

From: Constance J. Bowers on 03/01/2000 10:47:15 AM

Record Type: Record

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Subject: Goodling Statement on School Choice

Committee on Education and the Workforce

FOR IMMEDIATE RELEASE

February 26, 2000

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Statement of Chairman Bill Goodling (R-PA)
On the Administration's Guidelines for Public School Choice

WASHINGTON – In November 1999, House Education and the Workforce Chairman Bill Goodling successfully negotiated with the Clinton Administration for a public school choice provision for students in failing Title I schools. The agreement, which was part of the omnibus spending bill for Fiscal Year 2000, also provides \$134 million to turn around those schools. Chairman Goodling issued the following statement today regarding the Clinton Administration's newly issued guidance for public school choice:

"I am gratified that we have finally forced the administration to come around at least part way on the issue of school choice. The provision states that students who are trapped in a failing Title I school must be given the option of transferring to a successful public school.

"The administration has chosen to interpret this public school choice provision as applying only to schools that receive part of the \$134 million that we added for school improvement. As I have indicated previously, I have thought for some time that the administration would restrict the number of children who qualify for this education lifeline. But, at least, it's a start toward providing the stepping-stones for thousands of children to be able eventually to join mainstream America.

"I am heartened by the support of the Republican Governors Association on this issue. This week, the association's leadership wrote to President Clinton and urged him to make public school choice '...available to the broadest number of students possible.' They indicated their support for the intent of Congress to make school choice an option for every student attending '...the estimated 7,000 identified failing schools in our nation.'

"A very similar public school choice provision is part of H.R. 2, the Student Results Act, which passed the House overwhelmingly in October. I am optimistic that provision will be part of the final Elementary and Secondary Education Act (ESEA) package after we conference with the Senate later this year."

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The letter from the Republican Governors Association (RGA) follows. To speak with a Republican governor, contact Kirsten Fedewa at the RGA, 202/863-8662.

February 24, 2000

The President
The White House
Washington, DC 20500

Dear Mr. President:

We are delighted that last year in the FY 2000 Omnibus Appropriations, you and the Republican Congress took significant steps to improve failing, Title 1 public schools. We applaud the additional \$134 million included in the bill targeted to help turn these schools around and expand educational options for parents through public school choice. Public school choice empowers parents to seek out a quality education for their child by giving them the option to send their child to a better public school within their school district, including a charter public school.

Having embraced public school choice as a critical component to help our children in failing schools, we urge you to make this option available to the broadest number of students possible. Specifically, we ask that you make clear that this public school choice option be available to every student who attends one of the estimated 7000 identified failing schools in our nation (i.e. those schools identified as in "school improvement" or "corrective action"). We believe this was the intent of Congress in drafting this legislation.

As Governors, we share a fundamental belief that poverty is not intellectually disabling. The children in these schools don't use poverty as an excuse not to learn; their poverty should not be a barrier to them receiving a high quality education. We, like you and the Congress, are committed to improving the academic performance of all children. Empowering parents to make critical choices about the education of their children, including the choice of where to send their child to school, is key to that success. Once again, thank you for your efforts to ensure public school choice is a viable option for millions of parents in our states.

We urge you to direct the Department of Education to act quickly to issue the appropriate guidelines so that all parents have the necessary tools to ensure their children are not trapped in a failing school. We look forward to working with you as this new program becomes finalized.

Sincerely,

/s/
Ed Schafer
Governor of North Dakota
Chairman

/s/
Jim Gilmore
Governor of Virginia
Vice Chairman

/s/
Tom Ridge
Governor of Pennsylvania
Chairman
RGA Education Issue Team

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**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 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 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.

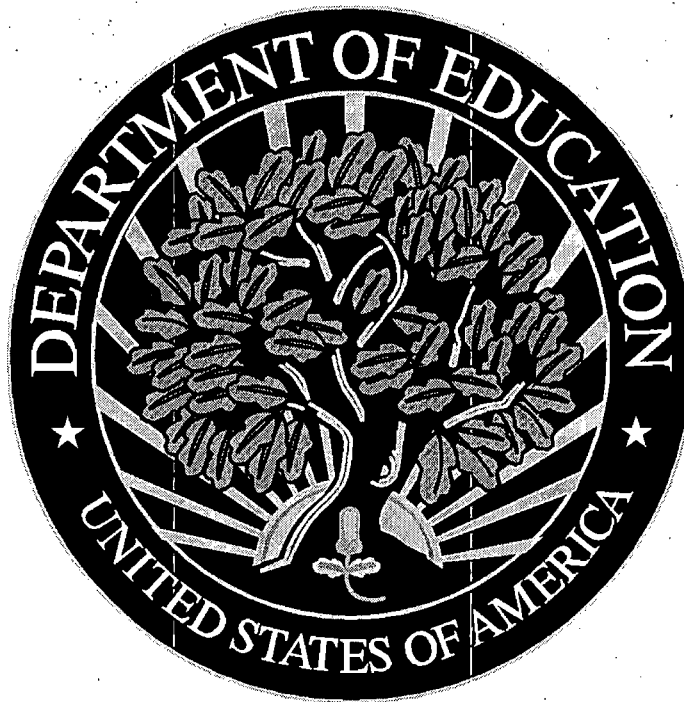
Public school choice

- *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.

GUIDANCE ON THE \$134 MILLION FISCAL YEAR 2000 APPROPRIATION FOR SCHOOL IMPROVEMENT



According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0628 and will expire on 8/31/00. The time required to complete these forms is estimated to average 24 hours per response, including the time to review instructions and complete the amendment. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651. If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Elementary and Secondary Education, U.S. Department of Education, Federal Office Building 6, 400 Maryland Avenue, SW, Washington, DC 20202.

GUIDANCE ON THE \$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 of 1965, 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 "\$134,000,000 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 for turning around low-performing schools.

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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, Appendix 4 of this guidance contains the "Continuum of Evidence of Effectiveness" which poses illustrative questions that States, local educational agencies, and schools can ask to evaluate the effectiveness of school reform models.

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 5). 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 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 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.

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.

* * * *

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 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. The 1992 Interim Report of the National Assessment of Chapter 1 (as Title I was called between 1981 and 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.

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. 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.

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. 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. 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.

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).

* * * *

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 each local educational agency receiving funds is to provide as many students in low-performing schools as possible with a choice to attend a public school within the local educational agency not identified for improvement.

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 choose among all schools not identified for improvement. 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 provide as many students in low-performing schools as possible with an option to transfer 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 implement choice in a way that guarantees equal educational opportunity for all students, including limited English proficient students and students with disabilities. 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, including laws related to enrollment or class size reduction. 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 or if it is otherwise authorized to do so by State or local law. However, the appropriations statute does not require local educational agencies to provide such an option; it only directs local educational agencies to provide an option to transfer 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 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, a local educational agency may provide choice to fewer than all eligible 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).

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 been identified for improvement. Such a local educational agency remains eligible to receive school improvement funds (see Question C1) and, if possible, may provide students with an option to transfer to schools outside of the local educational agency (see Question D7).

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

Yes. 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. Moreover, the intent of the appropriations statute is not to undo existing choice policies that provide 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, 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.

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 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 must use school improvement funds to carry out the school improvement and corrective action responsibilities described in section 1116(c). Funds may be used to cover any reasonable costs. For example, 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 who 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, while requiring public school choice, does not require local educational agencies to use school improvement funds for that purpose. As mentioned earlier, 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.

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APPENDIX 1—FY 2000 TITLE I APPROPRIATIONS STATUTE

Pub. L. 106-113—App. D (113 Stat. 1501A—245)

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act of 1965, \$8,700,986,000, of which \$2,461,823,000 shall become available on July 1, 2000, and shall remain available through September 30, 2001, and of which \$6,204,763,000 shall become available on October 1, 2000 and shall remain available through September 30, 2001, for academic year 2000-2001: *Provided*, That \$6,783,000,000 shall be available for basic grants under section 1124: *Provided further*, That \$134,000,000 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): *Provided further*, 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): *Provided further*, 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)

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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
California	16,556,811	New Mexico	1,152,065
Colorado	1,236,410	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	Ohio	5,241,730
Georgia	3,662,555	Oklahoma	1,673,782
Hawaii	349,593	Oregon	1,188,629
Idaho	408,150	Pennsylvania	5,861,386
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	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

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APPENDIX 3—SECTION 1116(c) OF TITLE I (codified at 20 U.S.C. § 6317(c))

(c) SCHOOL IMPROVEMENT.—

(1) **IN GENERAL.**—A local educational agency shall identify for school improvement any school served under this part that—

(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding October 20, 1994), for at least two consecutive school years prior to such day;

(B) has not made adequate progress as defined in the State's plan under section 6311(b)(2)(A)(i) of this title for two consecutive school years, except that—

(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 6311(b)(7)(B) of this title for two consecutive years.

(2) REQUIREMENT.—

(A) Each school identified under paragraph (1) shall—

(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards; and

(ii) submit the plan or revised plan to the local educational agency for approval.

(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall 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 for school improvement is in error for statistical or other substantive reasons, such school may provide evidence to the local educational agency to support such belief.

(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

(3) PROFESSIONAL DEVELOPMENT.—

(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

(B) A school may use funds from any source to meet the requirements of this subsection.

(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

(4) TECHNICAL ASSISTANCE.—

(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 6318 of this title, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of subchapter XIII of this chapter, or other entities with experience in helping schools improve achievement.

(5) CORRECTIVE ACTION.—

(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency; which may include—

(I) withholding funds;

(II) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

(III) revoking authority for a school to operate a schoolwide program;

(IV) decreasing decisionmaking authority at the school level;
(V) making alternative governance arrangements such as the creation of a public charter school;

(VI) reconstituting the school staff; and

(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency.

(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclause (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 6311(b)(3) of this title.

(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

(A) make technical assistance under section 6318 of this title available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

(7) SPECIAL RULE.—Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

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APPENDIX 4—CONTINUUM OF EVIDENCE OF EFFECTIVENESS

	Most Rigorous	Somewhat Rigorous	Marginal
Theory/Research Foundation	Does the model explain the theory behind its design, including references to the scientific literature, that elucidate why the model improves student achievement?	Does the model state the theory behind its design explaining how the model's components reinforce one another to improve student achievement?	Does the model explain the theory behind its design?
Evaluation-based Evidence of Effectiveness	Have student achievement gains been shown using experimental and control groups created through large-scale random assignment or carefully matched comparison groups?	Have student achievement gains been shown using between or within-school comparisons?	Have student achievement gains been shown for a single school?
	Has the model produced educationally significant pre and post intervention student achievement gains as reliably measured using appropriate assessments?	Has the model produced student achievement gains relative to district means or other comparison groups using appropriate assessment instruments?	Has the model produced improvements on other indicators of student performance, e.g., student attendance, graduation rates, or student engagement?
	Have the student achievement gains been sustained for three or more years?	Have the student achievement gains been sustained for one or two years?	Have other indicators of improved student performance been sustained for one or two years?
	Have the student achievement gains been confirmed through independent, third-party evaluation?	Has the model been evaluated by a State, district, or school evaluation team?	Has the model been evaluated by its developers?

Implementation	Has the model been fully implemented in multiple sites for more than three years?	Has the model been fully implemented in the original site(s) for more than three years?	Has the model been fully implemented in the original pilot site(s) for a minimum of one school year?
	Is documentation available that clearly specifies the model's implementation requirements and procedures, including staff development, curriculum, instructional methods, materials, assessments, and costs?	Is documentation available that attempts to describe the implementation requirements of the model including staff development, curriculum, instruction methods, materials, and assessments?	Is documentation available that provides a general description of the program's requirements?
	Are the costs of full implementation clearly specified? Are the costs of materials, staff development, and additional personnel included in the program's purchase price?	Have the costs of full implementation been estimated? Does the estimate of the program's purchase price include costs of materials, staff development, and additional personnel?	Is documentation available that provides general information about the program's costs?
	Has the model been implemented in schools with characteristics similar to the target school: same grade levels, similar size, similar poverty levels, similar student demographics such as racial, ethnic, and language minority composition?	Has the model been successfully implemented in at least one school with characteristics similar to the target school?	Is information on grade level, size, student demographics, poverty level, and racial, ethnic and language minority concentration available for the schools where the model has been implemented?
Replicability	Has the model been replicated successfully in a wide range of schools and districts, e.g., urban, rural, suburban?	Has the model been replicated in a number of schools or districts representing diverse settings?	Is full replication of the model being initiated in several schools?
	Have the replication sites have been evaluated, demonstrating significant student achievement gains comparable to those achieved in the pilot site(s)?	Have some replication sites been evaluated, demonstrating positive gains in student achievement?	Are promising initial results available from the replication sites?

The following three examples show how the evidence of effectiveness table might be used to show how the table might be used:

Example 1

A school is considering a model whose stated purpose is to facilitate the school's development of a common set of goals for the school. The model provides five teachers and the principal with coaching in the principles of whole school transformation. Each school using the model is put in touch with other schools using the model. To date, the summary of the research-base for the model suggests that a single school which has used the model for the past two years has shown improvement in math scores over the last year. There is, however, no systematic evaluation of the model currently underway or planned. The costs for the model are approximately \$3,000 per participant, approximately \$20,000 per school.

Using the table as a guide, based on the description provided, a State, local educational agency, or school would probably conclude that the evidence of effectiveness for the model is unacceptably weak and therefore would not accept this model.

No research basis or other justification is provided for the theory behind the model, only a very vague statement that school staff should work together to be effective. The evidence for the effectiveness of the implementation of the model is sketchy. The description includes a statement that the model has been implemented in a number of schools, but there is no analysis of what it would take to implement the model. Given the estimated costs and the fact that only a few teachers and the principal would be involved, the model probably provides only a low level of involvement. The model provides no evidence that this level of implementation is sufficient to produce results. The only student achievement results presented are for a single school for a short period of time in one subject. There is no information on how achievement was measured nor is any evaluation planned.

Given this level of evidence, the model would likely fall below the marginal standards of rigor that States, local educational agencies, and schools would want to consider for a research-based comprehensive model of school reform. Apart from the marginal evidence of effectiveness, the model also does not address all nine components of comprehensive school reform (see Appendix 5).

Example 2

A school is considering a model that emphasizes a curriculum in reading and mathematics using specific instructional techniques to guide classroom teaching and learning activities. The model provides teachers with intensive, ongoing staff development using professional facilitators trained by the model developer. In addition to providing staff development, the facilitators remain on site as the model is implemented to ensure that all components of the model are working together. The program has been fully implemented in approximately 300 schools in 37 districts in nine States around the country. Student achievement is measured not only by commercial standardized tests but also by State assessment systems where appropriate. Local adaptations of the model are available for schools serving a predominately Spanish-speaking community. When compared to schools matched on socioeconomic characteristics, schools using this model show reading and math scores approximately three-quarters of a standard deviation higher. These results are similar for both African-American and white students. The program has been evaluated by its developer in approximately 12 sites over two years.

The evidence for this model is much stronger than for Example 1. While this model provides some details along each of the four dimensions in the chart, the implementation evidence is quite general. Furthermore, the school proposing to implement this model would need to coherently address, in a coherent manner, all nine components of comprehensive school reform (see Appendix 5).

There are some additional questions that States, local educational agencies, and schools might ask about this model: Could the developer describe what was provided in the way of instructional materials? How will teachers learn the principles of instruction? For which grades and which types of schools are the achievement gains demonstrated? Because the model has only been evaluated by the developer, States, local educational agencies, and schools should ask if there are any plans for an independent, third-party evaluation. These questions would help reveal the relative strengths and weaknesses of this particular model.

Example 3

An elementary school in need of improvement has been studying how it could improve its students very low scores on State assessments in reading, math and other core content areas. The school leadership, in consultation with staff, parents, local university representatives, and community groups, has carefully reviewed school performance data and assessed what needs to be improved across the entire school program, concluding that the school needs a comprehensive approach to reform all aspects of its operations and instructional program.

As part of this process, participants reviewed both individual academic curricular programs as well as comprehensive reform models that include both teaching and learning materials and guidance for school organization and management. The school and its partners looked specifically at evidence of effectiveness for both the individual programs and the comprehensive models. In addition, they studied the match between the programs and the State's rigorous content standards of excellence for academic subject matter, and sought information on how well the programs had been implemented in similar districts. After considerable discussion among school administrators, teachers, parents, community members, and outside experts, the school decided to develop its own comprehensive school reform model, which would include upgrading curriculum and instruction, teacher professional development, school organization, parental involvement activities, and testing.

The school's proposed model is based on the careful integration of distinct, research-based curricular programs with strong track records of effectiveness. The goal of the integration is a coherent instructional package that would address State content and performance standards; be aligned with district and State assessment systems; include professional development that helps teachers master the curricular programs as well as integrate the parts into a unified instructional approach; and include an evaluation strategy so the school can learn what is working and change what is not. As a result of this process, the school has decided to work under a Title I schoolwide approach so that it can bring together a variety of Federal, State, and other resources to adopt the curricular programs necessary to reform its instructional program and eventually to move into a long-term implementation effort.

Using the table as a guide, the example makes clear that the school has looked at the evidence of effectiveness that supports its choice of discrete curricular programs, thus addressing issues in the second row of the table. However, the first row of the table suggests that, in its application, the school should explain the theoretical or research

foundation for the model it proposes. At this point the school has not made clear why it expects its comprehensive model, which combines multiple discrete curricular elements, to function effectively as a whole. Regarding implementation, it is unclear how the school has assessed what will be required to make the program work at the classroom level. Thus, the school has not yet answered the questions in the third row of the table. Finally, the example indicates that the school sought information on the uses in other settings of the selected programs. This shows a sensitivity to the questions raised in the fourth row of the table.

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APPENDIX 5—COMPONENTS OF COMPREHENSIVE SCHOOL REFORM PROGRAMS

A comprehensive school reform program is one that coherently integrates all nine of the following components:

1. *Effective, research-based methods and strategies.* A comprehensive school reform program employs innovative strategies and proven methods for student learning, teaching, and school management that are based on reliable research and effective practices, and have been replicated successfully in schools with diverse characteristics.
2. *Comprehensive design with aligned components.* The program has a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a schoolwide reform plan designed to enable all students—including children from low-income families, children with limited English proficiency, and children with disabilities—to meet challenging State content and performance standards and addresses needs identified through a school needs assessment.
3. *Professional development.* The program provides high-quality and continuous teacher and staff professional development and training.
4. *Measurable goals and benchmarks.* A comprehensive school reform program has measurable goals for student performance tied to the State's challenging content and student performance standards, as those standards are implemented, and benchmarks for meeting the goals.
5. *Support within the school.* The program is supported by school faculty, administrators, and staff.

6. *Parental and community involvement.* The program provides for the meaningful involvement of parents and the local community in planning and implementing school improvement activities.

7. *External technical support and assistance.* A comprehensive reform program utilizes high-quality external support and assistance from a comprehensive school reform entity (which may be a university) with experience or expertise in schoolwide reform and improvement.

8. *Evaluation strategies.* The program includes a plan for the evaluation of the implementation of school reforms and the student results achieved.

9. *Coordination of resources.* The program identifies how other resources (Federal, State, local, and private) available to the school will be utilized to coordinate services to support and sustain the school reform.