



Frequently asked questions of Title II (prepared 2005)

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1 HOW CAN LOCAL EDUCATION AGENCIES USE THEIR TITLE II FUNDS?

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Answer:

Section 2123 of P.L. 1007-110 states that "...a local educational agency that receives a subgrant under Section 2121 shall use the funds made available through the subgrant to carryout one or more of the following activities, including carrying out the activities through a grant or contract with a for-profit or nonprofit entity:

1. Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only
 - A. if the local educational agency is making progress toward meeting the annual measurable objectives described in Section 1119(a)(2); and
 - B. in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

2. Developing and implementing initiatives to assist in recruiting highly qualified teachers (particularly initiatives that have proven effective in retaining highly qualified teachers), and hiring highly qualified teachers, who will be assigned teaching positions within their fields, including:
 - A. providing scholarships, signing bonuses, or other financial incentives, such as differential pay, for teachers to teach
 - i. in academic subjects in which there exists a shortage of highly qualified teachers within a school or within the local educational agency; and
 - ii. in schools in which there exists a shortage of highly qualified teachers;
 - B. recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades; and
 - C. establishing programs that
 - i. train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children);
 - ii. train and hire highly qualified teachers of special needs children, as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;
 - iii. recruit qualified professionals from other fields, including highly qualified paraprofessionals, and provide such professionals with alternative routes to teacher certification, including developing and implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, and using a system of intensive screening designed to hire the more qualified applicants; and
 - iv. provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.

3. Providing professional development activities
 - A. that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning
 - i. one or more of the core academic subjects that the teachers teach; and
 - ii. effective instructional strategies, methods, and skills, and use of challenging State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement;
 - B. that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that
 - i. involve collaborative groups of teachers and administrators;
 - ii. provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;
 - iii. provide training in methods of
 - I. improving student behavior in the classroom; and
 - II. identifying early and appropriate interventions to help students described in clause ii learn;
 - iv. provide training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children; and
 - v. provide training on how to understand and use data and assessments to improve classroom practice and student learning.
4. Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within elementary schools and secondary schools with a high percentage of low-achieving students, including programs that provide
 - A. teacher mentoring from exemplary teachers, principals, or superintendents;
 - B. induction and support for teachers and principals during their first three years of employment as teachers or principals, respectively;
 - C. incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic achievement; or
 - D. incentives, including financial incentives, to principals who have a record of improving the academic achievement of all students, but particularly students from economically disadvantaged families, students from racial and ethnic minority groups, and students with disabilities.
5. Carrying out programs and activities that are designed to improve the quality of the teacher force, such as
 - A. innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of Section 9101, and are coordinated with activities carried out under Part D;
 - B. development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;
 - C. tenure reform;
 - D. merit pay programs; and
 - E. testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.



6. Carrying out professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented, aspiring or current principals and superintendents become outstanding managers and educational leaders.
7. Hiring highly qualified teachers, including teachers who become highly qualified through state and local alternative routes to certification, and special education teachers, in order to reduce class size, particularly in the early grades.
8. Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.
9. Carrying out programs and activities related to exemplary teachers."

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2. WHAT DETERMINES HOW MUCH MONEY A SCHOOL DISTRICT IS ELIGIBLE TO RECEIVE FROM THE TITLE II PROGRAM?

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Answer:

The Law specifies that grant allocations will be based upon three factors. Two components of the allocation formula are derived from grant amounts schools qualified for from the FY2001 Class-Size Reduction Program and Eisenhower Professional Programs; e.g. grants for the 2001-02 school year. Since the federal appropriate for the Title II program exceeded the amount needed to fund those two components of the formula, the Law states that additional funds must be distributed as follows:

3. ALLOCATION OF ADDITIONAL FUNDS. For any fiscal year for which the funds reserved by a State under Section 2113(a)(1) exceed the total amount required to make allocations under paragraph (2), the State educational agency shall allocate to each of the eligible local educational agencies in the State the sum of
 - A. an amount that bears the same relationships to 20 percent of the excess amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and
 - B. an amount that bears the same relationship to 80 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the geographic area served by the agency, as determined by the secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State and so determined.

The most recent available information data provided by the Census Bureau is used to establish the prorated grant amounts schools may receive from the Sections a) and b) noted above. We will also include some reallocated funds from the FY2001 federal appropriate cycle, or 2001-02 school year, that school districts did not request in the application process.

3. WHAT TYPE OF NEEDS ASSESSMENT SHOULD A SCHOOL DISTRICT CONSIDER AS PART OF THE PROJECT DEVELOPMENT PROCESS?

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Answer:

In Section 2122, it indicated that "...each application submitted under this Section shall be based on the needs assessment required in subsection (c)..."

1. IN GENERAL - to be eligible to receive a subgrant under this subpart, a local educational agency shall conduct an assessment of local needs for professional development and hiring, as identified by the local educational agency and school staff;
2. REQUIREMENTS - such as needs assessment shall be conducted with the involvement of teachers, including teachers participating in programs under Part A of Title I, and shall take into account the activities that need to be conducted in order to give teachers the means, including subject matter knowledge and teaching skills, and to give principals the instructional leadership skills to help teachers, to provide students with the opportunity to meet challenging State and local student academic achievement standards."

4. WHAT ACCOUNTABILITY FACTORS RELATE TO THE TITLE II - PART A PROGRAM?

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Answer:

Section 2141 states... "

1. IMPROVEMENT PLAN - After the second year of the plan described in Section 1119(a)(2), if a State educational agency determines, based on the reports described in Section 1119(b)(1), that a local educational agency in the State has failed to make progress toward meeting the annual measurable objectives described in Section 1119(a)(2), for two consecutive years, such local education agency shall develop an improvement plan that will enable the agency to meet such annual measurable objectives and that specifically address issues that prevented the agency from meeting such annual measurable objectives;
2. TECHNICAL ASSISTANCE - During the development of the improvement plan described in Subsection (a) and throughout implementation of the plan, the State educational agency shall
 - A. provide technical assistance to the local educational agency; and
 - B. provide technical assistance, if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to meet the annual measurable objectives described in Section 1119(a)(2).
3. ACCOUNTABILITY - After the third year of the plan described in Section 1119(a)(2), if the State educational agency determines, based on the reports described in Section 1119(b)(1), that the local educational agency has failed to make progress toward meeting the annual measurable objectives described in Section 1119(a)(2), and has failed to make adequate yearly progress as described under Section 111(b)(2)(b), for three consecutive years, the State educational agency shall enter into an agreement with such local educational agency on the use of that agency's funds under this part. As part of this agreement, the State educational agency
 - A. shall develop, in conjunction with the local educational agency, teachers, and principals, professional development strategies and activities, based on scientifically based research, that the local educational agency will use to meet the annual measurable objectives described in Section 1119(a)(2) and require such agency to utilize such strategies and activities; and
 - i. except as provided in Subparagraphs (b) and (c), shall prohibit the use of funds received under Part A of Title I to fund any paraprofessional hired after the date such determination is made;
 - ii. shall allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate that the hiring is to fill a vacancy created by the departure of another paraprofessional funded under Title I and such new paraprofessional satisfies the requirements of Section 1119(c); and
 - iii. may allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate
 - I. that a significant influx of population has substantially increased student enrollment; or
 - II. that there is an increased need for translators or assistance with parental involvement activities.

- iv. SPECIAL RULE - During the development of the strategies and activities described in Subsection (c)(1), the State educational agency shall, in conjunction with the local educational agency, provide from funds allocated to such local educational agency under Subpart 2 directly to one or more schools served by such local educational agency, to enable teachers at the schools to choose, with continuing consultation with the principal involved, professional development activities that
 - I. meet the requirements for professional development activities described in Section 9101; and
 - II. are coordinated with other reform efforts at the schools."

5 ARE THERE GUIDELINES FOR DEALING WITH THE "SUPPLEMENT NOT SUPPLANT" PROVISION IN THE LAW?

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Answer:

The "supplement not supplant" clause in the federal program prohibits the grantee from simply substituting federal funds for money that would typically be expended from state or local sources. There are a number of ways of looking at the "supplement not supplant" issue.

A simple way to analyze a situation is to determine if the school would have to do the activities in question because of a state/local law or policy. If so, federal funds should not be used to allow the school to meet its responsibilities. It's also possible to make a determination on the use of funds based upon whether or not the school district would have the expense in question if federal funds were not available. A third approach is to determine if the school is using local resources to provide a basic level of service for the area in question. If so, federal funds can then be used to purchase goods and services to improve educational opportunities for students. In general, LEAs may use Title V funds to supplement, not supplant, local financial resources. These funds may not replace or reduce the level of funds from state or local sources being expended on education.

6 SECTION 2123 OF THE TITLE II LEGISLATION INDICATES THAT FUNDS MAY BE USED TO HIRE AND TRAIN HIGHLY QUALIFIED TEACHERS. HOW DOES THE U.S. DEPARTMENT OF EDUCATION DEFINE "HIGHLY QUALIFIED TEACHERS"?

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Answer:

The definition can be found in Section 9101 of the law. It states that "...the term 'highly qualified' when used with respect to any public elementary school or secondary school teacher teaching in a state, means that

1. The teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination and holds a license to teach in such state, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the state's public charter school law; and
2. The teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis. When used with respect to an elementary school teacher who is new to the profession, means that the teacher
 - A. holds at least a bachelor's degree; and
 - B. has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a state-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or
3. A middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by
 - A. passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on state-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
 - B. successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and
4. When used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and
 - A. has met the applicable standard in clause (i) or (ii) of Subparagraph 2, which includes an option for a test; or
 - B. demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standards of evaluation that
 - i. is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;
 - ii. is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

- iii. provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
- iv. is applied uniformly to all teachers in the same academic subject and the same grade level throughout the state;
- v. takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
- vi. is made available to the public upon request; and
- vii. may involve multiple, objective measures of teacher competency."

7 HOW DOES THE LEGISLATION DEFINE "PROFESSIONAL DEVELOPMENT"?

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Answer:

Section 9101 of the Law notes that the term includes activities that:

1. improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;
2. are an integral part of broad schoolwide and districtwide educational improvement plans;
3. give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;
4. improve classroom management skills;
5. are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and
 - A. are not 1-day or short-term workshops or conferences;
6. support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;
7. advance teacher understanding of effective instructional strategies that are
 - A. based on scientifically based research (except that this subclause shall not apply to activities carried out under Part D of Title II); and
 - B. strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and
8. are aligned with and directly related to
 - A. State academic content standards, student academic achievement standards, and assessments; and
 - B. the curricula and programs tied to the standards described in Subclause (a) except that this subclause shall not apply to activities described in clauses (2) and (3) of Section 2123 (3)(b).
9. are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;
10. are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language

and academic support services to those children, including the appropriate use of curricula and assessments;

11. to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;
12. as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;
13. provide instruction in methods of teaching children with special needs.
14. include instruction in the use of data and assessments to inform and instruct classroom practice; and
15. include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and
16. may include activities that
 - A. involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;
 - B. create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under Part A of Title I) to obtain the education necessary for those paraprofessionals to become certified and licenses teachers; and
 - C. provide follow-up training to teachers who have participated in activities described in Subparagraph (a) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom."

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8 CAN A SCHOOL DISTRICT TRANSFER SOME TITLE II FUNDS TO ITS TITLE I PROGRAM?

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Answer:

The language in the legislation that allows a school district to transfer a portion of its Title II grant to the Title I program can be found in Section 6123. It states that

"...a local educational agency (except a local educational agency identified for improvement under section 1116(c) or subject to corrective action under section 1116(c)(9)) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) AGENCIES IDENTIFIED FOR IMPROVEMENT- In accordance with this subpart, a local educational agency identified for improvement under section 1116(c) may transfer not more than 30 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year —

- i. to its allocation for school improvement for such fiscal year under section 1003; or
- ii. to any other allocation for such fiscal year if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(c).

(C) ADDITIONAL FUNDS FOR TITLE I- In accordance with this subpart and subject to the percentage limitation described in subparagraph (A) or (B), as applicable, a local educational agency may transfer funds allocated to such agency under any of the provisions listed in paragraph (2) for a fiscal year to its allocation for part A of title I for that fiscal year.

(2) APPLICABLE PROVISIONS- A local educational agency may transfer funds under subparagraph (A), (B), or (C) of paragraph (1) from allocations made under each of the following provisions:

- (A) Section 2121.
- (B) Section 2412(a)(2)(A).
- (C) Section 4112(b)(1).
- (D) Section 5112(a).

(c) NO TRANSFER OF TITLE I FUNDS- A State or a local educational agency may not transfer under this subpart to any other program any funds allotted or allocated to it for part A of title I.

(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION-

- (1) STATE TRANSFERS- Each State that makes a transfer of funds under this section shall —
 - (A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;
 - (B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and
 - (C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.
 - (2) LOCAL TRANSFERS- Each local educational agency that makes a transfer of funds under this section shall —
 - (A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;
 - (B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and
 - (C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.
- (e) APPLICABLE RULES-
- (1) IN GENERAL- Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.
 - (2) CONSULTATION- Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 9501, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools."

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9 HOW DO PRIVATE SCHOOLS RECEIVE SERVICES FROM THE TITLE II PROGRAM?

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Answer:

A considerable portion of the information in PL 107-110 concerning private schools begins in Section 9501 of the Law. It states, in part, that "...

- (1) **IN GENERAL-** Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.
- (2) **SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS-** Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.
- (3) **SPECIAL RULE-** Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.
- (4) **EXPENDITURES-** Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.
- (5) **PROVISION OF SERVICES-** An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) APPLICABILITY-

- (1) IN GENERAL- This section applies to programs under —
 - (A) subparts 1 and 3 of part B of title I;
 - (B) part C of title I;
 - (C) part A of title II, to the extent provided in paragraph (3);
 - (D) part B of title II;
 - (E) part D of title II;
 - (F) part A of title III;
 - (G) part A of title IV; and
 - (H) part B of title IV.
- (2) DEFINITION- For the purpose of this section, the term eligible children' means children eligible for services under a program described in paragraph (1).
- (3) APPLICATION- (A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.
(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

(c) CONSULTATION-

- (1) IN GENERAL- To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as —
 - (A) how the children's needs will be identified;
 - (B) what services will be offered;
 - (C) how, where, and by whom the services will be provided;
 - (D) how the services will be assessed and how the results of the assessment will be used to improve those services;
 - (E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and
 - (F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.
- (2) DISAGREEMENT- If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a

written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) **TIMING-** The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) **DISCUSSION REQUIRED-** The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) **PUBLIC CONTROL OF FUNDS-**

(1) **N GENERAL-** The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(2) **PROVISION OF SERVICES-**

(A) **IN GENERAL-** The provision of services under this section shall be provided

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) **INDEPENDENCE; PUBLIC AGENCY-** In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) **COMMINGLING OF FUNDS PROHIBITED-** Funds used to provide services under this section shall not be commingled with non-Federal funds. "

10 HOW LONG MUST PROJECT RECORDS BE KEPT?

Answer:

Records associated with a Title II project must be retained for three years after the completion of that project.

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11 WHAT ACCOUNTING ISSUES SHOULD A GRANTEE TAKE INTO CONSIDERATION?

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Answer:

Financial transactions associated with these grant funds should be easily identifiable in a school district's accounting system. Specify a code in the accounting system to show the receipt and expenditure of the grant funds. Traditionally, schools have used numbers in the 4300 series to track funds from this type of program.

We prefer to disperse grant funds on a reimbursement basis. For example, the school district would pay for the items or services and then request reimbursement for those expenditures when all project transactions are complete. If it isn't possible to do that, school districts can request cash advances using the form numbered NDE28-003. Expenditure payments should occur in such a way so as to use available grant funds in a 30- to 60-day period. Cash management directives from the United States Department of Education restrict the amount of money school districts can keep on hand.

12 WHAT ARE THE PROCEDURES FOR FILING A COMPLAINT REGARDING A FEDERAL PROGRAM?

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Answer:

1. A complaint that the Department of Education or agency or consortium of agencies is violating a federal statute or regulation that applies to any applicable program should be submitted by letter to the Deputy Commissioner, Nebraska Department of Education, who will handle such complaints on behalf of the Commissioner and whose actions will be taken on behalf of the Commissioner. The complaint must include the following information:
 - A. Title of the Federal Program,
 - B. A description of the alleged violation of statute or regulation including
 - i. the applicable federal statute and/or regulation, and
 - ii. a description of the alleged facts constituting the violation, along with the date(s) or such violation, if known,
 - C. Name and address of the person making the complaint, and
 - D. The signature of the complainant along with the date such complaint was made.

2. The Deputy Commissioner will cause the complaint to be investigated.
 - A. The Deputy Commissioner will notify the entity that is the subject of the complaint of the nature of the complaint.
 - B. The Deputy Commissioner may
 - i. request additional information from the person filing the complaint and/or from the entity alleged to be in violation of federal law or regulation, and
 - ii. provide for an independent on-site investigation if she/he determines it necessary.
 - C. The Deputy Commissioner will make a decision on the complaint within 60 days of the receipt of the complaint and will communicate the decision in writing to the complainant and the subject of the complaint.
 - D. The written communication will be accompanied by information on how the complainant or subject of the complaint may appeal the Deputy Commissioner's decision to the State Board of Education using the contested case process specified in Title 92, Nebraska Administrative Code, Chapter 61.
 - E. The Deputy Commissioner may extend the timeframe of the investigation by up to sixty (60) days if she/he determines that exceptional circumstances exist with respect to the complaint.

3. If the complainant or subject of the complaint is not satisfied with the Deputy Commissioner's decision she/he may appeal the decision to the State Board of Education within thirty (30) days of the date of the Deputy Commissioner's decision using the process specified in Title 92, Nebraska Administrative Code, Chapter 61. The Deputy Commissioner's decision shall be considered to be a decision of the Commissioner for purposes of appeal.

4. If the complainant is not satisfied with the outcome of the final decision under Title 92, Nebraska Administrative Code, Chapter 61, she/he may request the Secretary of Education, U. S. Department of Education, to review the final decision of the Nebraska Department of Education. Upon request, the Nebraska Department of Education shall provide information on how to contact the Secretary of Education, U. S. Department of Education.
5. Each entity receiving funding under any applicable federal program will disseminate, free of charge, the complaint procedure to parents of the students, and appropriate private school officials or representatives.

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13 HOW DOES A SCHOOL QUALIFY FOR THE RURAL EDUCATION ACHIEVEMENT PROGRAM (REAP)? WHAT ARE ITS FLEXIBILITY FEATURES AND WHICH FEDERAL PROGRAMS ARE AFFECTED BY IT?

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Answer:

Section 6211 of PL 107-110 contains information about the REAP option. It allows a school district that has less than 600 students in its average daily attendance count, and is situated in a rural area, to use funds from several federal programs to support activities authorized by the following federal programs:

1. Part A of Title I
2. Part A or D of Title II
3. Title III
4. Part A or B of Title IV
5. Part A of Title V

The Law states that "...a local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) if

- (A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600, or
 - (II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and
 - (ii) all of the schools served by the local educational agency are designated with a school local code of 7 or 8, as determined by the Secretary; or
 - B. the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).
2. CERTIFICATION. The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

The term 'applicable funding' means that a school may use funds provided by any of the following programs to, in effect, support activities related to the program mentioned at the beginning of this question/answer item.

Title II project application packets will contain a REAP Alternative Application Form that a school district can use to notify our agency it intends to use the grant funds in this manner.

The accountability related to this application option can be found in Section 6213. It states that "...each local education agency that uses or receives funds under this subpart for a fiscal year shall administer an assessment that is consistent with Section 111(b)(3).



(b) DETERMINATION REGARDING CONTINUING PARTICIPATION. Each State educational agency that receives funding under the provisions of law described in Section 6211(c) shall

(1) after the third year that a local educational agency in the State participates in a program under this subpart and on the basis of the results of the assessments described in subsection (a), determine whether the local educational agency participating in the program made adequate yearly progress, as described in Section 1111(b)(2);

(2) permit only those local educational agencies that participated and made adequate yearly progress, as described in Section 1111(b)(2) to continue to participate; and

(3) permit those local educational agencies that participated and failed to make adequate yearly progress, as described in Section 1111(b)(2) to continue to participate only if such local educational agencies use applicable funding under this subpart to carry out the requirements of Section 1116.

14 IF WE TRANSFER OUR FUNDS TO ANOTHER FEDERAL PROGRAM WITHIN THE SCHOOL DISTRICT, HOW DO WE HANDLE THAT TITLE II - PART A MONEY IN OUR ACCOUNTING SYSTEM?

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Answer:

Title II-A funds always retain their identity in the accounting process. Our agency suggests school districts use account code #4310 to receive and disperse funds. Because of carryover provisions associated with the program, a district may use funds from two grant cycles in one fiscal year. In such a case, the district should establish some unique way of identifying both sets of funds. That can be done by using some subprogram codes within account #4310 or by using an adjacent number for the new program funds, i.e. #4311.

The transfer process only allows schools to use Title II-A funds under the guidelines of another federal program. This flexibility provides options for schools to support some types of activities that would not be authorized by the Title II-A legislation. But these funds always retain their original identity.

15 WHEN CAN A SCHOOL DISTRICT CHARGE EXPENSES TO A PROJECT?

Answer:

Once a project application has been reviewed and approved by our agency, a Grant Award Notification document will be issued to the school district. It will note when the project began and when it will end. Project obligations must occur within these time periods.

Two variables determine when a project may begin. The first one is the federal fiscal year associated with the appropriate for the Title II-A program. Federal fiscal years typically start July 1. The second variable is the date when this agency receives a project application that is in "substantially approvable form" from a school district. That condition, cited in legislative guidance provided to our agency, means that the application contains enough descriptive and budgeting information about the project so that a reasonable person could understand how the district would expend its funds.

The ending date is always associated with the fiscal year of the federal appropriation. The authority to use these federal funds expired on September 30 for any given fiscal year.

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