



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF VOCATIONAL AND ADULT EDUCATION

THE ASSISTANT SECRETARY

NON-REGULATORY GUIDANCE MEMORANDUM

JUN 6 2007

TO: State Directors of Career and Technical Education

FROM: Troy R. Justesen, Ed.D. *Troy Justesen*

SUBJECT: Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 2.0

I am pleased to send you the *second round* of questions and answers regarding the implementation of the newly reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV or the Act). These questions include some of those generated at the Office of Vocational and Adult Education's (OVAE's) Perkins IV Implementation Kick-Off Meeting on October 6, 2006, in Washington, D.C. OVAE plans to answer any remaining questions from the October 6th meeting through non-regulatory guidance memoranda. These memoranda will be posted on OVAE's Web site when they are issued.

It is important to note the following disclaimers as you use this document:

- This guidance document is advisory only and should be regarded as a “work in progress.” It does not impose any requirements beyond those that the law specifies and does not create or confer any rights for or on any person or operate to bind the public.
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- Unless otherwise noted, all references to Title I in this document refer to Title I basic grant awards under Perkins IV
- If you have any questions or wish to discuss an alternative approach or response to these questions, you may contact Dale King by phone at (202) 245-7405 or e-mail at dale.king2@ed.gov.

Attachment

NON-REGULATORY GUIDANCE
**Answers to Questions Generated at the October 6, 2006,
Perkins IV Implementation Kick-Off Meeting – VERSION 2.0**

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A. STATE PLANS

Note: This office answered questions pertaining to new Perkins IV State Plans (questions A.1-A.11) in the non-regulatory guidance memo entitled, "Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 - Version 1.0," which was issued from this office on January 9, 2007. See OVAE's Web site at: <http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html>

B. ACCOUNTABILITY

Note: This office answered questions B.1-B.28 pertaining to Perkins IV accountability provisions in the January 9, 2007, non-regulatory guidance memo.

B.29 Will the Department provide definitions for the terms "valid" and "reliable?"

Not at this time. Sections 113(b)(2)(A) and (B) of the Act require each State to develop and identify in its State plan valid and reliable measures for each core indicator of performance for career and technical education students the State identifies in its State plan. In some instances, the Act prescribes the measures a State must use for the core indicators. For those indicators, no further explanation of what measures may be used is necessary. For example, in section 113(b)(2)(A)(i), the Act requires a State to measure the academic proficiency of secondary career and technical education students using the standards and assessments in sections 1111(b)(1) and 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (ESEA). Similarly, the Act requires States to measure student graduation rates as described under section 1111(b)(2)(C)(vi) of ESEA. In addition, section 113(b)(2)(B)(i) of the Act requires a State to use industry-recognized standards, if available and appropriate, to measure career and technical education students' attainment of challenging career and technical skill proficiencies.

A State must not only include in its State plan the measures it intends to use for each core indicator but also must describe in its State plan how its definitions and measures are valid and reliable and reflect high standards and real improvements in performance. A demonstration of a measure's validity is evidence that the measure assesses what it intends to assess. A demonstration of reliability is evidence that the results of an assessment are dependable and consistent. The Department's non-regulatory guidance, *Student Definitions and Measurement Approaches for the Core Indicators of Performance Under the Carl D. Perkins Career and Technical Education Act of 2006*, provides recommendations for student definitions and measurement approaches for the core indicators of performance that we believe will yield valid and reliable data on the performance of career and technical education students. The Secretary also will ensure the validity and reliability of measures for each core indicator by providing technical assistance to States when reaching agreement on performance levels.

B.30 Can a State use its 3-year rolling average as its baseline data for the core indicators of performance?

No. A State must use its most recent year of actual data to establish its baseline for the core indicators of performance.

B.31 Are students eligible under section 504 of the Rehabilitation Act of 1973 (as amended) (Section 504) considered “students with disabilities” for purposes of reporting accountability data for special populations under Perkins IV.

Yes. Section 3(17)(A) of Perkins IV defines an “individual with a disability” as an individual with any disability as defined in section 3 of the Americans with Disabilities Act of 1990 (ADA). Section 504 parallels the definition of an individual with a disability under the ADA; thus, Section 504 eligible students must be considered “individuals with disabilities” for purposes of reporting accountability data for special populations under Perkins IV. Section 504 requires a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. FAPE consists of the provision of regular or special education and related aids and services designed to meet the student’s individual needs. Implementation of an Individualized Education Program developed under Part B of the Individuals with Disabilities Education Act (IDEA) is one way that school districts may meet their FAPE responsibilities under Section 504.

B.32 Will a State be required to report data in the Consolidated Annual Report (CAR) on the tech prep indicators that the State negotiates with its consortia?

Yes. The Department will be issuing a new Consolidated Annual Report (CAR) form that will require each State to report aggregate data on the indicators of performance for tech prep programs assisted under section 203(e) of the Act. This report, which also will require States and local recipients to disaggregate tech prep students in the data reported under section 113 of the Act, will satisfy each State’s requirement to annually prepare and submit to the Secretary a report on the effectiveness of tech prep programs as required under section 205 of the Act.

C. DEFINITIONS

Note: This office answered questions pertaining to Perkins IV definitions (questions C.1-C.2) in the January 9, 2007, non-regulatory guidance memo.

D. FISCAL CONSIDERATIONS

Note: This office answered questions pertaining to Perkins IV fiscal considerations (questions D.1-D.14) in the January 9, 2007, non-regulatory guidance memo.

E. INCENTIVES AND SANCTIONS

Note: This office answered question E.1 pertaining to Perkins IV incentives and sanctions in the January 9, 2007, non-regulatory guidance memo.

E.2 Does a State have to develop a specific and separate program improvement plan for any special population that does not meet the State's adjusted performance level on any core indicator?

No. However, section 123(a)(1) of the Act requires a State to consider performance gaps identified under section 113(c)(2) of the Act in the development and implementation of its program improvement plan for any of the core indicators of performance for which the State failed to meet at least 90 percent of an agreed upon State-adjusted level of performance. Section 113(c)(2) of the Act requires each eligible agency to identify and quantify any disparities or gaps in performance between any category of students who are special population members or who are in the categories described in section 1111(h)(1)(C)(i) of the ESEA and compare it to the performance of all students in its annual report to the Department. Eligible recipients also must consider performance gaps identified under section 113(b)(4)(C)(ii)(II) of the Act in the development and implementation of a program improvement plan under section 123(b)(2) of the Act.

E.3 Will a State be subject to sanctions for any special population category that does not meet the State-adjusted performance level on any core indicator?

No. However, if a State fails to meet at least 90 percent of its agreed upon performance level for any of its core indicators of performance for all students, then section 123(a)(1) of the Act requires a State to consider performance gaps identified under section 113(c)(2) of the Act in the development and implementation of its program improvement plan for any of the core indicators of performance for which the State failed to meet at least 90 percent of an agreed upon State-adjusted level of performance.

F. TECH PREP PROGRAMS

Note: This office answered questions pertaining to Perkins IV tech prep programs (questions F.1-F.3) in the January 9, 2007, non-regulatory guidance memo.

G. OCCUPATIONAL AND EMPLOYMENT INFORMATION

G.1 Are States required to continue supporting activities under section 118, even though Congress did not appropriate funds for program year (PY) 2007-08?

No. However, the Act imposes on States and their eligible recipients certain required uses of funds (and allows other uses of funds) for activities pertaining to the use of occupational and employment information under their new State plans under Title I and Title II of the Act, including:

- Section 122(c)(2)(F) of the Act requires a State to describe how comprehensive professional development will be provided that assists CTE teachers, faculty, administrators, and career guidance and academic counselors to access and utilize data, including data provided under section 118 of the Act, student achievement data, and data from assessments.
- Section 124(c)(17) of the Act permits a State to use its leadership funds to support occupational and employment information resources, such as those described in section 118 of the Act.
- Section 135(c)(2) of the Act permits eligible recipients to provide career guidance and academic counseling, which may include information described in section 118 of the Act, for students participating in career and technical education programs that improves graduation rates and provides information on postsecondary and career options and provides assistance for postsecondary students.
- Section 203(c)(4)(F) of the Act requires a State to include, as part of its tech prep programs, in-service professional development for teachers, faculty, and administrators that assists those individuals in accessing and utilizing data, information provided under section 118 of the Act, and information on student achievement, including assessments.
- Section 204(d)(4) of the Act enables a State to give special consideration to tech prep consortium applications that provide education and training in an area or skill, including an emerging technology, in which there is a significant workforce shortage.