or resources for parent outreach and transportation, limited space in schools not identified for improvement, or competing obligations under State or local laws (for example, laws related to enrollment or class size reduction). Indeed, some local educational agencies currently implement public school choice programs that provide transfer options to many, though not all, students in low-performing Title I schools. Under the appropriations statute,~~before~~ a local educational agency may provide choice to fewer than all eligible ~~students, it must demonstrate~~students if it demonstrates "to the satisfaction of the State educational agency" that it "lacks the capacity" to provide all students with an option to transfer to a public school not identified for improvement. A local educational agency may make this showing in its local plan amendment requesting school improvement funds (see Question C5).

State educational agencies are responsible for determining whether a local educational agency "lacks capacity" and may take into account the factors mentioned above. However, the Department strongly cautions State and local educational agencies that allowances for limited capacity must not undermine the fundamental purpose of the choice requirement: to provide students in low-performing schools with opportunities to attend higher-quality schools. In other words, "lack of capacity" may not be interpreted so broadly as to permit local educational agencies to avoid their basic obligation to provide choice to as many students as possible. Nor may "lack of capacity" be interpreted to frustrate civil rights requirements, including the guarantee of equal educational opportunity for all students and the provision of a free appropriate public education to qualified students with disabilities (see Question D14).

D12. Could an existing State or local policy that provides for open enrollment or public school choice satisfy the requirements in the appropriations statute?

Yes. Such a policy clearly 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. Moreover, the intent of the appropriations statute is not to undo existing choice policies that provide ~~Even if it~~transfer options for many, even if not all, students in low-performing schools. Thus, even if an existing policy does not provide all eligible students with a transfer option, ~~such a policy~~it still may satisfy the choice requirement, provided (1) that the State educational agency is satisfied that a local educational agency implementing the policy lacks the capacity to provide a transfer option to all eligible students, (2) that the local educational agency notifies parents of affected children that it is not possible, consistent with State and local law, to accommodate every transfer request, and (3) that within its limited capacity, the local educational agency permits as many students as possible, selected on an equitable basis, to transfer.

New Version

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 responded to President Clinton's call to strengthen accountability for results by 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 and 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

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 the 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. School improvement activities coupled with public school choice comprise a key reform strategy capable of delivering a high-quality education to all students. 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.

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 public school choice requirement is discussed in greater detail below.

This guidance consists of questions and answers organized into five sections:

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 3 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. To obtain these publications, please call 1-800-USA-LEARN. In addition, Appendices 4 and 5 of this guidance contain two tables, "Continuum of Evidence of Effectiveness" and "Continuum of Effectiveness for Reading Instruction or Professional Development," that 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 (see Appendix 6). 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 improving 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.

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B. ALLOCATION OF 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. Appendix 2 shows the estimated allocation for each State.

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). However, States may use funds reserved for State administration under those sections of Title I to administer these school improvement funds.

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.

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C. ALLOCATION OF 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 Section D).

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 (there is no minimum or maximum allocation), 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. 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.

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.

Within these priority areas, the Department encourages States to target greater amounts of funds to local educational agencies with higher numbers or concentrations of children in poverty.

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, including a poverty-based formula, to those local educational agencies.

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

No. Indeed, the amount of funds likely will not be sufficient for the State educational agency to provide each eligible local educational agency with enough funds to make a significant impact. Nevertheless, 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. 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.

C6. 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.

C7. 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.

C8. 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).

C9. 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).

C10. 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).

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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, even as the low-performing schools are being improved. Together, school improvement activities and public school choice provide all students with the opportunity to 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. The Department strongly encourages all local educational agencies to consider appropriate mechanisms for expanding public school choice.

D3. What is the basic obligation that the public school choice requirement imposes on local educational agencies receiving school improvement funds?

Any local educational agency receiving school improvement funds must, as the appropriations statute expressly directs, "provide all students in a school identified [for school improvement] 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." Where a local educational agency "lacks the capacity" to offer choice to all students in low-performing schools (see Question D8), the local educational agency must "permit as many students as possible," selected on an "equitable basis," to transfer to a school not identified for improvement (see Question D11). The appropriations statute thus makes clear that the basic obligation of local educational agencies receiving funds is to provide as many students in low-performing schools as possible with a choice to attend a higher-quality school.

D4. When does the Department expect local educational agencies receiving school improvement funds to implement public school choice?

The Department expects local educational agencies receiving funds to 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 the new funds are used to implement school improvement activities.

D5. What flexibility do local educational agencies have in designing their choice programs?

The appropriations statute requires local educational agencies to provide students in low-performing Title I schools with "the option to transfer to *another* public school within the local educational agency ... that has not been identified for improvement." Although receiving schools must be schools that have not been identified for improvement, local educational agencies are not required to provide students in low-performing schools with the option to transfer to *any* such school. Local educational agencies thus have flexibility under the statute to determine which schools, among those not identified for improvement, will comprise the range of alternatives for students eligible to transfer.

Two key principles circumscribe the flexibility that local educational agencies have in determining this range. First, as the appropriations statute makes clear (see Question D3), local educational agencies must maximize the number of students who are provided an option to transfer from a low-performing school to a higher-quality school. The Department expects each local educational agency receiving funds to provide students in low-performing schools with real alternatives for obtaining a better education. Second, a local educational agency's choice program must not deny any student equal educational opportunity on the basis of race, color, national origin, sex, disability, or age. In general, Federal civil rights laws require local educational agencies to provide each student with a range of choices such that all students, including limited English proficient students and students with disabilities, have equal educational opportunities. In addition, qualified students with disabilities are entitled to a free appropriate public education. See Question D14 for additional information on civil rights requirements.

To the extent consistent with the principles above, a local educational agency may, in determining its approach to implementing choice, take into account its ability to provide transportation and to conduct outreach to parents so that they have sufficient information to make timely, intelligent choices among schools. A local educational agency also may take into account its obligations under State or local laws, such as class size reduction statutes and existing enrollment policies. In view of these considerations, a local educational agency may take any of several approaches to implementing public school choice, including (where consistent with the two principles above) dividing the district into attendance zones and providing students in low-performing schools with the option to transfer to higher-quality schools within each zone.

D6. 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.

D7. 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."

D8. Under what circumstances does a local educational agency "lack the capacity" to provide all students in low-performing schools with an option to transfer?

The Department recognizes that local educational agencies may not be able to provide a transfer option to every student in Title I schools identified for improvement in the 2000-01 academic year due to limited time or resources for parent outreach and transportation, limited space in schools not identified for improvement, or competing obligations under State or local law (for example, class size reduction statutes or existing enrollment policies). Under the appropriations statute, before a local educational agency may provide choice to fewer than all eligible students, it must demonstrate "to the satisfaction of the State educational agency" that it "lacks the capacity" to provide all students with an option to transfer to a public school not identified for improvement. A local educational agency may make this showing in its local plan amendment requesting school improvement funds (see Question C5).

State educational agencies are responsible for determining whether a local educational agency "lacks capacity" and may take into account the factors mentioned above. However, the Department strongly cautions State and local educational agencies that allowances for limited capacity must not undermine the fundamental purpose of the choice requirement: to provide students in low-performing schools with opportunities to attend higher-quality schools. In other words, "lack of capacity" may not be interpreted so broadly as to permit local educational agencies to avoid their basic obligation to provide choice to as many students as possible. Nor may "lack of capacity" be interpreted to frustrate civil rights requirements, including the guarantee of equal educational opportunity for all students and the provision of a free appropriate public education to qualified students with disabilities (see Question D14).

D9. 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 clearly and legitimately lacks the capacity to provide any students in low-performing schools with an option to transfer to a school within the local educational agency that has not identified for improvement. Such a local educational agency remains eligible to receive school improvement funds (see Question C1).

D10. Whom must a local educational agency notify when it is unable to provide a transfer option for all eligible students?

Where it is not possible, consistent with State and local law, to accommodate the transfer request of every student, the appropriations statute requires local educational agencies to notify the parents of children who are affected.

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. 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 (see Question D14).

D12. Could an existing State or local policy that provides for open enrollment or public school choice satisfy the requirements in the appropriations statute?

Yes. Such a policy clearly 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. Even if it does not provide all eligible students with a transfer option, such a policy still may satisfy the requirement, provided (1) that the State educational agency is satisfied that a local educational agency implementing the policy lacks the capacity to provide a transfer option to all eligible students, (2) that the local educational agency notifies parents of affected children that it is not possible, consistent with State and local law, to accommodate every transfer request, and (3) that within its limited capacity, the local educational agency permits as many students as possible, selected on an equitable basis, to transfer.

D13. For how long must local educational agencies that receive school improvement funds continue to implement public school choice?

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 expects local educational agencies to pursue choice policies that ensure stability and continuity in students' educational experiences. Where students have transferred from one school to another under a choice policy implemented pursuant to the appropriations statute, the Department strongly encourages local educational agencies to allow those students, if they wish, to remain in the receiving school until they finish the top grade of that school, even if their original school improves and is no longer identified for school improvement.

D14. 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. Fundamentally, the choice program must provide equal educational opportunities for all eligible students.

In addition, local educational agencies must provide students with disabilities with a free appropriate public education consistent with the Individuals with Disabilities Education Act, section 504, and Title II of the ADA. In some cases, local educational agencies must provide transportation and must ensure that facilities in receiving schools are accessible so that students with disabilities have equal access to the range of school choices available to other students. The duty not to discriminate also requires local educational agencies to ensure effective communication with limited English proficient parents and parents with disabilities, so that these parents have the same opportunity as other parents to make timely, informed choices. Moreover, a local educational agency must ensure that its choice program is consistent with applicable civil rights commitments regarding student assignments, including desegregation plans or court orders. For more information on these and other civil rights requirements, please contact the Department's Office for Civil Rights or the Department of Justice's Civil Rights Division.

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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). Moreover, Title I dollars and services do not follow a child that transfers from a Title I school identified for improvement to a non-Title I school. (See Question E8 for information about Title I allocations when a student transfers to a Title I school.)

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 D12 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

1. FY 2000 Title I appropriations statute
2. Estimated allocation to each State from the $134 million
3. Section 1116(c) of Title I
4. Continuum of Evidence of Effectiveness
5. Continuum of Effectiveness for Reading Instruction or Professional Development
6. Components of CSRD School Reform

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

Title I Accountability Grants

State or Outlying Area	FY2000 2000 Estimate for 2001	FY2001 2001 Request for 2002
Alabama	2,239,376	4,079,051
Alaska	330,646	586,897
Arizona	2,126,958	3,949,253
Arkansas	1,374,803	2,534,493
California	16,556,812	31,984,516
Colorado	1,236,410	2,107,061
Connecticut	1,220,591	2,236,705
Delaware	368,906	599,777
Florida	6,373,427	12,869,909
Georgia	3,662,555	7,093,080
Hawaii	349,593	681,519
Idaho	408,150	713,612
Illinois	5,676,307	10,716,630
Indiana	2,032,799	3,592,718
Iowa	925,121	1,517,137
Kansas	975,911	1,722,479
Kentucky	2,213,377	4,100,248
Louisiana	3,317,431	6,099,003
Maine	549,164	923,852
Maryland	1,787,623	3,384,920
Massachusetts	2,661,366	4,523,398
Michigan	5,844,679	10,544,187
Minnesota	1,524,351	2,544,677
Mississippi	2,164,275	3,790,983
Missouri	2,334,733	4,205,422
Montana	456,413	810,192
Nebraska	558,276	958,537
Nevada	404,802	792,507
New Hampshire	340,402	564,887
New Jersey	3,078,484	5,370,717
New Mexico	1,152,065	2,264,894
New York	12,807,331	25,729,301
North Carolina	2,567,507	4,820,197
North Dakota	343,794	611,328
Ohio	5,241,730	9,064,523
Oklahoma	1,673,782	3,111,992
Oregon	1,188,629	2,029,704
Pennsylvania	5,861,386	10,546,006
Rhode Island	429,889	779,056
South Carolina	1,738,421	3,282,294
South Dakota	342,249	630,894
Tennessee	2,334,502	4,105,508
Texas	11,618,707	22,556,841
Utah	612,242	953,999

By Allocation:

State or Outlying Area	2000 Estimate for 2001	2001 Request for 2002
California	16,556,812	31,984,516
New York	12,807,331	25,729,301
Texas	11,618,707	22,556,841
Florida	6,373,427	12,869,909
Pennsylvania	5,861,386	10,546,006
Michigan	5,844,679	10,544,187
Illinois	5,676,307	10,716,630
Ohio	5,241,730	9,064,523
Puerto Rico	4,552,211	8,622,516
Georgia	3,662,555	7,093,080
Louisiana	3,317,431	6,099,003
New Jersey	3,078,484	5,370,717
Massachusett	2,661,366	4,523,398
North Carolina	2,567,507	4,820,197
Missouri	2,334,733	4,205,422
Tennessee	2,334,502	4,105,508
Alabama	2,239,376	4,079,051
Kentucky	2,213,377	4,100,248
Wisconsin	2,182,633	3,955,012
Mississippi	2,164,275	3,790,983
Arizona	2,126,958	3,949,253
Virginia	2,041,514	3,782,645
Indiana	2,032,799	3,592,718
Washington	1,889,622	3,207,244
Maryland	1,787,623	3,384,920
South Carolin	1,738,421	3,282,294
Oklahoma	1,673,782	3,111,992
Minnesota	1,524,351	2,544,677
Arkansas	1,374,803	2,534,493
West Virginia	1,274,452	2,332,694
Colorado	1,236,410	2,107,061
Connecticut	1,220,591	2,236,705
Oregon	1,188,629	2,029,704
New Mexico	1,152,065	2,264,894
Kansas	975,911	1,722,479
Iowa	925,121	1,517,137
Utah	612,242	953,999
Nebraska	558,276	958,537
Maine	549,164	923,852
Montana	456,413	810,192
District of Colu	441,618	907,821
Rhode Island	429,889	779,056
Idaho	408,150	713,612
Nevada	404,802	792,507

BT STATE

	FY00	\$250 mlln FY01
Vermont	307,016	561,789
Virginia	2,041,514	3,782,645
Washington	1,889,622	3,207,244
West Virginia	1,274,452	2,332,694
Wisconsin	2,182,633	3,955,012
Wyoming	304,959	545,375
District of Columbia	441,618	907,821
Puerto Rico	4,552,211	8,622,516
TOTAL	134,000,000	250,000,000

BT \$

	FY00	\$250 mlln FY01
Delaware	368,906	599,777
Hawaii	349,593	681,519
North Dakota	343,794	611,328
South Dakota	342,249	630,894
New Hampshi	340,402	564,887
Alaska	330,646	586,897
Vermont	307,016	561,789
Wyoming	304,959	545,375
TOTAL	134,000,000	250,000,000

6-5770

John B. Buxton

02/24/2000 10:10:04 AM

Record Type: Record

To: Andy Rotherham/OPD/EOP@EOP, samir afridi/who/eop@eop, bethany little/opd/eop@eop
cc:
bcc:
Subject: Re: paper

Andy, I'll get you edits on the press paper. Some talking points on how I would suggest the radio address be structured:

- Today I am releasing guidelines to help states and districts implement my initiative to turn around failing schools and give every child access to public schools that they deserve.
- We know that failing schools can be turned around. We have evidence form across America--in every state in the union--that when we give kids and schools the tools they need, when parents are involved in their children's learning, when teachers and principals have a vision, set goals and work hard to achieve them, schools can improve and offer high quality educational experiences.
- Good examples: Diggs Elementary in Winston-Salem, NC; Washington Elementary in Quincy, Illinois; Eastridge Community School in Aurora, CO; Southern High School in Durham, NC (and we could use the oft-repeated Beaufort Elementary story from SC). (we have good turn-around anecdotes for all of them.)
- These guidelines are but the latest in a series of initiatives aimed at ensuring that all children have access to schools of excellence. Accountability guidelines recognize that it is states and local communities that ultimately must take the reins and help to turn around a failing school. The guidelines help states and districts comply with accountability provisions in last year's budget and provide guidance for developing strategies to turn around failing schools.
- The 1994 reauthorization of ESEA helped states to build a foundation for school improvement by requiring them to develop standards for what kids should know and be able to do and assessments to gauge their progress. In order to help students, teachers and schools reach the high standards we know kids must obtain to be competitive in our new economy and to live lives of opportunity, we have also worked to provide them with the tools they need. We have invested in what we know works: reduced class size, teacher quality, charter schools and after-school.
- This year, I am calling on Congress to pass enact two other provisions to help turn around failing schools and improve all schools: Educational Accountability Act in my ESEA proposal and ensuring access to after-school for every child in a failing schools across the country. My Educational accountability Act would require states and school districts to..report cards...end social promotion...curtail out-of-field teaching....My after-school proposal calls for dedicating the increase in funding for this highly successful program to ensuring kids in failing schools have the time and experiences they need to reach high standards.
- We also know that when schools continue to fail, we should not only invest to improve them but give kids opportunities to attend higher performing and publicly accountable public schools. (go into public school choice stuff).
- We know schools can be turned around and we owe it to the students, parents and teachers across America to take the steps we can to help them do it.

PRESIDENT'S ACCOUNTABILITY PLAN TO TURN AROUND FAILING SCHOOLS ADOPTED IN FINAL BUDGET
November 17, 1999—DRAFT-NOT FOR RELEASE

"States and school districts must turn around their worst-performing schools – or shut them down."
President Clinton
State of the Union Address – January 19, 1999

In an important step forward for educational accountability, the President's plan to help turn around low-performing schools has been included in the final budget agreement. Along with the many other strides to improve public education in this budget – such as $1.3 billion to keep on track to hiring 100,000 quality teachers to reduce class size; $450 million to more than double federal support to expand after-school programs; $200 million to help disadvantaged students prepare for college; and increased funding for Title I, Hispanic education, educational technology, charter schools, and other important efforts, such as helping families pay for college – this accountability initiative will help strengthen the schools that need it most. It will set aside $134 million to ensure that failing schools are held accountable for results.

TURNING AROUND LOW-PERFORMING SCHOOLS. In January, President Clinton called on states and districts to identify and turn around their worst-performing schools – or shut them down. The final budget agreement provides communities the resources to help do so. It targets $134 million in new funds to districts with schools identified as low-performing under Title I. These are schools with the lowest achievement levels that have consistently failed to show improvement. Districts must use these resources for corrective strategies to improve the performance of these schools. The budget also includes a $75 million increase in Title I base funding, for a total Title I increase of $209 million over the Labor/HHS bill the President vetoed.

A STRATEGY THAT WORKS. The President's plan builds on the experience of local communities nationwide that have carried out these reforms to turn around their schools:

- North Carolina sent assistance teams into its 15 worst-performing elementary and middle schools in 1997. Within a year, 14 of these schools met state standards in reading and math. Students in North Carolina have made dramatic gains in educational achievement of any state in recent years.

- The Miami-Dade School District identified 45 low-performing schools in 1995, and implemented an intensive three-year corrective action plan, including school-wide reading programs and improved technology. Last year, the district determined that all the schools had made progress and removed all 45 schools from the state's list of low-performing schools.

EXPANDING PUBLIC SCHOOL CHOICE. The final budget also includes a provision to give students in low-performing schools in districts that receive accountability funds, the option to transfer to another public school not identified for improvement, unless the school district can show the state that it does not have the capacity to provide all students that option.

TITLE I ACCOUNTABILITY GRANTS

Estimated State-by-State allocations

	FY 2000 Appropriation	FY2001 Request
Alabama	$2,239,376	$4,079,051
Alaska	330,646	586,897
Arizona	2,126,958	3,949,253
Arkansas	1,374,803	2,534,493
California	16,556,812	31,984,516
Colorado	1,236,410	2,107,061
Connecticut	1,220,591	2,236,705
Delaware	368,906	599,777
Florida	6,373,427	12,869,909
Georgia	3,662,555	7,093,080
Hawaii	349,593	681,519
Idaho	408,150	713,612
Illinois	5,676,307	10,716,630
Indiana	2,032,799	3,592,718
Iowa	925,121	1,517,137
Kansas	975,911	1,722,479
Kentucky	2,213,377	4,100,248
Louisiana	3,317,431	6,099,003
Maine	549,164	923,852
Maryland	1,787,623	3,384,920
Massachusetts	2,661,366	4,523,398
Michigan	5,844,679	10,544,187
Minnesota	1,524,351	2,544,677
Mississippi	2,164,275	3,790,983
Missouri	2,334,733	4,205,422
Montana	456,413	810,192
Nebraska	558,276	958,537
Nevada	404,802	792,507
New Hampshire	340,402	564,887
New Jersey	3,078,484	5,370,717
New Mexico	1,152,065	2,264,894

New York	12,807,331	25,729,301
North Carolina	2,567,507	4,820,197
North Dakota	343,794	611,328
Ohio	5,241,730	9,064,523
Oklahoma	1,673,782	3,111,992
Oregon	1,188,629	2,029,704
Pennsylvania	5,861,386	10,546,006
Rhode Island	429,889	779,056
South Carolina	1,738,421	3,282,294
South Dakota	342,249	630,894
Tennessee	2,334,502	4,105,508
Texas	11,618,707	22,556,841
Utah	612,242	953,999
Vermont	307,016	561,789
Virginia	2,041,514	3,782,645
Washington	1,889,622	3,207,244
West Virginia	1,274,452	2,332,694
Wisconsin	2,182,633	3,955,012
Wyoming	304,959	545,375
District of Columbia	441,618	907,821
Puerto Rico	4,552,211	8,622,516
TOTAL	**$134,000,000**	**$250,000,000**

APPENDIX 2—ESTIMATED ALLOCATION TO EACH STATE

	Alabama	$2,239,376		Nebraska	558,276
	Alaska	330,646		Nevada	404,802
	Arizona	2,126,958		New Hampshire	340,402
	Arkansas	1,374,803		New Jersey	3,078,484
1	California	16,556,811		New Mexico	1,152,065
	Colorado	1,236,410	2	New York	12,807,331
	Connecticut	1,220,591		North Carolina	2,567,507
	Delaware	368,906		North Dakota	343,794
	Florida	6,373,427	6	Ohio	5,241,730
	Georgia	3,662,555		Oklahoma	1,673,782
	Hawaii	349,593		Oregon	1,188,629
	Idaho	408,150	4	Pennsylvania	5,861,386
5	Illinois	5,676,307		Rhode Island	429,889
	Indiana	2,032,799		South Carolina	1,738,421
	Iowa	925,121		South Dakota	342,249
	Kansas	975,911		Tennessee	2,334,502
	Kentucky	2,213,377	3	Texas	11,618,707
	Louisiana	3,317,431		Utah	612,242
	Maine	549,164		Vermont	307,016
	Maryland	1,787,623		Virginia	2,041,514
	Massachusetts	2,661,366		Washington	1,889,622
	Michigan	5,844,679		West Virginia	1,274,452
	Minnesota	1,524,351		Wisconsin	2,182,633
	Mississippi	2,164,275		Wyoming	304,959
	Missouri	2,334,733		District of Columbia	441,618
	Montana	456,413		Puerto Rico	4,552,211

EDUCATION FOR THE DISADVANTAGED

Title I Accountability Grants

State or Outlying Area	1999 Appro. for 2000	2000 Estimate for 2001	2001 Request for 2002
Alabama	$0	$2,239,376	$4,079,051
Alaska	0	330,646	586,897
Arizona	0	2,126,958	3,949,253
Arkansas	0	1,374,803	2,534,493
California	0	16,556,811	31,984,517
Colorado	0	1,236,410	2,107,061
Connecticut	0	1,220,591	2,236,705
Delaware	0	368,906	599,777
Florida	0	6,373,427	12,869,909
Georgia	0	3,662,555	7,093,080
Hawaii	0	349,593	681,519
Idaho	0	408,150	713,612
Illinois	0	5,676,307	10,716,630
Indiana	0	2,032,799	3,592,718
Iowa	0	925,121	1,517,137
Kansas	0	975,911	1,722,479
Kentucky	0	2,213,377	4,100,248
Louisiana	0	3,317,431	6,099,003
Maine	0	549,164	923,852
Maryland	0	1,787,623	3,384,920
Massachusetts	0	2,661,366	4,523,398
Michigan	0	5,844,679	10,544,187
Minnesota	0	1,524,351	2,544,677
Mississippi	0	2,164,275	3,790,983
Missouri	0	2,334,733	4,205,422
Montana	0	456,413	810,192
Nebraska	0	558,276	958,537
Nevada	0	404,802	792,507
New Hampshire	0	340,402	564,887
New Jersey	0	3,078,484	5,370,717
New Mexico	0	1,152,065	2,264,894
New York	0	12,807,331	25,729,301
North Carolina	0	2,567,507	4,820,197
North Dakota	0	343,794	611,328
Ohio	0	5,241,730	9,064,523
Oklahoma	0	1,673,782	3,111,992
Oregon	0	1,188,629	2,029,704
Pennsylvania	0	5,861,386	10,546,006
Rhode Island	0	429,889	779,056
South Carolina	0	1,738,421	3,282,294
South Dakota	0	342,249	630,894
Tennessee	0	2,334,502	4,105,508
Texas	0	11,618,707	22,556,841
Utah	0	612,242	953,999
Vermont	0	307,016	561,789
Virginia	0	2,041,514	3,782,645
Washington	0	1,889,622	3,207,244
West Virginia	0	1,274,452	2,332,694
Wisconsin	0	2,182,633	3,955,012
Wyoming	0	304,959	545,375
District of Columbia	0	441,618	907,821
Puerto Rico	0	4,552,211	8,622,516
TOTAL	0	134,000,000	250,000,000

REVIEW & OUTLOOK

No Choice for Democrats

Amid the pandering to everyone from Al Sharpton to supporters of black reparations at Monday night's Democratic debate in Harlem, there was an interesting exchange on education that received little coverage. Reporters called Al Gore and Bill Bradley to account for their opposition to school choice, a political issue with real meaning for many minority voters, and neither could satisfactorily explain his opposition. Sure sounds to us like a campaign issue that somebody ought to open up.

The normally smug Mr. Gore didn't look too happy when Tamala Edwards of Time magazine pointed out that 60% of African-Americans support vouchers. She went on to note that Mr. Gore is himself strictly a product of private schools and that his children have largely been as well. "Is there not a public or charter school in Washington, D.C., good enough for your child? And if not, why should the parents have to keep their kids in public schools because they don't have the financial resources that you do?" Ms. Edwards asked.

Grabbing whatever piece of moral high ground seemed handy, Mr. Gore answered: "You can leave [my children] out of this." He said they had attended public schools at times and then started talking about the need for "revolutionary" change, which in his orbit translates as a "50 percent increase in the federal share of investment in public education." Mr. Bradley also mumbled his way toward a 20-second timeout.

CNN's Jeff Greenfield later put this piece of Democratic kryptonite back in front of the two liberal superheroes. "After 35 years and $100 billion in Title I money, with SAT gaps no narrower, why shouldn't parents conclude that the Democratic Party's opposition to choice is supporting a special interest rather than their interest?" he asked both men.

Mr. Gore retreated into a denial of reality. He claimed "the overwhelming majority of Americans" oppose vouchers. Not so. Senator Bradley gave a sound explanation of why he had voted for pilot voucher programs similar to those operating in Milwaukee and Cleveland: "I was listening to those parents." But this is the Democratic primaries, where your first obligation is to listen to the unions. So he said, "I think the answer is not vouchers because the system isn't big enough."

Again, this ignores the real-world evidence of people whose public schools are about as good as those outside the Apollo Theater. Those cities have *expanded* capacity, seen new schools open or had public schools shape up with the availability of vouchers. "The market responds by providing more and better schools of all kinds—including public—if parents can take their tax money and be sovereign consumers," says Milwaukee's Democratic Mayor John Norquist.

Milwaukee's voters certainly seem to agree. The debate on choice is over there. Last year's city school board elections installed a seven-to-two pro-voucher majority, and the new public school superintendent is partnering with private schools and learning from them. Mayor Norquist is a strong favorite to win re-election in April. The teachers' union isn't bothering to use choice against him in the campaign.

No one doubts that a majority of minority parents will vote Democratic this fall. But a significant number share the Reverend Floyd Flake's hesitancy about the party's destructive obeisance to the teachers' unions. Mr. Flake, a former New York Congressman, has endorsed Mr. Gore, but has "a major concern" about his opposition to helping urban families "condemned to the sinkholes of educational failure." He says, "It is like saying there has been a plane crash. Because we cannot save every child, we aren't going to save any children, we let them all die."

You'd think Republicans would seize this opening, especially among black and Hispanic parents. Both George W. Bush and John McCain tout voucher experiments, but some of their prominent backers are hostile. Warren Rudman, Mr. McCain's chairman, opposed vouchers in the Senate. Governor John Engler, Mr. Bush's political boss in Michigan, opposes a voucher initiative headed for the fall ballot. Privately, his allies say too many Detroit voters will turn out to support it and then vote Democrat for President or Senator.

This is pretty lame. Last week, Betsy DeVos of the Amway Company family, resigned as chairman of Michigan's Republican Party in part because of exasperation with her Governor's excessive *realpolitick*.

The tragedy of education in the inner cities is real. The uncompromising position of the Democratic establishment on choice is both politically and morally bankrupt. Messrs. Bush and McCain should elevate it, and let the votes fall where they may.

THE WALL STREET JOURNAL
WEDNESDAY, FEBRUARY 23, 2000

China Turns the Screws

When Taiwan held its first presidential election in 1996, China fired missiles into the surrounding waters to convince voters not to support Lee Teng-hui. That backfired. The island rallied around Mr. Lee and the ruling Kuomintang party. This time China is rhetorically threatening war if Taiwan doesn't come to the negotiating table. It won't work this time either. On Monday the State Council issued a policy paper stating China will "be forced to adopt all drastic measures possible, including the use of force," if Taiwan refuses, "sine die, the peaceful settlement of cross-Straits reunification through negotiations." The document's use of an obscure Latin term meaning "without a date" has sent China scholars scrambling to figure out the nuances of this ultimatum. The message is clear enough: Beijing sees time is not on its side, and is moving closer to setting a deadline for reunification.

Previously the mainland threatened military attack only if Taiwan made concrete steps toward a declaration of independence. Now just defending the status quo isn't enough for Beijing. Partly that may reflect jockeying within the Communist Party. But it also reflects the fact that Taiwan's main opposition candidate Chen Shui-bian has found a way to rally support for statehood without making voters so nervous about war with China that they run to the KMT. Surprisingly, he's doing it by yelling, "Long live independence."

The Taiwanese voter is a bundle of contradictions: He isn't keen on reunification, but doesn't want war just for the sake of a declaration of independence, yet he wants to be proud of the island nation, too. Thus, Mr. Chen ditched formal independence in favor of a kind of enhanced status quo. Why campaign for independence when it would imply Taiwan doesn't enjoy that status now? So let's just flaunt what we've already got. But no need to fear the People's Liberation Army, because a Chen administration would seek to strengthen commercial ties with the mainland. Predictably, Beijing is seething over the politician's cleverness.

This was all made possible by Beijing's *bete noire*, President Lee Teng-hui. His parting gift to Taiwan was the "two states" theory of cross-Strait relations, which says that both sides must acknowledge the reality that China is currently divided before anything can be done to bring the country together. By consolidating a sense of Taiwanese identity, he made it possible for the next president to bargain with the mainland from a position of strength.

The biggest danger now is that China will seek to play the Washington card again to force Taiwan to the negotiating table. The 1996 missile firings may have failed in the short term, but at least they have succeeded in persuading the Clinton Administration to send officials to Taipei to encourage President Lee to tone down the rhetoric. That in turn may have encouraged China's leaders to think that if they keep up the threats the U.S. will enforce their ultimatums.

In order to dispel such notions, Washington must do more than just promise to never push Taiwan to negotiate under a threat of force. It must acknowledge that Taiwan is a mature democracy now, and any compromise on the issue of sovereignty will have to come from the Taiwanese people. On his trip to China in 1998, President Clinton seemed to foreclose the possibility of Taiwanese sovereignty when he endorsed China's "three noes" doctrine. It's time to step back again and acknowledge that reunification will be possible only with the support of the Taiwanese voters. The current election campaign is showing that it is extremely unlikely while Beijing is holding a gun to their heads.

Asides

Gates as Goldfinger

The weird vapors of the modern economy can hardly get any better than the news that according to SEC filings, Bill Gates is suddenly the second largest shareholder in Newport News Shipbuilding, the big builder of atomic subs. Fevered nightmares of the Microsoft founder conspiring to capture the browser market are pretty-small change compared with the possibility that the nerdy billionaire is in fact . . . Goldfinger, whose custom-made fleet of nuclear-powered submarines will soon house obsessive Gatesian minions plotting yet more evil monopolies from beneath the polar ice caps, beyond the tentacles of the Clouseaus of competition, Joel Klein and Mario Monti.

PRESIDENT CLINTON BOLSTERS NATIONAL EFFORT TO TURN AROUND FAILING SCHOOLS

February 26, 2000

Today in his weekly radio address, President Clinton will announce the release of the official guidance to help states and school districts implement his initiative to fix failing schools and call on Congress to continue investing in our schools and demanding more from them. In his 1999 State of the Union Address, President Clinton called on Congress to pass his plan to help states and localities fix failing schools or shut them down. Last fall Congress heeded the President's call and appropriated $134 million for the President's accountability fund. The U.S. Department of Education guidance the President will release today gives states and school districts additional guidance about how to most effectively use these resources to intervene in low-performing schools and expand public school choice.

FIXING FAILING SCHOOLS BY INVESTING IN WHAT WORKS The guidance that the President is releasing today is a tool to help states and local school districts comply with the accountability provisions passed by Congress last fall and most effectively use the resources from the President's accountability fund. Among other activities that states and school districts can undertake with this funding is implementing more rigorous curriculum in a low-performing school, overhauling staffing at the school, or even closing the school or reopening it as a charter school. These are all proven strategies to help low-performing schools improve. For example, in North Carolina two years ago the state drew up a list of their 15 worst performing schools, and sent assistance teams to each school to help them improve. One year later, 14 of the 15 schools had improved their performance enough to be taken off the list. The President's accountability fund will help replicate this type of success nationwide. Currently, according to a Department of Education analysis, only about half of schools identified as needing improvement currently receive assistance. The President's accountability plan addresses this problem by helping states and localities fix more failing schools by providing them with the resources and leadership to address these issues. The President's FY2001 budget request increases funding for the accountability fund from $134 million to $250 million.

EXPANDING PUBLIC SCHOOL CHOICE The President's accountability initiative also expands public school choice by giving students in failing schools the option to transfer to higher performing public schools including charter schools. Public school choice is one strategy to help improve low-performing schools by increasing competition. Throughout his presidency the President has worked to increase choice in public education. For example, when he was first elected in 1992 there was only one charter school now there are about 1,700. Charter advocates attribute this phenomenal growth in large part to the President's national leadership and support for charter schools. The President's FY2001 budget request increases funding for charter schools from $145 million to $175 million.

INCREASING ACCOUNTABILITY IN PUBLIC EDUCATION In addition to his accountability fund the President has also worked to increase accountability in public schools through higher standards and his Education Accountability Act. In addition to fixing failing schools the Education Accountability Act would require states and school districts to issue report cards to parents on school performance, increase teacher quality and end the practice of out-of-field teaching, end social promotion the right way by giving all students the tools they need to reach high standards, and institute strong but fair discipline codes in schools. Today the President will again call on Congress to pass the Education Accountability Act.

IMPROVING OUR SCHOOLS BY INVESTING MORE AND DEMANDING MORE The accountability fund is only one part of the President's comprehensive agenda to improve public schools. The President's FY2001 budget request included a $4.5 billion increase for education that in addition demanding more from our schools and increasing accountability will help states and localities expand after-school and summer school programs, reduce class size in the early grades, build and modernize public schools, and increase teacher quality. Today the President will call on Congress to make the American people's number one priority their number one priority by working with him this year to improve our schools.

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 and 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

Ack! Why not us too?

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.

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.

Add competition

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.

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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).

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D. PUBLIC SCHOOL CHOICE

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

Ann's comment.

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.

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 ~~carry~~over 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).

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.

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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.

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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