



Texas  
Education  
Agency

Texas Education Agency

**NCLB Program Coordination**



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**No Child Left Behind**

**Public Law 107-110**



GUIDANCE FOR THE IMPLEMENTATION  
OF  
**IMPROVING TEACHER QUALITY**

[EXCLUDING HIGHLY QUALIFIED TEACHER REQUIREMENTS]

**TITLE II, PART A**

**POLICY GUIDANCE**

*July 5, 2007*

Based on the August 3, 2005, USDE Guidance

Division of NCLB Program Coordination  
Texas Education Agency

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## A. USDE OVERVIEW

The *No Child Left Behind Act of 2001* (NCLB), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), places a major emphasis upon the importance of teacher quality in improving student achievement. To help ensure that all teachers of core academic subjects are highly qualified no later than the end of the 2006-2007 school year, *Title II, Part A* of ESEA - *the Improving Teacher Quality State Grants program* - provides nearly \$3 billion a year to the States. These funds can be used to prepare, train, and recruit high-quality teachers and principals capable of ensuring that all children will achieve to high standards.

Since January 2002, State and local educational agencies, along with State agencies for higher education, have been working to implement the *Improving Teacher Quality State Grants* program. In designing their teacher training, recruitment, retention, and professional development activities, States and local districts must incorporate scientifically based strategies that have been shown to increase student academic achievement. States, districts and schools are also required to establish annual measurable objectives to ensure that they make progress each year in meeting the highly qualified teacher challenge.

The documents described below provide important information regarding these funds and the need for highly qualified teachers.



**The Secretary's *Second Annual Report on Teacher Quality* includes information on States' progress in raising standards for teachers while eliminating unnecessary barriers to teacher recruitment.**

- As of October 2002, 35 States had developed and linked teacher certification requirements to student content standards and another 6 States were in the process of linking such standards.
- As of October 2002, all but 9 States had approved an alternative route to certification.
- 35 States require prospective teachers to hold a subject-area bachelor's degree for initial certification.
- All but 8 States require statewide assessments for beginning teachers and 32 States require teaching candidates to pass a test in at least one academic content area.
- However, many State regulations for certifying new teachers are still burdensome and impose a multitude of unnecessary conditions that teachers must meet before they are fully licensed to enter the classroom.



**Education Week's *Quality Counts 2003* report shows that students in high-poverty schools are more likely to be taught by inexperienced teachers.**

- In high-poverty *elementary schools*, more than 13 percent of teachers have less than 3 years of experience, compared to fewer than 9 percent in low-poverty schools.
- At the *middle school level*, over 50 percent of students in high-poverty middle schools take a class with a teacher who has not acquired even a minor in the subject he/she teaches. This compares to about 44 percent of middle school students nationwide.

- At the *high school level*:
  - About 32 percent of students in high-poverty secondary schools take a class with a teacher who has not acquired even a minor in the subject he/she teaches. This compares to 22 percent of secondary school students nationwide.
  - Students in high-poverty secondary schools are twice as likely as those in low-poverty secondary schools to have a teacher who is not certified in the subject taught (26 percent versus 13 percent).
  - About 50 percent of all students in high-poverty secondary schools have teachers who have both majored in and become licensed in their subjects. This compares to about 70 percent of all secondary students in low-poverty schools.

The *Improving Teacher Quality State Grants* program provides States and districts with the flexibility and opportunity to address the highly qualified teacher challenge in very creative ways. For example, States may support the reform of traditional teacher training as well as the innovative expansion of alternative routes to teacher licensure, as well as establish mechanisms to recruit highly qualified teachers and provide incentives to retain them in high-needs schools. Additionally, *Title II, Part A* funds can support more effective professional development for teachers currently in the classroom, with a focus on ensuring that teachers have a deep understanding of the core academic subjects they teach.

States are encouraged to use program funds creatively to address the broad challenges of teacher recruitment, retention, hiring, induction, professional development, and the need for more skilled principals and assistant principals to serve as effective school leaders.

## **B. GENERAL INFORMATION**

### **B-1. What is the purpose of the *Title II, Part A* program?**

The purpose of *Title II, Part A* is to increase the academic achievement of all students by helping campuses and districts improve teacher and principal quality and ensure that all teachers are highly qualified. Through the program, the Texas Education Agency (TEA) and local educational agencies (LEAs), and the Texas Higher Education Coordinating Board (THECB) receive funds on a formula basis.

In exchange, LEAs that receive funds are held accountable to the public for improvements in academic achievement. *Title II, Part A* provides these agencies with the flexibility to use these funds creatively to address challenges to teacher quality, whether they concern teacher preparation and qualifications of new teachers, recruitment and hiring, induction, professional development, teacher retention, or the need for more capable principals and assistant principals to serve as effective school leaders.

### **B-2. Did this program exist prior to *No Child Left Behind* (NCLB)?**

*Title II, Part A* replaced the Eisenhower Professional Development and the Class-Size Reduction programs. The Eisenhower program mostly focused on professional development in mathematics and science, while *Title II, Part A* can support teacher professional development across all core academic subjects. The importance of professional development in mathematics and science remains a high priority, but many other activities are now allowed as well.

**B-3. How do the flexibility and transferability provisions of NCLB affect the *Title II, Part A* program?**

The flexibility and transferability provisions, affect the *Title II, Part A* program as follows:

Local-Flex (ESEA Sections 6151 through 6156)

An LEA that enters into a Local-Flex agreement with USDE may consolidate *Title II, Part A* funds with certain other Federal funds and, consistent with the purposes of the Local-Flex program, it may then use those funds for any ESEA purpose in order to meet the Texas definition of adequate yearly progress, improve student academic achievement, and narrow achievement gaps.

The local flexibility demonstration agreement must contain an assurance that the LEA agrees that in consolidating and using funds under the agreement, the LEA will provide for the equitable participation of students and professional staff in private schools consistent with Section 9501. Sections 9502, 9503, and 9504 apply to all services and assistance provided with the consolidated funds. (Additional guidance on the applicability of the equitable participation requirements to the Local-Flex program is provided in the Local-Flex application package, available at <http://www.ed.gov/legislation/FedRegister/other/2002-1/022202c.html>.)

Transferability (ESEA Sections 6121 through 6123)

An LEA (except an LEA identified for improvement or subject to corrective action under Section 1116(c)(9)) may transfer up to 50 percent of the funds awarded to it by formula under certain programs to its *Title II, Part A* allocation (or to other specified allocations) or to its allocation under Part A of *Title I*. An LEA may also transfer up to 50 percent of its *Title II, Part A* funds to certain other programs. (There are special transferability rules governing LEAs identified for improvement or corrective action.)

Each LEA that transfers funds under these sections must consult with private school officials, in accordance with Section 9501, if such a transfer would move funds from a program that provides for the participation of private school students, teachers, or other educational personnel [Section 6123(e)(2)]. (Additional guidance on the application of the equitable participation requirements to the transferability authority is provided in the Department's transferability guidance, which is available on the Department's website at <http://www.ed.gov/nclb/freedom/local/flexibility/index.html#trans>.)

**B-4. What is scientifically based research and how does it apply to this program?**

Section 9101(37) of ESEA, as amended by *NCLB*, defines scientifically based research as "research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs." The statute then explains that this kind of research:

1. Employs systematic, empirical methods that draw on observation or experiment;
2. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
3. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
4. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of



the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

5. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
6. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review. (Note: Practitioner journals or education magazines are *not* the same as peer-reviewed academic journals.)

**B-5. What general statutory and regulatory provisions apply to *Title II, Part A*?**

*Title IX* of the ESEA contains general provisions that apply to *Title II, Part A*, as well as to other ESEA programs.

- Part A of *Title IX* contains definitions of many terms used in the ESEA.
- Part B contains provisions regarding the consolidation of administrative funds.
- Part C contains provisions regarding consolidated State and local plans and applications.
- Part D contains provisions regarding waivers of statutory and regulatory requirements.
- Finally, Part E contains certain uniform provisions.

The General Education Provisions Act (GEPA), 20 U.S.C. 1221-1234i, also contains general statutory requirements applicable to most programs administered by the Department, including *Title II, Part A*. For instance, GEPA contains the "Tydings amendment," which provides grantees an additional year to obligate funds under certain programs, including *Title II, Part A*. GEPA also includes provisions addressing matters such as forward funding, protection of students' and parents' privacy rights under the Family Educational Rights and Privacy Act (FERPA), and various administrative appeal procedures.

The *Title II, Part A* program does not have program-specific regulations; however, both the general ESEA regulations in Title 34 of the Code of Federal Regulations (34 CFR) Part 299 and the following parts of the Education Department General Administrative Regulations (EDGAR) apply to the program: 34 CFR Parts 74, 76, 77, 80, 81, 82, 85, 97, 98, and 99. LEAs should become particularly familiar with Parts 76 and 80, as they address a range of matters important to the everyday administration of the *Title II, Part A* program.

**B-6. Can funds from other programs authorized in *NCLB* be used to improve teacher quality?**

Yes, other key programs authorized in *NCLB* provide funds that can, or in some cases must, be used to improve teacher quality. These include, but are not limited to:

- *Title I, Part A*, which requires that LEAs use at least 5 percent of their *Title I* funds for professional development activities to ensure that teachers who are not currently highly qualified meet that standard by the end of the 2005-06 school year [Section 1119(l)]. In addition, any school identified as in need of improvement for failing to make adequate yearly progress must spend 10 percent of its *Title I, Part A* funds on professional development, including teacher mentoring programs [Section 1116(c)(7)(A)(iii)].
- *Title I, Part B*, the *Reading First* program, which requires grantees to build on scientifically based reading research to implement comprehensive instruction for children in kindergarten

through third grade. From the 20 percent State set-aside funds, 65 percent may be spent in preparing teachers through professional development activities so the teachers have tools to effectively help their students learn to read [Section 1202(d)(3)].

- *Title II, Part B*, the Mathematics and Science Partnerships program, which provides funding to TEA to competitively establish University-LEA partnerships to enhance teacher subject-matter knowledge and the quality of teaching in mathematics and science [Section 2201(a)].
- *Title II, Part C*, the Troops-to-Teachers and Transition to Teaching programs, which support efforts to help school districts hire, train, and retain individuals from other careers and backgrounds as teachers in high-need schools [Sections 2303 and 2313].
- *Title II, Part D*, the Enhancing Education Through Technology program, under which each local recipient of funds must use at least 25 percent of those funds for ongoing, sustained, and high-quality professional development on the integration of advanced technologies into curriculum and instruction and on the use of those technologies to create new learning environments [Section 2416(a)].
- *Title III, Part A*, which authorizes LEAs to use formula grant funds for professional development of teachers providing instruction to students needing English language acquisition and language enhancement [Section 3111(a)(2)(A)].
- *Title V, Part A*, which authorizes LEAs to use formula grant funds to provide professional development activities carried out in accordance with *Title II, Part A*, as well as to recruit, train, and hire highly qualified teachers to reduce class size [Section 5131(a)(1)].
- *Title VII, Part A*, the Indian, Native Hawaiian, and Alaska Native Education program, which requires a comprehensive program for meeting the needs of Indian children that, among other things, calls for professional development opportunities to ensure that teachers and other school professionals have been properly trained [Section 7114(b)(5)].

### **C. HIGHLY QUALIFIED TEACHERS**

The purpose of *Title II, Part A* is to help Texas school districts ensure that all students have effective teachers; that is, teachers with the subject-matter knowledge and teaching skills necessary to help all children achieve high academic standards, regardless of individual learning styles or needs. In this regard, the program provides funding to help LEAs recruit, train, reward, and retain effective teachers. *Title II, Part A* and *Title I, Part A* also place particular emphasis on the need for LEAs to ensure that teachers of a core academic subject meet certain minimum requirements they need to become effective educators. The requirements to be considered “highly qualified” are that teachers hold at least a bachelor’s degree, be fully certified in Texas, and demonstrate competency in the core academic subject area they are teaching.

All States that receive *Title I, Part A* funds are required to develop a plan to have all teachers of core academic subjects highly qualified no later than the end of the 2005-2006 school year. This statutory deadline was extended to the end of the 2006-2007 school year. Each LEA in the State must ensure that all teachers of core academic subjects hired after the first day of the 2002-2003 school year and teaching in a program supported with *Title I, Part A* funds are highly qualified when they are hired. The LEA must also have a plan describing how it will meet the

annual measurable objectives established by TEA for ensuring that all teachers of core academic subjects in the LEA are highly qualified by the end of the 2006-2007 school year [Section 1119(a)(1) and (3)].

Guidance on Highly Qualified Teachers is provided in a separate guidance document available on the TEA NCLB web site at: <http://www.tea.state.tx.us/nclb/hqteachers.html>

## D. Professional Development

### D-1. What is meant by “high-quality professional development”?

The term “high-quality professional development” means professional development that meets the criteria contained in the definition of professional development in *Title IX*, Section 9101(34) of NCLB. Professional development includes, but is not limited to, activities that:

- Improve and increase teachers’ knowledge of academic subjects and enable teachers to become highly qualified;
- Are an integral part of broad schoolwide and districtwide educational improvement plans;
- Give teachers and principals the knowledge and skills to help students meet challenging State academic standards;
- Improve classroom management skills;
- Are sustained, intensive, and classroom-focused and are not one-day or short-term workshops;
- Advance teacher understanding of effective instruction strategies that are based on scientifically based research; and
- Are developed with extensive participation of teachers, principals, parents, and administrators.

### D-2. The statute authorizes LEAs to use program funds for “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...” [Section 2113(c)(14)]. What are some options by which LEAs can implement these activities?

Too often, the best career advancement option currently available for teachers is to become school principals or LEA administrators. This leaves fewer excellent, experienced teachers working directly with children in the classroom. Teacher advancement initiatives that offer multiple career paths can provide professional opportunities without having teachers leave the classroom. For example, an LEA could establish a system whereby teachers could opt to pursue various career paths, such as:

- becoming a career teacher, staying in the classroom with traditional instructional duties;
- becoming a mentor teacher, staying in the classroom but taking on additional duties such as mentoring first-year teachers and receiving additional pay for these duties; or
- becoming an exemplary teacher, based on a distinguished record of increasing student academic achievement, and training other teachers to do the same while receiving additional pay for these duties.

### D-3. Does the law contain any restrictions on the amount of *Title II, Part A* funds that an LEA may spend on professional development?

No. However, in considering how to spend its funds, the LEA should focus on its need to ensure that all teachers who teach in core academic subjects meet the requirements for a highly qualified teacher by the end of the 2006-2007 school year.

**D-4. In many rural areas, offering high-quality professional development activities can be challenging because there may not be a critical mass of teachers who need help in the same subject. How can rural districts address this situation?**

One possible way that rural districts can provide teachers with professional development activities is by offering distance-learning opportunities. Many colleges and universities may currently offer distance learning. Through distance learning a teacher in a rural area can take professional development courses that meet his/her specific needs.

**D-5. What types of professional development can assist existing teachers to develop and demonstrate subject-matter competency?**

Texas has the flexibility, in designing the HOUSE procedures, to determine the extent to which various types of professional development activities can assist teachers to develop and demonstrate subject-matter competency. Under the Elementary HOUSE Option A and Secondary HOUSE procedures, existing teachers may count professional development activities that qualify for CPE credit (under SBEC rules as codified in the Texas Administrative Code (TAC) §232.860) as professional development points toward the HOUSE procedures. For purposes of HOUSE, the following types of professional development activities, in the content area for Elementary or in the content area or closely related field for secondary, qualify for CPE credit:

- Participation in institutes, workshops, seminars, conferences, in-service or staff development activities given by an approved provider or sponsor, which are related to or enhance the professional knowledge and skills of the educator;
- Participation in interactive distance learning, video conferencing, or on-line activities or conferences;
- Independent study, not to exceed 20 percent of the required points, which may include self-study or relevant professional materials (books, journals, periodicals, video and audio tapes, computer software, and on-line information), or authoring a published work;
- Development of curriculum or CPE training materials;
- Teaching or presenting a CPE activity, not to exceed 10 percent of the required points;
- Providing professional guidance as a mentor educator, not to exceed 30 percent of the required points; and
- Serving as an assessor under TAC §241.35 (relating to the Principal Certificate), not to exceed 10 percent of the required points.

## **E. TEA FORMULA GRANTS TO THE LOCAL EDUCATIONAL AGENCY**

### ***Administration***

**E-1. How does TEA distribute funds to LEAs?**

The amount TEA distributes for each LEA's allocation reflects (1) a "hold harmless" based on the amount of funds the LEA received in FY 2001 under the former Eisenhower Professional Development and Class-Size Reduction programs, and (2) the LEA's share of any funds still remaining.

In any year in which the amount available in the State for LEA grants exceeds the sum of the "hold harmless" amounts for LEAs in the State, TEA distributes the excess funds based on the following formula:

- 20 percent of the excess funds must be distributed to LEAs based on the relative number of individuals ages 5 through 17 who reside in the area the LEA serves (using Census data determined by the Secretary to be the most current); and
- 80 percent of the excess funds must be distributed to LEAs based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves and who are from families with

incomes below the poverty line (also using Census data determined by the Secretary to be the most current).

(Note: In any year in which there are insufficient funds to provide the LEAs with their hold harmless amount, TEA will ratably reduce each LEA's allocation.)

**E-2. What method must TEA use for determining the portion of an LEA's program allocation that is attributable to the numbers of children who reside in the LEA?**

TEA must use the most recent available Census data, as determined by the USDE, on the number of children age 5-17 who reside in the area served by the LEA.

**E-3. What data must TEA use for determining the portion of an LEA's program allocation that is attributable to the number of children in poverty?**

As in E-2, TEA must use the most recent available Census data, as determined by the USDE, on the number of children age 5-17 from families with incomes below the poverty line.

**E-4. How does the LEA apply for funds from TEA, and what should be included in this application?**

An LEA may receive a *Title II, Part A* subgrant by submitting to TEA the consolidated NCLB Application for Federal Funding (SAS-NCLB-AA). TEA determines the content of a consolidated local application and the procedure for submission [Section 9305].

Although a consolidated application is submitted for funding which does not require all the program requirements to be submitted, the LEA must meet, and keep records to confirm that it has met, all statutory and regulatory requirements for *Title II, Part A*. Hence, the LEA has records that describe:

1. Results of the local needs assessment;
2. The activities that the LEA will carry out with program funds, including the professional development provided to teachers and principals and how these activities will align with challenging State academic content standards, student academic achievement standards, State assessments, and the curricula and programs tied to those standards;
3. How the proposed activities are based on a review of scientifically based research; how the activities will have a substantial, measurable, and positive impact on student academic achievement, and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates the performance of low-income and minority students from other students;
4. How the LEA will coordinate professional development activities authorized under *Title II, Part A* with professional development activities provided through other Federal, State, and local programs;
5. How the LEA will ensure that the professional development needs of teachers (including teacher mentoring) and principals will be met with the LEA's *Title II, Part A* funds;
6. How the LEA will integrate *Title II, Part A* funds with funds the LEA receives through the Enhancing Education Through Technology program (*Title II, Part D*) to train teachers to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy;
7. How the LEA's teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in preparing the local plan and will collaborate in the activities to be undertaken;
8. How the LEA will provide training to enable teachers to (1) teach to the needs of students with different learning styles-particularly students with disabilities, students with special learning needs (including those who are gifted and talented), and those with limited English proficiency; (2) improve student

- behavior in the classroom; (3) involve parents in their child's education; and (4) understand and use data and assessments to improve classroom practice and student learning; and
9. How the LEA will use *Title II, Part A* funds to meet the requirements of *Title I*, Section 1119 of ESEA for teachers and paraprofessionals. That section requires an SEA to establish annual measurable objectives for each LEA and school that, at a minimum, includes an annual increase in the percentage of highly qualified teachers at each LEA and school to ensure that all teachers of core academic subjects are highly qualified by the end of the 2006-2007 school year. It also includes a requirement for the LEA's plan to include an annual increase in the percentage of teachers who receive high-quality professional development [Section 2122].

An LEA must also maintain records that, consistent with the assurances that were submitted in its *Title II, Part A* program applications, describe how it will: (1) target program funds to schools that have the lowest proportion of highly qualified teachers, have the largest average class size, or are identified for school improvement under *Title I*, Section 1116(b); and (2) comply with *Title IX*, Section 9501 of ESEA regarding participation of private school teachers.

**E-5. Can charter schools apply for *Title II, Part A* funds?**

Yes. Open Enrollment Public Charter schools are LEAs and can apply to TEA in the same manner as other LEAs.

**E-6. What are the LEAs' reporting responsibilities?**

*Title II, Part A* does not contain any specific LEA reporting or evaluation requirements. However, under *Title I, Part A* [Section 1119(b)(1)(A)], each LEA receiving *Title I* funds must publicly report annually on its progress, both at the district and campus level, in meeting the State-established annual measurable objectives below for ensuring that all teachers will be highly qualified no later than the end of the 2006-2007 school year.

Baseline Data and Targets	Percentage of Classes Taught by Highly Qualified Teachers (State Aggregate)	Percentage of Classes Taught by Highly Qualified Teachers in (State aggregate) High-Poverty Schools
2002-2003 Baseline	75.8%	69.3%
2003-2004 Target	80.0%	80.0%
2004-2005 Target	90.0%	90.0%
2005-2006 Target and beyond	100.0%	100.0%

Baseline Data and Targets	Percentage of Highly Qualified Teachers (State Aggregate)	Percentage of Teachers receiving high-quality professional development (State Aggregate)
2002-2003 Baseline	76.2%	90.5%
2003-2004 Target	80.0%	94.0%
2004-2005 Target	90.0%	97.0%
2005-2006 Target and beyond	100.0%	100.0%

In addition, LEAs must report to TEA any information TEA needs to meet its own reporting responsibilities to the U.S. Department of Education, such as information requested in the consolidated State performance report, the annual State report to USDE described in Section 1111(h)(1), and the State report required under Section 1119(b).

**E-7. What corrective steps must occur if an LEA fails to make adequate yearly progress (AYP) or fails to meet the annual measurable objectives for teacher quality?**

Section 2141 of the statute describes what TEA and districts must do if an LEA fails to make AYP or meet its annual measurable objectives for teacher quality.

If TEA determines, based on LEA highly qualified compliance reports, that an LEA failed to make progress toward meeting its annual measurable objectives for two consecutive years, the LEA must develop an improvement plan that will enable it to meet such objectives and that directly addresses the issues that prevented it from meeting its objectives. During the development and throughout implementation of the plan, the State must provide technical assistance to the LEA and to campuses served by the LEA that need assistance to enable them to meet the annual measurable objectives described in section 1119(a)(2).

If an LEA has failed to make AYP for three consecutive years under Section 1111(b)(2)(B) of *Title I, Part A*, and has failed for three years to make progress toward meeting its annual measurable objectives established under Section 1119(b)(1), TEA must enter into an agreement with the LEA on its use of *Title II, Part A* funds under which TEA will:

1. Develop (in conjunction with the LEA, teachers, and principals) professional development strategies and activities based on scientifically based research that the LEA will use to meet the state's annual measurable objectives for improving teacher quality;
2. Require the LEA to use these professional development strategies and activities; and
3. Prohibit LEAs from using *Title I, Part A* funds to fund any new paraprofessionals, except under certain limited instances.

***Needs Assessment***

**E-8. What is the purpose of the LEA needs assessment and how does the LEA use it?**

The purpose of the needs assessment is to determine the needs of the LEA's teaching force in order to be able to have all students meet challenging State content and academic achievement standards. An LEA may want to use information such as student achievement data, information about numbers of teachers (disaggregated by subject taught and grade level) who lack teacher certification, assessments by administrators and mentor teachers who evaluate teacher and student performance, and teacher self-evaluations.

The LEA uses the needs assessment to identify local teacher quality needs. Among other things, the assessment should identify those needs that must be addressed if the LEA is to have all core academic subject area teachers highly qualified by the end of the 2006-2007 school year. The assessment should take into account:

1. The activities that the LEA must conduct in order to give teachers the means to provide all students with the opportunity to meet challenging state content and academic achievement standards; and
2. The activities that the LEA needs to conduct in order to give principals the instructional leadership skills to help teachers provide all students with the opportunity to meet challenging state content and academic achievement standards [Section 2122(c)(2)].

A needs assessment also identifies those areas that an LEA should strengthen, such as areas of weakness in student academic achievement, as part of a meaningful plan for professional development and hiring. The LEA uses the results of this assessment to plan its *Title II, Part A* activities, keeping in mind its student achievement goals and its plan for ensuring that all teachers in core academic areas meet the “highly qualified” requirements by the end of 2005-06 school year.

**E-9. Who must be involved in the needs assessment process?**

The LEA must carry out the needs assessment with the involvement of the district’s teachers, including teachers in schools receiving *Title I, Part A* program funding/services.

**E-10. What data must the LEA use when conducting a needs assessment?**

The law does not prescribe the data an LEA must use in conducting its needs assessment. The law does provide that the LEA’s needs assessment “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” [Section 2122(c)(2)].

The data necessary for determining teacher needs might include information such as: student achievement data, information on national and State initiatives, projections of the professional development necessary to ensure that all teachers of core academic subjects meet the highly qualified requirements in Section 9101(23), scientifically based research on proposed programs and strategies, projections of teacher supply in critical areas, student enrollment data, program assessment data, and community and business input.

**E-11. After conducting its needs assessment, must the LEA target its use of *Title II, Part A* funds?**

Yes. The LEA must target funds to campuses that (1) have the lowest proportion of highly qualified teachers, (2) have the largest average class size, or (3) are identified for school improvement under Section 1116(b) of *Title I, Part A* [Section 2122 (b)(3)]. Funds must target services to these schools prior to utilizing *Title II, Part A* funding on other campuses within the LEA. However, the LEA may serve other campuses after the identified needs have been addressed on the targeted campuses.

In addition, in considering its best use of *Title II, Part A* funds, an LEA should consider whether to target *Title II, Part A* funds to help it meet its responsibilities under *Title I*. These include providing assurances that the LEA will:

1. work in consultation with schools as the schools develop and implement their plans or activities under Section 1119 [Section 1112(c)(1)(H)];
2. comply with the requirements of Section 1119 regarding the qualifications of teachers and paraprofessionals and professional development [Section 1112(c)(1)(I)]; and
3. ensure, through incentives for voluntary transfers, professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers [Section 1112(c)(1)(L)].



**E-12. If a need is mentioned in the LEA needs assessment, must it be addressed in the district plan?**

No. The LEA's needs assessment focuses on "local needs for professional development and hiring as identified by the LEA and campus staff." The local assessment is likely to reflect a wide array of needs, not all of which the LEA may be able to address with limited fiscal and non-fiscal resources. Rather than try to address all of these identified needs, consistent with the content requirements for local applications in Section 2122(b), the district must plan its uses of *Title II, Part A* funds in those ways most likely to produce positive results in teaching practice and the achievement of all of the district's students.

**E-13. Must staff at individual campuses be involved in developing an LEA's needs assessment?**

Yes. The law states that the needs assessment must reflect the needs for professional development "as identified by the LEA and school staff," and requires the LEA to conduct its needs assessment "with the involvement of teachers, including teachers participating in programs under part A of Title I" [Section 2122(c)(1) and (2)].

Therefore, the LEA must involve teachers at individual Title I schools in the needs assessment process. How it does so (e.g., through surveys, focus groups, and other means of collecting data) is left to the LEA and its staff to decide.

**E-14. Should an LEA needs assessment examine strategies for eliminating the achievement gap that separates low-income and minority students from other students?**

Yes. Since the law requires each LEA to develop a strategy for closing this achievement gap [Section 2122(b)(2)], the LEA presumably will want to use the needs assessment process to engage teachers, principals, and other staff in identifying key professional development and hiring needs in this critical area.

## **F. LOCAL USE OF FUNDS**

### ***Allowable Costs***

**F-1. For what activities may an LEA use *Title II, Part A* funds?**

Consistent with local planning requirements and its needs assessment, the *Title II, Part A* program offers an LEA the flexibility to design and implement a wide variety of activities that can promote a teaching staff that is highly qualified and able to help all students -- regardless of individual learning needs -- achieve challenging state content and academic achievement standards. Funds can also be used to provide school principals with the knowledge and skills necessary to lead their schools' efforts in increasing student academic achievement.

For example, the statute specifically authorizes the following types of activities:

1. Developing and implementing mechanisms to assist schools to effectively recruit and retain highly qualified teachers, principals, and specialists in core academic areas (and other pupil services personnel in special circumstances, [as noted in question F-6](#) of this document).
2. Developing and implementing strategies and activities to recruit, hire, and retain highly qualified teachers and principals. These strategies may include (a) providing monetary incentives such as scholarships, signing bonuses, or differential pay for teachers in academic subjects or schools in which the LEA has shortages; (b) reducing class size; (c) recruiting teachers to teach special needs children, and (d) recruiting qualified paraprofessionals and teachers from populations underrepresented in the

teaching profession, and providing those paraprofessionals with alternative routes to obtaining teacher certification.

3. Providing professional development activities that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, in:
  - a. Content knowledge. Providing training in one or more of the core academic subjects that the teachers teach; and
  - b. Classroom practices. Providing training to improve teaching practices and student academic achievement through (1) effective instructional strategies, methods, and skills, and (2) the use of challenging State academic content standards and student academic achievement standards in preparing students for the State assessments.
4. Providing professional development activities that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, regarding effective instructional practices that:
  - a. Involve collaborative groups of teachers and administrators;
  - b. Address the needs of students with different learning styles, particularly students with disabilities, students with special needs (including students who are gifted and talented), and students with limited English proficiency;
  - c. Provide training in improving student behavior in the classroom and identifying early and appropriate interventions to help students with special needs;
  - d. Provide training to enable teachers and principals to involve parents in their children's education, especially parents of limited English proficient and immigrant children; and
  - e. Provide training on how to use data and assessments to improve classroom practice and student learning.
5. Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly in schools with a high percentage of low-achieving students, including programs that provide teacher mentoring from exemplary teachers and administrators, induction, and support for new teachers and principals during their first three years; and financial incentives to retain teachers and principals with a record of helping students to achieve academic success.
6. Carrying out programs and activities that are designed to improve the quality of the teaching force, such as innovative professional development programs that focus on technology literacy, tenure reform, testing teachers in the academic subject in which teachers teach, and merit pay programs.
7. Carrying out professional development programs that are designed to improve the quality of principals and superintendents, including the development and support of academies to help them become outstanding managers and educational leaders.
8. 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.
9. Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a mentor teacher, career teacher, or exemplary teacher) and pay differentiation.

**F-2. What amount of program funds may an LEA reserve for administrative and indirect costs?**

The statute is silent on the amount of program funds an LEA may spend for administrative costs. Therefore, the amount of funds that an LEA may spend for this category of expenses is subject to requirements in the cost principles in the Office of Management and Budget (OMB) Circular A-87 -- including the principle that, among other things, all costs must be necessary, reasonable, and allocable to the program.

In addition, because LEA expenditures are subject to "supplement not supplant" provisions, by virtue of Section 76.563 of EDGAR an LEA's indirect costs are limited to its approved "restricted indirect cost rate."

- F-3. May an LEA use *Title II, Part A* funds to: (a) pay the costs of State certification exams (ExCET or TExES) required of new teachers to determine whether they have subject-matter competency, and (b) assist them in meeting State certification requirements?**

Yes. An LEA may use *Title II, Part A* funds to administer State certification exams required of new teachers (and available to existing teachers) to determine whether they have subject matter competency, and to assist them in meeting Texas certification requirements, e.g., by paying for the costs of additional required courses.

- F-4. When can *Title II, Part A* funds be used to pay teacher salaries?**

*Title II, Part A* funds can be used to pay the salaries of teachers hired for the purpose of reducing class size. *Title II, Part A* funds can also, as part of an overall strategy to improve teacher quality, be used for teacher incentives (e.g., to recruit teachers for hard-to-fill positions or retain teachers who have been effective in helping low-achieving students to succeed) or to pay the salaries of master teachers who provide or coordinate professional development services for other teachers.

In addition, as reasonable and necessary, *Title II, Part A* funds may be used to pay for substitute teachers if, and only if, (a) those regular classroom teachers they are replacing were hired with *Title II, Part A* funds to reduce class size, or (b) the teachers are participating in *Title II*-funded "programs and activities that are designed to improve the quality of the teacher force, such as...innovative professional development programs..." [Section 2123(a)(5)(A)].

LEAs also must ensure that the hiring of these teachers or substitutes supplements, and does not supplant, the use of local and State funds they would otherwise be spending for teacher salaries or substitutes.

- F-5. May an LEA use *Title II, Part A* funds to pay out-of-area recruitment costs and moving expenses that may be needed in order to recruit and relocate new teachers?**

Yes. There are circumstances in which the use of *Title II, Part A* funds to pay out-of-area travel and relocation costs would be reasonable and necessary to recruit individuals that the LEA would want to hire to meet its teacher shortage needs. To the extent that out-of-area recruitment itself is reasonable and necessary, relocation costs may be paid as a stipend or other financial incentive if, as with any cost the program would assume, the incentives are reasonable and necessary. The LEA must ensure that these activities are supplemental to the activities conducted with other State or local funds.

- F-6. When may an LEA use *Title II, Part A* funds for programs to recruit and retain pupil services personnel (e.g., guidance counselors)?**

An LEA may use *Title II, Part A* funds for these activities, but only if the LEA is making progress toward meeting the annual measurable objectives described in *Title I*, Section 1119(a)(2) of ESEA, and in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

**F-7. May an LEA use program funds to provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession?**

Yes. Funds may be used to pay reasonable and necessary expenses to recruit these teachers and paraprofessionals, and can be used to assist them in obtaining certification through alternative route programs. The LEA must ensure that these activities are supplemental to the activities conducted with other State or local funds.

**F-8. May an LEA use *Title II, Part A* funds to provide training for paraprofessionals?**

Yes, but only if the training or support provided to the paraprofessional is consistent with the allowable activities under *Title II, Part A*. To the extent that helping the paraprofessional meet the required qualifications is consistent with the professional development goals listed below, then *Title II, Part A* funds may be used for that purpose.

The law allows LEAs to use these funds to provide professional development activities “that improve the knowledge of teachers and principals, and, in appropriate cases, paraprofessionals” concerning:

- One or more core academic subjects that teachers teach [Section 2123(a)(3)(A)(i)];
- Effective instructional strategies, methods, and skills, and use of challenging content and academic achievement standards and State assessments to improve teaching practices and student academic achievement [Section 2123(a)(3)(A)(ii)];
- 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 [Section 2123(a)(3)(B)(ii)];
- Training in methods of improving student behavior in the classroom and identifying early and appropriate interventions to help special-needs children learn [Section 2123(a)(3)(B)(iii)];
- Training in how to understand and use data and assessments to improve classroom practice and student learning [Section 2123(a)(3)(B)(v)].

LEAs also may use their *Title I, Part A* funds “to support ongoing training and professional development to assist teachers and paraprofessionals” in order to meet the teacher quality and paraprofessional requirements included in Section 1119(h). Provided that an LEA maintains records of the amount of *Title I* and *Title II, Part A* funds used for these professional development activities, and the *Title I* funds are used as permitted in the *Title I* statute and regulations, *Title I* and *Title II, Part A* funds may be used jointly for this purpose.

**F-9. May LEAs use *Title II, Part A* funds to provide training to enhance the involvement of parents in their child’s education?**

Yes, LEAs may use program funds to provide training to enhance the involvement of parents in their child’s education.

Parental involvement is best encouraged through regular, two-way, and meaningful communications about student learning and other school activities. Effective strategies may include (1) promoting the understanding that parents are true partners in their children’s education and communicating the need for parents to help their children succeed in school, and (2) providing parents with specific suggestions, on an ongoing basis, about ways to encourage learning at home and ways to be actively involved in their child’s education at school.

**F-10. May LEAs use *Title II, Part A* funds to purchase supplies or instructional materials that are used as part of professional development activities?**

Yes, but only if the expenditures, like any costs paid for by Federal program funds, are reasonable and necessary to carry out these professional development activities. *Title II, Part A* funds may be used to purchase materials and supplies used in professional development activities, including the materials (such as graphing calculators) that a teacher will need in order to apply the professional development in a classroom setting. However, *Title II, Part A* does not permit the use of program funds to purchase materials and supplies (e.g., graphing calculators) that, although they may benefit students, are not directly connected to the teachers' professional development. Other ESEA funds, most notably *Title V, Part A* funds, may be used to purchase instructional materials or technology for students if the purchases are part of an "innovative assistance program" as this term is used in *Title V*.

**F-11. Are LEAs required to spend a portion of their allocation on math and science activities?**

No, but there are widespread shortages of highly qualified mathematics and science teachers, particularly in middle schools and in high-poverty urban and rural areas. Therefore, in preparing their needs assessments, LEAs are strongly encouraged to look closely at their needs for recruiting, training, and retaining high-quality mathematics and science teachers, particularly in light of their students' academic achievement in math and science.

***Maintenance of Effort***

**F-12. Do maintenance of effort requirements apply to the *Title II, Part A* program?**

Yes. LEAs are required to maintain fiscal effort in order to receive their full allocation of *Title II, Part A* funds for any fiscal year. An LEA has maintained effort when either the combined fiscal effort per student, or the aggregate expenditures of the LEA and TEA with respect to the provision of free public education for the preceding fiscal year, was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year. "Preceding fiscal year" means the twelve-month fiscal period most commonly used in Texas for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

**F-13. What happens if the LEA fails to meet the requirements for maintenance of effort?**

If the LEA fails to meet the requirements for maintenance of effort, TEA reduces the LEA's allocation of *Title II, Part A* funds in any fiscal year in the exact proportion by which an LEA fails to meet the 90 percent test mentioned in the preceding answer, using the measure most favorable to the LEA.

***Supplement not Supplant***

**F-14. Does *Title II, Part A* have a supplement not supplant requirement?**

Yes. Section 2123(b) provides that *Title II, Part A* funds must be used to supplement, and not supplant, any non-Federal funds that would otherwise be used for authorized *Title II, Part A* activities.

**F-15. May *Title II, Part A* funds be used for State-mandated activities?**

The ability of an LEA to use *Title II, Part A* funds to carry out activities mandated by TEA depends upon whether non-Federal funds are available to carry out those activities. Presumably, in the absence of *Title II, Part A* funds, the LEA would use State or local funds to implement any laws enacted by the Texas legislature or rules mandated by the State Board of Education or the Texas Education Agency. If that is the case, using *Title II, Part A* funds for those activities would violate the non-supplanting requirement, because the LEA would be using Federal funds for activities that it would otherwise support with other funds.

However, in certain instances, an LEA may be able to overcome the presumption that supplanting will result if *Title II, Part A* funds are used for a State-mandated program or activity. In order to make such a case, the LEA should have available written documentation (e.g., budget information, planning documents, or other materials) demonstrating that it would not be able to meet State mandates without the use of *Title II, Part A* funds. An LEA must be able to reasonably document that the activities funded under *Title II, Part A* are, in fact, supplemental, even though some of them are mandated by the State.

In general, an LEA must determine what educational activities it would support if no *Title II, Part A* funds were available. If it is clear that no State or local funds remain available to fund certain activities that previously were funded with State or local resources, then the LEA may be able to use *Title II, Part A* funds for those activities. In no event, however, may an LEA decrease State or local funds for particular activities simply because *Title II, Part A* funds are available.

***Class-Size Reduction***

**F-16. What are some ways in which LEAs may use highly qualified teachers hired with *Title II, Part A* funds to reduce class size?**

LEAs may reduce class sizes by creating additional classes in a particular grade or subject and placing highly qualified teachers hired with program funds in those classes. However, because of space constraints and other concerns, this is not always feasible. There are other methods of reducing class size that are effective in assisting students in increasing their level of achievement. For instance, the benefits of smaller class size can be provided by the creation of smaller instructional groups served by highly qualified teachers for sustained blocks of time on a regular basis. Some examples of how LEAs might use this approach to reduce class size include but are not limited to:

1. Having two highly qualified teachers team teach in a single classroom for either part of the school day or the entire day.
2. Hiring an additional highly qualified teacher for a grade level (e.g., providing three teachers for two 3<sup>rd</sup> grade classes) and dividing the students among the teachers for sustained periods of instruction each day in core academic subjects, such as reading and math.
3. Hiring an additional highly qualified teacher who works with half the students in a class for reading or math instruction, while the other half remains with the regular classroom teacher.

LEAs have the flexibility to explore these and other alternatives for reducing class sizes, provided that highly qualified teachers are used. Generally, the manner in which LEAs reduce class size should result in a meaningful reduction for all of the students in the class on a regular basis. Research shows that “pull-out” programs involving reducing class size by only a handful of students, or sporadic reduction of class size, are less likely than other methods of class-size reduction to result in increased achievement for students.

**G. PRIVATE NONPROFIT SCHOOL PARTICIPATION** (All references to Private Schools are only applicable to private nonprofit schools, Title II does not serve for-profit private schools.) Private school teachers, principals, and other educational personnel are eligible to participate to the extent that the LEA uses funds to provide for professional development for teachers and other school personnel.

### *General Issues*

**G-1. Are private nonprofit school teachers, principals, and other educational personnel eligible to participate in the *Title II, Part A* program?**

Yes. Private nonprofit school teachers, principals, and other educational personnel are eligible to participate in *Title II, Part A*, professional development. Funds awarded to LEAs under *Title II, Part A* are subject to the uniform provisions of Section 9501 of the ESEA (*Participation by Private School Children and Teachers*). The statute requires LEAs to provide private school teachers and other educational personnel with educational services on an equitable basis and in a timely manner.

The requirement for the equitable participation of private school teachers and other educational personnel applies only to the LEA's *Title II, Part A* funds use for professional development of its teachers and other staff. However, this flexibility is constrained by the requirement described below in G-2.

**G-2. How does an LEA determine the minimum amount required for equitable services to private school teachers and other educational personnel?**

For purposes of determining the amount of *Title II, Part A* funds that an LEA must make available for equitable services to private school teachers and other educational personnel, the statute has the LEA assume that it is spending *at least as much* for professional development under *Title II, Part A* as it did in FY 2001 under the Eisenhower Professional Development and Class-Size Reduction programs [*Title IX*, Section 9501(b)(3)(B)]. Hence, the district must provide equitable services based on this minimum amount or the current amount of funds budgeted for professional development, whichever is greater, to private school teachers and other educational personnel.

**G-3. What is meant by "equitable participation"?**

Participation is considered to be equitable if the public and private educational agencies and institutions:

1. assess, address, and evaluate the needs and progress of both groups of teachers in the same manner;
2. provide approximately the same amount of training, and where appropriate, instruction, to teachers with similar needs;
3. spend an equal amount of funds per student to serve public and private school teachers; and
4. provide private school teachers with an opportunity to participate in *Title II, Part A* program activities equitable to the opportunity provided public school teachers.

**G-4. If a school district exercises *Title VI* transferability authority and moves funds from *Title II, Part A* to another covered program, is the district required to provide the "hold harmless" amount for private school teachers' professional development?**

Yes. As noted in G-2 above, for purposes of determining the amount of *Title II, Part A* funds it must reserve for professional development provided to private school teachers, the LEA must assume that it is spending at least as much *Title II, Part A* funds each year for professional development as it did with FY 2001 funds under the former Eisenhower Professional Development and Class-Size Reduction programs. Hence, the

district must provide equitable services based on this minimum amount to private school teachers and other educational personnel even if the LEA transfers some *Title II* funds to other programs.

**G-5. What are the obligations of the LEA regarding the participation of private school teachers in professional development programs funded under this program?**

As part of the application process, LEAs must assure that they will comply with Section 9501 of ESEA (regarding participation by private school teachers). LEAs must consult with appropriate private school officials during the design, development, and implementation of the professional development program on such issues as:

- how the needs of children and teachers will be identified;
- what services will be offered;
- how, where, and by whom the services will be provided;
- how the services will be assessed and how the results of the assessment will be used to improve those services;
- the size and scope of the equitable services;
- the amount of funds available for those services; and
- how and when the LEA will make decisions about the delivery of services.

Consultation on the delivery of services must also include a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers [Section 9501].

**G-6. What happens if an LEA chooses not to participate in the *Title II, Part A* program and a private school in that LEA expresses a desire to do so?**

There is no authority for allowing non-public school teachers to receive services if the LEA elects not to participate in the program, nor does the program statute authorize a State to reallocate funds to another LEA for the purpose of allowing participation of teachers at a private school located in a nonparticipating LEA.

***Eligible Activities***

**G-7. What are some of the eligible activities under this program in which private school teachers and other educational personnel may participate?**

As with any activity that the LEA carries out for public school teachers, activities supported with *Title II, Part A* funds that benefit private school teachers must meet the requirements of the statute. For example, activities to be carried out for private school personnel must be based on a review of scientifically based research and must be expected to improve student academic achievement. Professional development activities may include:

- Improving the knowledge of teachers, principals, and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods, and skills;
- Training in effectively integrating technology into curricula and instruction;
- Training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students;
- Training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education;
- Leadership development and management training to improve the quality of principals and superintendents; and



- Training in the use of data and assessments to improve instruction and student outcomes.

**G-8. Must the expenditures that the LEA provides for professional development for private school teachers be equal on a per-pupil basis?**

*Title IX*, Section 9501 of ESEA requires that *Title II, Part A* services for professional development that are provided to private school teachers and other educational personnel be equitable in comparison to those provided to public school teachers. It also requires that funds provided for professional development for private school teachers be equal on a per-pupil basis.

**G-9. How does the LEA ensure that it is providing equitable services?**

To ensure that it is providing equitable professional development services to private school teachers and other educational personnel, the LEA should consider ways to:

- Assess, address, and evaluate the needs and progress of both public and private school teachers;
- Spend an equal amount of funds per student to serve the needs of public and private school teachers and their students;
- Provide private school teachers with an opportunity to participate in *Title II* activities equivalent to the opportunity provided public school teachers; and
- Offer educational services to private school teachers that are secular, neutral, and non-ideological [Section 9501(a)(2)].

**G-10. Does the professional development program for private school teachers have to be the same as the professional development program for public school teachers?**

No. Consultation and coordination are essential to ensuring high-quality, sustained, intensive, and classroom-focused professional development activities for private school teachers. LEAs must assess the needs of private school teachers in designing the professional development program for private school teachers. If the professional development needs of the private school teachers are different from those of public school teachers, the LEA, in consultation with private school representatives, should develop a separate program.

**G-11. May funds be used to pay stipends to private school teachers participating in a *Title II, Part A* professional development program?**

*Title II, Part A* funds may be used to pay for stipends for private school teachers, as reasonable and necessary, on the same basis as extra-duty pay is for public school teachers. The stipends must be paid directly to the private school teachers for their own use, and not to the private school. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours.

**G-12. May *Title II, Part A* funds be used to pay any portion of a private school teacher's salary or benefits?**

No. While LEAs must set aside an amount of *Title II, Part A* funds for the equitable participation of private school teachers in professional development activities, funds may not be used to pay or subsidize any portion of a private school teacher's salary or benefits.

**G-13. May *Title II, Part A* funds be used to pay for substitute teachers who replace teachers from private schools while they attend professional development activities?**

No. The *Title II, Part A* program does not authorize payments to private schools to be used for hiring substitute teachers.

**G-14. May administrative costs be considered in determining the per-teacher expenditures for private school teachers?**

No. LEAs pay the costs of administering professional development programs for public and private school teachers and other educational personnel "off the top" of their allocations. This is calculated before determining how much of the *Title II, Part A* funds are to be made available for professional development of public and private school teachers and other personnel.

**G-15. May *Title II, Part A* funds be used to pay for a private school teacher's attendance at a professional conference sponsored or conducted by a faith-based organization?**

Yes. To the extent that the conference is part of a sustained and comprehensive secular professional development plan for the teacher, then *Title II, Part A* funds may be expended to pay for the portion of the costs of the conference that, as determined by the LEA, represent the secular professional development in which the teacher participated. In this case, the LEA would pay or reimburse the teacher for attendance at the conference.

### ***LEAs and Private Schools***

**G-16. When must an LEA consult with appropriate private school officials?**

To ensure timely and meaningful consultation, an LEA must consult with appropriate private school officials during the design and development of the proposed programs. It is important that attention be given to the timing of the consultation so that decisions that affect the opportunities of eligible private school teachers to participate in *Title II, Part A* program activities are made only after discussions have taken place. The quality of the consultative process will likely have an effect on the quality of services to private school teachers [Section 9501(c)(3) and (4)].

**G-17. Must an LEA contact the officials of all private schools every year, even when there have been no recent indications of a desire to participate in the *Title II, Part A* program?**

Yes. The LEA is required to contact appropriate officials of all private schools within the boundaries of the school district *annually* to determine if they want their teachers to participate in the *Title II, Part A* program, regardless of whether or not those officials have recently indicated any interest in program participation.

**G-18. May an LEA require private school representatives to submit an application in order to receive services for the teachers in a private school with *Title II, Part A* funds?**

LEAs may request documentation, as needed, from private school officials that can help the LEA identify services that may be appropriate to the needs of private school teachers. However, requiring a formal application may, depending upon its form and content, constitute an administrative barrier that is inconsistent with the LEA's responsibility to ensure equitable participation of private school teachers.

**G-19. What kinds of records should an LEA maintain in order to show that it has met its responsibilities for equitable participation of private school teachers?**

To meet its general record-keeping responsibility, an LEA should document that:

- a) representatives of private schools were informed of the availability of *Title II, Part A* services;
- b) the needs of private and public school teachers were identified as part of a district-wide needs assessment;
- c) private school officials were consulted and provided an opportunity for input into the planning of the LEA's program activities; and
- d) the LEA designed a project that would permit their equitable participation.

The LEA also should maintain records of its efforts to resolve any complaints made by private school representatives that LEAs that should be serving their teachers are not doing so on an equitable basis.

**G-20. Must the LEAs administer and retain control over the *Title II, Part A* funds used to serve private school teachers?**

Yes. The LEAs must administer and retain control over the funds and, therefore, may not provide program funds directly to private schools. Before determining the amount of funds to be provided for services to private school teachers, an LEA could pay reasonable and necessary administrative costs of providing those services from its *Title II, Part A* allocation.

**G-21. May professional development be conducted within private schools?**

Yes, professional development activities may be conducted in the private school facilities.

**G-22. Does the law require that LEAs provide equitable services with *Title II, Part A* funding only to private "nonprofit" schools?**

Yes. Section 9501(a) requires LEAs to provide equitable services to teachers and students in "private elementary and secondary schools." NCLB defines "elementary" and "secondary" schools to mean only "nonprofit institutional day or residential school(s)" [Section 9101(18) and (38)].

**G-23. Are teachers employed with LEA *Title I* funds who provide services to eligible private school children required to meet the highly qualified requirements?**

Yes. If the teachers are hired using LEA *Title I* funds to teach core academic subjects at a participating private school, they are held to the same requirements as public school teachers.

**G-23. Must an LEA count all the students in participating private schools even if some of the students enrolled in the private schools reside in other districts?**

Yes. The LEA must provide equitable services based on the number of students who are enrolled in participating private schools located within the geographical boundaries served by the school district.

## APPENDIX A

### Definitions, Acronyms, and Abbreviations

**AYP:** Adequate Yearly Progress

**ARTS AND SCIENCES:** (A) When referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subjects in which teachers teach; and B) when referring to a specific academic subject, the disciplines or content areas in which an academic major is offered by an organizational unit [Section 2102(1)].

**CFR:** Code of Federal Regulations

**CHARTER SCHOOL:** The term "charter school" means its the purpose of eligibility under the Federal Charter Schools program, a public school that:

1. In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of the paragraph of the statute that defines "charter schools";
2. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
3. Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
4. Provides a program of elementary or secondary education, or both;
5. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
6. Does not charge tuition;
7. Complies with the Age Discrimination Act of 1975, *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, and Part B of the Individuals with Disabilities Education Act;
8. Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
9. Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of the Charter Schools program;
10. Meets all applicable Federal, State, and local health and safety requirements;
11. Operates in accordance with State law; and

12. Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school [Section 5210(1)].

**CORE ACADEMIC SUBJECTS:** The term “core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography [Section 9101(11)].

**THE DEPARTMENT:** U.S. Department of Education

**EDGAR:** Education Department General Administrative Regulations

**EISENHOWER PROGRAM:** Eisenhower Professional Development Program

**ESEA:** Elementary and Secondary Education Act of 1965, as amended

**ESL:** English as a Second Language

**FERPA:** Family Educational Rights and Privacy Act

**FY:** Fiscal Year

**HEA:** Higher Education Act

**HIGHLY QUALIFIED PARAPROFESSIONAL:** A paraprofessional who has not less than 2 years of experience in a classroom; and post-secondary education or demonstrated competence in a field or academic subject for which there is a significant shortage of qualified teachers [Section 2102(4)].

**HIGHLY QUALIFIED TEACHER:**

1. When the term “highly qualified teacher” is used with respect to any public elementary school or secondary school teacher teaching in a State, it means that:
  - a. 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 the term is used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the certification or licensing requirements set forth in the State's public charter school law (*see entry below for the definition of a highly qualified charter school teacher*); and
    - i) The teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.
2. When the term “highly qualified teacher” is used with respect to:
  - a. An elementary school teacher who is new to the profession, it means that the teacher has met the requirements of paragraph (a) above, and:

- i) Holds at least a bachelor's degree; and
    - ii) 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 basic elementary school curriculum); or
  - b. A middle school or secondary teacher who is new to the profession, it means that the teacher has met the requirements of paragraph (a) above, 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:
    - i) 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 a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); **or**
    - ii) 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.
3. When the term "highly qualified teacher" is used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, it means that the teacher has met the requirements of paragraph (a) above, holds at least a bachelor's degree, and:
- a. Has met the applicable standard requirements, which includes an option for a test; **or**
  - b. Demonstrates competency in all the academic subjects in which the teacher teaches based on a high objective uniform State standard 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 [Section 9101(23)].

**HIGHLY QUALIFIED CHARTER SCHOOL TEACHER:** Charter school teachers who teach core academic subjects must comply with any provision in a State's charter school law regarding certification or licensure requirements. A teacher in a charter school does not have to be licensed or certified by the State if the State does not require such licensure or certification. However, teachers of core academic subjects in charter schools must meet the other requirements that apply to public school teachers, including holding a four-year college degree and demonstrating competency in the subject area in which they teach. (See definition above for information on how teachers can demonstrate subject area competence.)

**HIGHLY QUALIFIED VOCATIONAL EDUCATION TEACHER:** Only vocational education teachers who teach core academic courses are required to meet the definition of a highly qualified teacher. The term "core academic subjects" is defined in ESEA as "English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography."

**HIGH QUALITY PROFESSIONAL DEVELOPMENT:** See the definition for "professional development."

**IHE:** Institution of Higher Education

**LEA:** Local educational agency

**LOW-PERFORMING SCHOOL:** The term "low-performing school" means an elementary school or secondary school that is identified under Section 1116 of ESEA.

**NCLB:** The *No Child Left Behind* Act of 2001

**OMB:** Office of Management and Budget

**OUT-OF-FIELD TEACHER:** A teacher who is teaching an academic subject or a grade level for which the teacher is not highly qualified [Section 2102(5)].

**PARAPROFESSIONAL:** A paraprofessional is an individual with instructional duties. Individuals who work solely in non-instructional roles, such as food service, cafeteria or playground supervision, personal care services, and non-instructional computer assistance are not considered to be paraprofessionals for *Title I* purposes.

**PRINCIPAL:** The term "principal" includes an assistant principal [Section 2102(6)].

**PROFESSIONAL DEVELOPMENT:** [Section 9101(34)] The term "professional development":

1. Includes activities that:
  - a. Improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;
  - b. Are an integral part of broad schoolwide and districtwide educational improvement plans;

- c. 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;
- d. Improve classroom management skills;
- e. 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 are not 1-day or short-term workshops or conferences;
- f. Support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;
- g. Advance teacher understanding of effective instructional strategies that are:
  - i) Based on scientifically based research (except that this subclause shall not apply to activities carried out under Part D of Title II); and
  - ii) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and
- h. Are aligned with and directly related to:
  - i) State academic content standards, student academic achievement standards, and assessments; and
  - ii) The curricula and programs tied to the standards described in subclause (a) [except that this subclause shall not apply to activities described in clauses (ii) and (iii) of Section 2123(3)(B)];
- i. Are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;
- j. 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;
- k. 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;
- l. 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;
- m. Provide instruction in methods of teaching children with special needs;



- n. Include instruction in the use of data and assessments to inform and instruct classroom practice; and
  - o. Include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and
2. 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 licensed 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 is designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom [Section 9101(34)].

**PUPIL SERVICES PERSONNEL; PUPIL SERVICES:** The term “pupil services personnel” means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in Section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs. The term “pupil services” means the services provided by pupil services personnel [Section 9101(36)].

**SCIENTIFICALLY BASED RESEARCH:** The term “scientifically based research”:

- 1. Means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and
- 2. Includes research that--
  - a. Employs systematic, empirical methods that draw on observation or experiment;
  - b. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
  - c. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
  - d. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-

assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

- e. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
- f. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review [Section 9101(37)].

**SECRETARY:** Secretary of Education, U.S. Department of Education

**SAHE:** State agency for higher education

**SEA:** State educational agency

**STATUTE:** The Elementary and Secondary Education Act of 1965 (ESEA), as amended by the *No Child Left Behind Act of 2001*

## APPENDIX B

### Title II, Part A Statute

#### ***PART A - TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND***

##### **SEC. 2101. PURPOSE.**

The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to -

- (1) increase student academic achievement through strategies such as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom and highly qualified principals and assistant principals in schools; and
- (2) hold local educational agencies and schools accountable for improvements in student academic achievement.

##### **SEC. 2102. DEFINITIONS.**

In this part:

- (1) ARTS AND SCIENCES- The term arts and sciences' means -
  - (A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subjects in which teachers teach; and
  - (B) when referring to a specific academic subject, the disciplines or content areas in which an academic major is offered by an organizational unit described in subparagraph (A).
- (2) CHARTER SCHOOL- The term charter school' has the meaning given the term in section 5210.
- (3) HIGH-NEED LOCAL EDUCATIONAL AGENCY- The term high-need local educational agency' means a local educational agency -
  - (A)(i) that serves not fewer than 10,000 children from families with incomes below the poverty line; or
  - (ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and
  - (B)(i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or
  - (ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.
- (4) HIGHLY QUALIFIED PARAPROFESSIONAL- The term highly qualified paraprofessional' means a paraprofessional who has not less than 2 years of -
  - (A) experience in a classroom; and
  - (B) postsecondary education or demonstrated competence in a field or academic subject for which there is a significant shortage of qualified teachers.
- (5) OUT-OF-FIELD TEACHER- The term out-of-field teacher' means a teacher who is teaching an academic subject or a grade level for which the teacher is not highly qualified.
- (6) PRINCIPAL- The term principal' includes an assistant principal.

##### **SEC. 2103. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) GRANTS TO STATES, LOCAL EDUCATIONAL AGENCIES, AND ELIGIBLE PARTNERSHIPS- There are authorized to be appropriated to carry out this part (other than subpart 5) \$3,175,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

## Subpart 1 - Grants to States

### SEC. 2111. ALLOTMENTS TO STATES.

(a) IN GENERAL- The Secretary shall make grants to States with applications approved under section 2112 to pay for the Federal share of the cost of carrying out the activities specified in section 2113. Each grant shall consist of the allotment determined for a State under subsection (b).

(b) DETERMINATION OF ALLOTMENTS-

(1) RESERVATION OF FUNDS-

(A) IN GENERAL- From the total amount appropriated under section 2103(a) for a fiscal year, the Secretary shall reserve -

- (i) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this part; and
- (ii) one-half of 1 percent for the Secretary of the Interior for programs under this part in schools operated or funded by the Bureau of Indian Affairs.

(2) STATE ALLOTMENTS-

(A) HOLD HARMLESS-

(i) IN GENERAL- Subject to subparagraph (B), from the funds appropriated under section 2103(a) for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under -

(I) section 2202(b) of this Act (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106-554).

(ii) RATABLE REDUCTION- If the funds described in clause (i) are insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

(B) ALLOTMENT OF ADDITIONAL FUNDS-

(i) IN GENERAL- Subject to clause (ii), for any fiscal year for which the funds appropriated under section 2103(a) and not reserved under paragraph (1) exceed the total amount required to make allotments under subparagraph (A), the Secretary shall allot to each of the States described in subparagraph (A) the sum of -

(I) an amount that bears the same relationship to 35 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line, in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

(ii) EXCEPTION- No State receiving an allotment under clause (i) may receive less than one-half of 1 percent of the total excess amount allotted under such clause for a fiscal year.

(3) REALLOTMENT- If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallocate the amount of the allotment to the remaining States in accordance with this subsection.

## SEC. 2112. STATE APPLICATIONS.

(a) IN GENERAL- For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) CONTENTS- Each application submitted under this section shall include the following:

(1) A description of how the activities to be carried out by the State educational agency under this subpart will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

(2) A description of how the State educational agency will ensure that a local educational agency receiving a subgrant to carry out subpart 2 will comply with the requirements of such subpart.

(3) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with challenging State academic content and student academic achievement standards, State assessments, and State and local curricula.

(4) A description of how the State educational agency will use funds under this part to improve the quality of the State's teachers and principals.

(5)(A) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs.

(B) A description of the comprehensive strategy that the State educational agency will use, as part of such coordination effort, to ensure that teachers are trained in the use of technology so that technology and applications of technology are effectively used in the classroom to improve teaching and learning in all curricula and academic subjects, as appropriate.

(6) A description of how the State educational agency will encourage the development of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(7)(A) A description of how the State educational agency will ensure compliance with the requirements for professional development activities described in section 9101 and how the activities to be carried out under the grant will be developed collaboratively and based on the input of teachers, principals, parents, administrators, paraprofessionals, and other school personnel.

(B) In the case of a State in which the State educational agency is not the entity responsible for teacher professional standards, certification, and licensing, an assurance that the State activities carried out under this subpart are carried out in conjunction with the entity responsible for such standards, certification, and licensing under State law.

(8) A description of how the State educational agency will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this subpart and subpart 2.

(9) A description of the State educational agency's annual measurable objectives under section 1119(a)(2).

(10) A description of how the State educational agency will use funds under this part to meet the teacher and paraprofessional requirements of section 1119 and how the State educational agency

will hold local educational agencies accountable for meeting the annual measurable objectives described in section 1119(a)(2).

(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, the specific portion of the State law that provides for the exemption.

(12) An assurance that the State educational agency will comply with section 9501 (regarding participation by private school children and teachers).

(c) DEEMED APPROVAL- An application submitted by a State educational agency pursuant to subsection (a) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

(d) DISAPPROVAL- The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(e) NOTIFICATION- If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall--

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall--

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(f) RESPONSE- If the State educational agency responds to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B), the Secretary shall approve or disapprove such application prior to the later of--

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (c).

(g) FAILURE TO RESPOND- If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

## **SEC. 2113. STATE USE OF FUNDS.**

(a) IN GENERAL- A State that receives a grant under section 2111 shall -

(1) reserve 95 percent of the funds made available through the grant to make subgrants to local educational agencies as described in subpart 2;

(2) reserve 2.5 percent (or, for a fiscal year described in subsection (b), the percentage determined under subsection (b)) of the funds to make subgrants to local partnerships as described in subpart 3; and

(3) use the remainder of the funds for State activities described in subsection (c).

(b) SPECIAL RULE- For any fiscal year for which the total amount that would be reserved by all States under subsection (a)(2), if the States applied a 2.5 percentage rate, exceeds \$125,000,000, the Secretary shall determine an alternative percentage that the States shall apply for that fiscal year under subsection (a)(2) so that the total amount reserved by all States under subsection (a)(2) equals \$125,000,000.

(c) STATE ACTIVITIES- The State educational agency for a State that receives a grant under section 2111 shall use the funds described in subsection (a)(3) to carry out one or more of the following activities, which may be carried out through a grant or contract with a for-profit or nonprofit entity:

- (1) Reforming teacher and principal certification (including recertification) or licensing requirements to ensure that -
  - (A)(i) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach; and
  - (ii) principals have the instructional leadership skills to help teachers teach and students learn;
  - (B) teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and
  - (C) teachers have the subject matter knowledge and teaching skills, including technology literacy, and principals have the instructional leadership skills, necessary to help students meet challenging State student academic achievement standards.
- (2) Carrying out programs that provide support to teachers or principals, including support for teachers and principals new to their profession, such as programs that -
  - (A) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development; and
  - (B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the requirements for professional development activities described in section 9101.
- (3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers and principals, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers or principals.
- (4) Developing and implementing mechanisms to assist local educational agencies and 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 State 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 local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals.
- (5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.
- (6) Providing professional development for teachers and principals and, in cases in which a State educational agency determines support to be appropriate, supporting the participation of pupil services personnel in the same type of professional development activities as are made available to teachers and principals.
- (7) Developing systems to measure the effectiveness of specific professional development programs and strategies to document gains in student academic achievement or increases in teacher mastery of the academic subjects the teachers teach.
- (8) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration of the programs carried out under this part, including provision of technical assistance to local educational agencies.
- (9) Funding projects to promote reciprocity of teacher and principal certification or licensing between or among States, except that no reciprocity agreement developed under this paragraph or

developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

(10) Developing or assisting local educational agencies in the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(11) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

(12) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for teachers in high-need academic subjects such as reading, mathematics, and science and teachers in high-poverty schools and districts.

(13) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable the principals to be effective school leaders and prepare all students to meet challenging State academic content and student academic achievement standards, and the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(14) Developing, or assisting local educational agencies in developing, 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.

(15) Providing assistance to teachers to enable them to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year for which the State receives funds under this part (as amended by the No Child Left Behind Act of 2001).

(16) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement.

(17) Funding projects and carrying out programs to encourage men to become elementary school teachers.

(18) Establishing and operating a center that -

(A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

(B) establishes and carries out programs to improve teacher recruitment and retention within the State.

(d) ADMINISTRATIVE COSTS- A State educational agency or State agency for higher education receiving a grant under this part may use not more than 1 percent of the grant funds for planning and administration related to carrying out activities under subsection (c) and subpart 3.

(e) COORDINATION- A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section.

(f) SUPPLEMENT, NOT SUPPLANT- Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.



**Subpart 2 - Subgrants to Local Educational Agencies**

**SEC. 2121. ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.**

(a) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES-

(1) IN GENERAL- The Secretary may make a grant to a State under subpart 1 only if the State educational agency agrees to distribute the funds described in this subsection as subgrants to local educational agencies under this subpart.

(2) HOLD HARMLESS-

(A) IN GENERAL- From the funds reserved by a State under section 2113(a)(1), the State educational agency shall allocate to each local educational agency in the State an amount equal to the total amount that such agency received for fiscal year 2001 under -

(i) section 2203(1)(B) of this Act (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106-554).

(B) NONPARTICIPATING AGENCIES- In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allocated to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if the agency had elected to participate in all of the programs for which the agency was eligible under each of the provisions referred to in those clauses.

(C) RATABLE REDUCTION- If the funds described in subparagraph (A) are insufficient to pay the full amounts that all local educational agencies in the State are eligible to receive under subparagraph (A) for any fiscal year, the State educational agency shall ratably reduce such amounts for the fiscal year.

(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 relationship 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, as so determined.

**SEC. 2122. LOCAL APPLICATIONS AND NEEDS ASSESSMENT.**

(a) IN GENERAL- To be eligible to receive a subgrant under this subpart, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) CONTENTS- Each application submitted under this section shall be based on the needs assessment required in subsection (c) and shall include the following:

(1)(A) A description of the activities to be carried out by the local educational agency under this subpart and how these activities will be aligned with -

(i) challenging State academic content standards and student academic achievement standards, and State assessments; and

(ii) the curricula and programs tied to the standards described in clause (i).

(B) A description of how the activities will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

(2) A description of how the activities will have a substantial, measurable, and positive impact on student academic achievement and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority students from other students.

(3) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that -

(A) have the lowest proportion of highly qualified teachers;

(B) have the largest average class size; or

(C) are identified for school improvement under section 1116(b).

(4) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs.

(5) A description of the professional development activities that will be made available to teachers and principals under this subpart and how the local educational agency will ensure that the professional development (which may include teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

(6) A description of how the local educational agency will integrate funds under this subpart with funds received under part D that are used for professional development to train teachers to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy.

(7) A description of how the local educational agency, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of activities to be carried out under this subpart and in the preparation of the application.

(8) A description of the results of the needs assessment described in subsection (c).

(9) A description of how the local educational agency will provide training to enable teachers to -

(A) 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;

(B) improve student behavior in the classroom and identify early and appropriate interventions to help students described in subparagraph (A) learn;

(C) involve parents in their child's education; and

(D) understand and use data and assessments to improve classroom practice and student learning.

(10) A description of how the local educational agency will use funds under this subpart to meet the requirements of section 1119.

(11) An assurance that the local educational agency will comply with section 9501 (regarding participation by private school children and teachers).

(c) NEEDS ASSESSMENT-

(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 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.

**SEC. 2123. LOCAL USE OF FUNDS.**

(a) IN GENERAL- A local educational agency that receives a subgrant under section 2121 shall use the funds made available through the subgrant to carry out 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 most 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; and

(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 3 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.

(10) Carrying out programs and activities related to exemplary teachers.

(b) SUPPLEMENT, NOT SUPPLANT- Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

#### **Subpart 4 - Accountability**

##### **SEC. 2141. TECHNICAL ASSISTANCE AND ACCOUNTABILITY.**

(a) 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 2 consecutive years, such local educational agency shall develop an improvement plan that will enable the agency to meet such annual measurable objectives and that specifically addresses issues that prevented the agency from meeting such annual measurable objectives.

(b) TECHNICAL ASSISTANCE- During the development of the improvement plan described in subsection (a) and throughout implementation of the plan, the State educational agency shall -

(1) provide technical assistance to the local educational agency; and

(2) 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).

(c) 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 1111(b)(2)(B), for 3 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 -

(1) 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

(2)(A) 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;

(B) 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

(C) 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.

(d) 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

(1) meet the requirements for professional development activities described in section 9101; and

(2) are coordinated with other reform efforts at the schools.