

Title I School Improvement Program

Part I: LEA and School Improvement

2009-2010

Based on July 21, 2006, USDE GUIDANCE

LEA and School Improvement

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LEA and School Improvement

INTRODUCTION

Research indicates and educators know that high-performing schools are complex institutions. At their core are a focus on academics and an unwavering expectation that all children can and will achieve academic proficiency. Surrounding this center are a dedicated staff with a sense of common purpose, strong instructional leadership from the principal, the confidence and respect of parents, and an allocation of resources that supports the school's mission. In high-performing schools, all members of the school community, both individually and collectively, hold themselves accountable for student success.

The No Child Left Behind Act of 2001 (NCLB) was designed to help create high-performing schools. Its cornerstone accountability provisions build upon rigorous academic content and achievement standards, and assessments based on those standards. NCLB expresses the ambitious, long-term goal of proficiency in reading and mathematics for all students by the 2013-14 school year, and delineates specific steps that States, local educational agencies (LEAs), and schools must take to reach that goal. Texas has developed an approved system for implementing the accountability provisions of NCLB by creating a single definition of adequate yearly progress (AYP) for all schools and LEAs throughout the State. This definition includes annual targets for academic achievement, participation in assessments, graduation rates for high schools, and attendance rates for elementary and middle schools. NCLB requires TEA and LEAs to review annually the status of every school, using these defined benchmarks, in order to ensure that the school is making adequate progress toward achieving the long-term proficiency goal of all students being proficient within 12 years.

In addition to detailing school accountability measures and consequences, NCLB focuses increased attention on the performance of LEAs, emphasizing their unique and important leadership role in school improvement. The law requires TEA to conduct an annual review of LEAs to ensure that they, too, are making adequate progress and fulfilling their responsibilities. Reaching or surpassing annual targets for two or more consecutive years merits recognition for LEAs and schools. The law prescribes increasing levels of intervention in LEAs and schools that do not meet adequate yearly progress, ensuring that struggling schools and school districts are provided with increasing amounts of assistance.

Citations found within this guidance document with four digits (generally beginning with §111X) reference the Elementary and Secondary Education Act, as reauthorized by the No Child Left Behind Act of 2001 (NCLB). Three digits citations (beginning with §200) reference the Final regulations, published December 2, 2002.

ANNUAL REVIEW OF SCHOOL PROGRESS

In addition to creating student achievement standards that define what students should know and be able to do, and creating accountability systems to gauge the success of their implementation, States are responsible for monitoring the progress that schools and LEAs make in bringing all children to proficiency in at least the core academic subjects of reading/language arts and mathematics. Although the statute and regulations charge the LEA with reviewing each of its campuses and identifying those that have not made sufficient progress, TEA also plays an important role in this process and is ultimately accountable for it. TEA gathers, analyzes, and maintains student academic assessment data, guaranteeing consistency in the application of accountability provisions across all LEAs and campuses. TEA is also charged with providing campuses and LEAs with effective technical assistance, thus creating a platform for disseminating and reinforcing the use of effective, research-based instructional strategies and practices. Finally, TEA fulfills an oversight function by monitoring the activities of LEAs with campuses in improvement, corrective action, or restructuring status and making an annual judgment about whether or not the LEA itself is fulfilling its responsibilities and making adequate progress.

A. REVIEW PROCESS

A-1. Why do TEA and LEAs conduct an annual review of campus progress?

TEA and LEAs use the annual review of school progress primarily to determine (1) if a campus has made adequate progress toward all students meeting or exceeding the State's student academic achievement standards by 2013-14, and (2) if a campus has narrowed the achievement gap. The results of the annual review also provide TEA and LEAs with detailed, useful information that they can use to develop or refine technical assistance strategies they employ with schools.

A-2. What data does TEA review?

TEA has defined AYP in accordance with the Title I statute and regulations in its approved accountability plan. To determine whether or not a campus has made adequate progress, TEA reviews, math (performance and participation), reading/language arts (performance and participation), attendance rates (elementary and middle schools), and graduation rates (high schools).

In conjunction with the LEA, TEA also reviews the effectiveness of each campus' actions and activities that are supported by Title I, Part A funds, including parental involvement and professional development.

A-3. What is the timeline for the review of campus progress?

TEA, in conjunction with the LEA, must conduct its review of campus progress annually, in the period of time between the release of student results on the State academic assessments and the start of the school year following the administration of the assessments.

Meeting this timeline becomes especially important if the review results in a determination that the campus has not achieved AYP for two or more years and will be identified for school improvement, corrective action, or restructuring. In that case, the timeline must accommodate: (1) the campus's right to review the data that led to the determination; (2) the development and implementation of a school improvement plan; and (3) the need to provide parents with sufficient time to evaluate the public school choice and supplemental educational service options that may be available for their children. §1116(b)(1)(B); §200.32(a)(2)¹

A-4. What entity must ensure that this timeline is met?

TEA is responsible for ensuring that the results of academic assessments administered as part of the State assessment system in a given school year are available in sufficient time for LEAs to review them and for school-level determinations of AYP to be made. §200.49

A-5. Should officials in individual campuses examine the data that TEA and LEAs review?

Yes. Examining and analyzing the results of assessments and other data that TEA and LEAs use in their review are effective strategies for continuous school improvement. Assessment data provide campuses with information about the academic performance of student subgroups; analyzing those data encourages the creation of strategies that specifically target the improved achievement of these subgroups. Campuses can use the review data to further refine their instruction and other aspects of their campus program to ensure that they meet the learning needs of all students. Analyzing results from the State assessment system and other relevant data is so important, in fact, that LEAs are required to provide this assistance to campuses identified as in need of improvement. (See D-2.)

A-6. Does TEA conduct an annual review of campuses that do not receive Title I, Part A funding?

Yes. The Elementary and Secondary Education Act (ESEA), as amended by the NCLB Act of 2001, requires that TEA annually review the progress of all public schools. This review includes all campuses operated by the LEA, including AEPs and DAEPs. However, non-Title I campuses are not subject to the same interventions for school improvement as Title I campuses.

¹ Citations with four digits (e.g., §1111) reference the Elementary and Secondary Education Act, as reauthorized by the No Child Left Behind Act of 2001 (NCLB). Three digits citations (e.g., §200) reference the Title I regulations, published December 2, 2002.

A-7. Do the requirements for the annual review apply to charter schools?

Yes. Charter schools, like all public schools within a State, are subject to the State's accountability requirements, including its system of review, interventions, and recognition.

A-8. How must the LEA share the results of a campus' annual review?

An LEA must publicize and disseminate the results of the annual progress review of its campuses to principals, teachers, parents, and the community. Whether or not their campuses make AYP, principals and teachers can use these results to refine and improve their instructional program to help all children meet challenging academic achievement and performance standards. The results also provide parents and community members with a factual basis for judging the quality of their campus and alert them to opportunities for increased involvement. Required LEA and campus report cards provide one vehicle for LEAs to publicize the results of the annual reviews. §200.30(d)

A-9. May TEA recognize schools that meet or exceed their annual AYP targets?

Yes. TEA must designate Title I campuses that have made the greatest gains in closing the achievement gap or exceeding AYP by meeting certain criteria. TEA recognizes Title I Distinguished Schools in two separate categories:

- (1) Distinguished Performance Schools (criteria based on achievement data)
- (2) Distinguished Progress Schools (criteria based on closing the achievement gap)

SCHOOL IMPROVEMENT PROCESS - CAMPUSES

Every State accountability system articulates interventions and recognition for schools that are tied to their performance relative to annual and long-term academic proficiency targets for all students. TEA and LEAs are required to intervene in campuses that persistently do not meet these targets. These progressively more comprehensive interventions are identified as school improvement, corrective action, and restructuring. Being identified as a campus in need of any of these interventions allows the campus to access assistance in identifying and addressing instructional issues that prevent students who attend that campus from attaining proficiency in the core academic subjects of reading and mathematics. The school improvement process and timeline are designed to create a sense of urgency about reform and to focus identified campuses on quickly and efficiently improving student outcomes.

B. SCHOOL IMPROVEMENT – STAGE ONE

B-1. What causes a campus to enter school improvement status?

A campus that does not make AYP for the same indicator (reading, mathematics, attendance rate, or graduation rate) for two consecutive years, as AYP is defined by the State's accountability system, must be identified for school improvement.

B-2. What purpose is served by identifying a campus for improvement?

Identifying a campus for improvement serves as a formal acknowledgement that the campus is not meeting the challenge of successfully teaching all of its students. The identification marks the beginning of the school improvement process, a set of structured interventions designed to help a school identify, analyze, and address issues that prevent student academic success. TEA and LEA will provide a campus that is identified for improvement with extensive support and technical assistance in designing and implementing a plan to improve student achievement.

B-3. May a campus appeal TEA's determination that the campus has not made AYP for two consecutive years?

Yes. If TEA, after completing its review, determines that a campus has not made AYP for two years in a row, it must provide the campus with an opportunity to review the data, including academic assessment data, on which the proposed identification for school improvement is based.

If the principal or a majority of the campus's parents believe that the identification was made in error for statistical or other substantive reasons, the principal may provide supporting evidence to the LEA who files an appeal with TEA.

B-4. Are campuses that do not receive Title I, Part A funding subject to consequences if they do not meet AYP targets?

Yes. In its approved accountability system, the State has defined the interventions and

recognition that it will use to hold all LEAs and campuses accountable for student achievement. Therefore, although the interventions that are detailed in §1116 of the ESEA do not statutorily apply to campuses that do not receive Title I, Part A funding, these campuses must revise their campus improvement plan to address the deficit indicator that caused the campus to not make AYP.

B-5. How does a campus exit from school improvement status?

A campus identified for improvement must make AYP as defined in its State's accountability system for two consecutive school years in order to exit school improvement status. For example, if a campus does not make AYP for two consecutive years, and must undergo Stage 1 of school improvement during the 2004-05 school year, then in order for the campus no longer to be identified for school improvement, it must make AYP during that school year (2005 AYP status) as well as the 2006 AYP status. The table below illustrates this point.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2002-03	N
By end of 2003-04	N
Beginning of 2004-05	Stage 1, school improvement
By end of 2004-05	Y
By end of 2005-06	Y
Beginning of 2006-07	No longer identified for improvement

B-6. When the LEA identifies a campus for improvement, what information must it provide to parents?

When one of its campuses is identified for improvement, the LEA must promptly provide the following information to the parents of each child enrolled in the campus:

- an explanation of what the identification means and how the campus their child attends compares to other elementary and secondary campuses served by the LEA and the State in terms of the academic achievement of its students;
- the reason(s) for the campus being identified for improvement, such as insufficient participation in assessments or one or more subgroups not meeting academic proficiency targets;
- an explanation of how parents can become involved in addressing the academic issues that led to identification; and,
- an explanation of the parents' option to transfer their child to another campus in the LEA that has not been identified for improvement. The notification must provide parents with enough relevant information to help them decide what campus is best for their child and be made well before the beginning of the school year in which this option will be available, so that if parents choose to do so they have sufficient time to exercise their choice option prior to the beginning of the school year.

At a minimum, the LEA must inform parents about the academic achievement level of

students at the campus or campuses to which their child may transfer, but it may also choose to include other information, such as a description of special academic programs, facilities, before-or-after school programs, the professional qualifications of teachers in the core academic subjects, or parent involvement opportunities. The LEA must also explain to parents that it will provide their child with transportation to the campuses that the LEA identifies as options, subject to certain cost limitations.

Additional information on public school choice is available in the Department of Education's Public School Choice Non-Regulatory Guidance accessible online at <http://www.ed.gov/policy/elsec/guid/schoolchoiceguid.doc>. §200.37

B-7. What information must the LEA provide to both parents and the public *regarding schools identified for improvement*?

In addition to providing school improvement information to the parents of each student in the campus, the LEA must publish and disseminate, to both parents and the public, information explaining:

- what the campus is doing to address the problem of low achievement; and
 - what the LEA or TEA is doing to help the campus address this problem.
- §1116(b)(6); §200.38

B-8. What guidelines should LEAs and campuses follow when communicating with parents and the public during the school improvement process?

Meaningful parental involvement is one of the cornerstones of the reform initiatives contained in the No Child Left Behind Act. Therefore, it is essential that LEAs and campuses communicate with parents throughout the school improvement process and welcome them as key partners in addressing the academic issues that led to the campus being identified for improvement.

Clarity and timeliness of information are essential. The LEA and campus must ensure that required information is provided in an understandable and uniform format (including alternative formats upon request), regardless of the method or media used. To the extent practicable, written communication must be in a language parents can understand, with special attention given to parents of migratory and limited English proficient students. If that is not practicable, the information must be provided in oral translations for parents with limited English proficiency.

The LEA and campus must provide information to parents directly, through regular mail or by e-mail. The same information must also be disseminated through broader means of communication, such as the Internet, the media, and through public agencies serving students and their families.

B-9. What are the responsibilities of the LEA after a campus is identified for improvement?

When one of its campuses is identified for its first stage of school improvement, the LEA must:

- Promptly provide notice to a parent or parents of each student enrolled in a campus identified for school improvement in an understandable and uniform format and, to the extent practicable, in a language the parents can understand—
 - an explanation of what the identification means;
 - how the campus compares in terms of academic achievement to other elementary campuses or secondary campuses served by the LEA and the State;
 - the reasons for the identification;
 - an explanation of what the campus identified for improvement is doing to address the problem of low achievement;
 - an explanation of what the LEA or TEA is doing to help the campus address the achievement problem;
 - an explanation of how the parents can become involved in addressing the academic issues that caused the campus to be identified for improvement;
 - an explanation of the parents' option to transfer their child to another public school;
 - establish a peer review process that assists with the review of the Campus Improvement Plan.
- Approve the CIP and assures that it meets the NCLB requirements.
- Provide technical assistance including assistance in analyzing student assessment data and other examples of student work to identify and address problems and solutions to:
 - instruction;
 - implementing the parental involvement requirements;
 - implementing the professional development requirements.
- Provide technical assistance including assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the campus to be identified for school improvement; and
- Provide technical assistance including assistance in analyzing and revising the campus budget so that the campus's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the campus from school improvement status.

C. CAMPUS IMPROVEMENT PLAN

C-1. What must the campus do when it is identified for improvement?

The process of school improvement begins with the campus developing a required two-year plan that addresses the academic issues that caused it to be identified for school

improvement. The campus may develop a new plan or revise an existing one, but in either case it must be completed no later than three months after the campus has been identified. §200.41

C-2. What is the purpose of the campus improvement plan?

The purpose of the campus improvement plan is to improve the quality of teaching and learning in the campus, so that greater numbers of students achieve proficiency in the core academic subjects of reading and mathematics. The campus improvement plan provides a framework for analyzing problems and addressing instructional issues in a campus that has not made sufficient progress in student achievement, attendance rate, or graduation rate.

C-3. What topics must the plan address?

Together, the components of the campus improvement plan should embody a design that is comprehensive, highly structured, specific, and focused primarily on the campus' instructional program. Specifically, the plan must address:

- core academic subjects and the strategies used to teach them,
 - professional development,
 - technical assistance,
 - parent involvement, and must contain
 - measurable goals. The plan should also specify the implementation responsibilities of the campus, the LEA, and the State serving the campus.
- §1116(b)(3)(A)

The CIP should also include all the Schoolwide Program or Targeted Assistance components of the Title I, Part A Program.

C-4. How must the plan address the campus' core academic subjects and instructional strategies?

The campus improvement plan must demonstrate that the campus will implement policies and practices grounded in scientifically based research that are most likely to bring all groups of students to proficiency in reading and mathematics. Included among these strategies, as appropriate, would be additional learning activities for students that take place before school, after school, during the summer, and during any extension of the school year.

For campuses in need of improvement, scientifically based research provides a standard by which the principal and teachers can critically evaluate the many instructional strategies and programs that are available to them and choose those with the greatest likelihood of producing positive results. §1116(b)(3)(A); §200.41

C-5. What are examples of instructional strategies grounded in scientifically based research?

Strategies grounded in scientifically based research are those that have demonstrated,

over time and in varied settings, an effectiveness that is documented by high-quality educational research. High-quality scientifically based research employs an experimental or quasi-experimental design and produces replicable results, confirmed by peer review, that can be applied to the general population. For example, scientifically based research has shown that explicit instruction in (1) phonemic awareness, (2) phonics, (3) vocabulary development, (4) reading fluency, and (5) reading comprehension is effective in teaching reading to students in grades K-3. Strategies that apply this research in a classroom setting would be grounded in scientifically based research.

Scientifically based research uses rigorous and systematic procedures to obtain reliable and valid knowledge about “what works.” The application of systematic, empirical methods, rigorous data analyses, and an experimental design using randomized trials ensures a high degree of confidence in the results. A complete definition of scientifically based research can be found in section 9101(37) of the reauthorized ESEA.

C-6. What are examples of policies and practices with the greatest likelihood of ensuring that all groups of students achieve proficiency?

Policies and practices with the greatest likelihood of ensuring that all students achieve proficiency are those that affect the campus’ teaching and learning program, both directly and indirectly. Policies and practices that have an impact on classrooms include those that build school infrastructures, such as regular data analysis, the involvement of teachers and parents in decision-making, and the allocation of resources to support core goals. Other policies and practices that have a more direct effect on student achievement include the choice of instructional programs and materials, the use of instructional time, and improved use of assessment results. Decisions about the specific policies and practices to be implemented should be based on a thoughtful review and analysis of the individual school’s needs.

C-7. Can a campus identified for improvement implement a comprehensive school reform model as a part of its campus improvement plan?

In calling for the use of strategies based on scientifically based research, the ESEA specifically states that a campus can implement a comprehensive school reform model as a part of its improvement plan. Adopting a comprehensive reform model can be an effective strategy, especially if the campus in improvement is in search of an external structure and technical assistance that will help it identify and address organizational and instructional issues. However, a model alone cannot address all of the identified needs of a campus and cannot substitute for a coherent plan for systemic change. The implementation of a comprehensive school reform model, or any other program, must be viewed as one strategy, albeit an important one, in a campus’ comprehensive plan for improvement.

C-8. Why must the plan address professional development?

The academic success of students correlates highly with the qualifications and skills of

their teachers. Although by the end of the 2005-06 school year all core academic subject area teachers were required to be highly qualified, ongoing professional development is crucial to ensure their continuous improvement in the instructional skills needed to help all students meet or exceed proficiency targets on State academic assessments.

C-9. What kinds of professional development should be provided?

The professional development component of the school improvement plan should directly address the academic achievement problems that caused the campus to be identified. In most cases, this professional training will focus on the teaching and learning process, such as increasing content knowledge, the use of scientifically based instructional strategies, especially in core academic subjects, and the alignment of classroom activities with academic content standards and assessments. Another example of useful professional development would be training teachers to analyze classroom and campus-level data and use it to inform their instruction. The professional development detailed in the campus improvement plan must be provided in a manner that affords increased opportunity for teachers to participate, and must incorporate teacher mentoring activities or programs. §1116(b)(3)(A)(iii)(III) and (x); §200.41

C-10. Why must the campus improvement plan contain provisions for teacher mentoring?

This requirement reflects statutory and regulatory support not only for recruiting and hiring highly qualified teachers, but for strategies to retain them. Currently many teachers leave the profession within five years of beginning their teaching careers. Mentoring programs pair novice teachers with more experienced professionals who serve as role models and provide practical support and encouragement. High-quality, structured mentoring programs have a positive effect on the retention of qualified teachers.

C-11. What is the source of funding for the professional development detailed in the campus improvement plan?

A campus identified for improvement must spend not less than 10 percent of its allocation of Title I, Part A funds, for each fiscal year that the school is in improvement, for the purpose of providing high-quality professional development to the campus' teachers, principal and, as appropriate, other instructional staff. The campus improvement plan must provide an assurance that this expenditure will take place. §1116(b)(3)(iii)

C-12. What is "high-quality" professional development?

"High-quality" professional development is professional development as defined in the reauthorized ESEA (section 9101(34)). In general, the definition recommends professional development that is sustained and classroom-focused. It must contribute to an increase both in teachers' knowledge of the academic subjects they teach and in their use of effective, scientifically based instructional strategies with a diverse range of students. It must be provided over time and not take the form of one-day or short-term workshops. High-quality professional development is an integral part of effective improvement plans, at

both the campus and LEA levels.

C-13. How must the campus improvement plan address parental involvement?

The campus improvement plan must address parental involvement in two ways. First, it must describe how the campus will provide the parents of each student enrolled with written notice about the campus' identification for improvement. Second, the plan must specify the strategies that will be used to promote parental involvement. Effective strategies will engage parents as partners with teachers in educating their children and will involve them in meaningful decision-making at the school. §1116(b)(3)(A)(vi) and (viii)

C-14. Why must a campus improvement plan contain measurable goals?

By establishing measurable goals, a campus in improvement clearly articulates the purposes and intended outcomes of its improvement plan. In addition, the goals provide a means of tracking the campus' progress over the two years of the plan.

Since campuses identified as in need of improvement already have a history of not meeting the academic needs of all of their students, it is especially important in this plan that their goals are clear and are tightly focused on the fundamental teaching and learning issues that have prevented the school from making adequate progress. The measurable goals must promote continuous and substantial progress to ensure that students in each subgroup enrolled in the campus meet the State's annual measurable objectives.

The ultimate purpose of setting and achieving measurable goals is to improve student academic achievement, remove the identified campus from school improvement status, and build its capacity to meet adequate yearly progress in the future. §200.41(c)(4)

C-15. If the campus identified for improvement has an existing plan, must it create a new plan to meet the school improvement requirements?

No. A campus with an existing plan may use the three months after school improvement identification to review and revise the existing plan to ensure that it incorporates the required statutory elements. However, for any plan to serve as a useful tool for improvement, it must address identified needs, contain realistic goals and strategies, and reflect the commitment of staff, students, parents, and community to its implementation. If the existing plan has not served as a functional tool for improving student achievement, the campus and its students might be better served by beginning the planning process again, assessing needs, and creating a new realistic plan that can and will be implemented and has a high likelihood of increasing student achievement.

C-16. Who must be involved in developing the campus improvement plan?

In developing or revising its plan, the campus must consult with parents, campus staff, the LEA, and outside experts. Ideally these outside experts will serve as technical assistants and partners with the campus throughout the plan's implementation. §200.41

C-17. What is the review process for the campus improvement plan?

Peer reviewers must consider a proposed plan for school improvement within 45 days of its submission, through a process established by the LEA. The LEA should involve as peer reviewers teachers and administrators from campuses or districts similar to the one in improvement, but significantly more successful in meeting the learning needs of their students. Staff with demonstrated effectiveness and recognized expertise in school improvement will be able to evaluate the plan's quality and the likelihood of its successful implementation, and make suggestions for revisions.

§1116(b)(3)(E)

C-18. Under what timeline must the LEA approve the campus improvement plan?

Once the peer review of the proposed plan has been completed, the LEA must work with the campus to make any necessary revisions and must approve the plan as soon as it satisfactorily meets the requirements detailed in the statute and regulations. It is essential that the campus draft the plan, and the LEA revise and approve it, as expeditiously as possible since it provides the blueprint for changes designed to dramatically improve the academic achievement of all students.

C-19. May the LEA condition its approval of a campus improvement plan?

Yes. Once the LEA has conducted a peer review of the proposed campus improvement plan, it may approve the plan with conditions it deems necessary to ensure the plan's successful implementation. For instance, the LEA may condition its approval on feedback on the plan from parents and community leaders. The LEA may also choose to approve the plan on the condition that the school undergoes one or more corrective actions. These corrective actions can include implementing a new curriculum with appropriate professional development, significantly decreasing campus-level management authority, or changing the internal organization of the campus.

C-20. According to what timeline must the campus improvement plan be implemented?

In order to realize improvement as quickly as possible, a campus must implement its new or revised campus improvement plan as soon as the LEA approves it, preferably during the school year in which the identification was made and no later than the beginning of the school year following its identification for improvement.

D. SCHOOL IMPROVEMENT – TECHNICAL ASSISTANCE

D-1. What is the LEA's responsibility for providing technical assistance to a campus in improvement?

The LEA bears the primary responsibility for ensuring that the campus in improvement status receives technical assistance as it develops or revises its campus plan and throughout the plan's implementation. Technical assistance is practical advice offered by an expert source that addresses specific areas for improvement.

The LEA is not required to provide the technical assistance directly, although it may choose to do so. Other acceptable technical assistance providers include an institution of higher education; a private, not-for-profit or for-profit organization; an educational service center; or another entity with experience in helping campuses improve academic achievement.

D-2. In what areas must the LEA assist a campus in improvement?

Technical assistance for a campus identified for improvement must focus on strengthening and improving the campus' instructional program. It must help the campus address the issues that caused it to make inadequate progress for two consecutive years. Specifically, the LEA must ensure that the campus in need of improvement receives technical assistance based on scientifically based research in three areas:

- **Data analysis:** the LEA must help the campus to analyze results from the State assessment system and other relevant examples of student work. The LEA must teach campus staff how to use these data to identify and solve problems in instruction; to strengthen parental involvement and professional development; and to fulfill other responsibilities that are defined in the campus improvement plan.
- **Identification and implementation of strategies:** the LEA must help the campus choose effective instructional strategies and methods and ensure that the campus staff receives high quality professional development relevant to their implementation. The chosen strategies must be grounded in scientifically based research and address the specific instructional issues that caused the campus to be identified for improvement.
- **Budget analysis:** reallocating resources to support improved student achievement is crucial to the successful implementation of the initiatives contained in the No Child Left Behind Act. The LEA must provide the campus in improvement with technical assistance in analyzing and revising its budget to fund activities most likely to increase student achievement and remove it from school improvement status. §1116(b)(4); §200.40(c)(1)

In all three of these areas, the LEA has the opportunity to support thoughtful analysis and capacity building at the local level, both of which will not only help the campus to improve, but will also help to sustain the improvement over time.

D-3. What factors should the LEA take into account as it devises an assistance plan for a campus in need of improvement?

Assisting campuses in need of improvement creates a major accountability challenge for LEAs. Because of the likelihood that many campuses will be identified for improvement under the rigorous accountability provisions contained in the No Child Left Behind Act, LEAs may be tempted to consider formulating a single assistance plan for all of its campuses so designated. To the extent feasible, the LEA should avoid taking this approach. Campuses in need of improvement are more likely to be in need of

individualized assistance comprised of strategies and interventions that recognize and address their unique challenges.

It is crucial that the LEA align its assistance with the campus improvement plan being developed by the campus. Both the campus improvement plan and the LEA assistance plan should be based on a close analysis of the campus' demographic and achievement data, such as on subgroup performance, and a comprehensive needs assessment that identifies both strengths and weaknesses. This close analysis will enable the LEA to target more accurately available resources to address identified deficiencies. The goals, objectives, and action steps that result from the comprehensive analysis must realistically address the campus' needs and systematically move it toward improvement. Involving teachers, campus administrators, and parents in this planning and decision-making is crucial to its successful design and implementation of the LEA's assistance.

D-4. What is TEA's responsibility for providing technical assistance to a campus in improvement?

The specific technical assistance responsibilities of the State are (1) to reserve and allocate Title I, Part A funds for school improvement activities; and (2) to create and sustain a statewide system of support that provides technical assistance to campuses identified for improvement. This technical assistance is provided through the School Improvement Resource Center (SIRC) at Region XIII ESC. The SIRC website is available at: <http://www.esc13.net/statewide/sirc/>.

D-5. What must TEA do to assist campuses identified as in need of improvement?

TEA must use a portion of its reserved Title I, Part A funds to create and maintain a statewide system of intensive and sustained support and improvement designed to increase the opportunity for all students and campuses to meet the State's academic content and achievement standards. Within this statewide support system, TEA must make technical assistance available consistent with the following priorities:

- The first priority must be (a) LEAs with campuses in corrective action, and (b) campuses for which an LEA has not carried out its statutory and regulatory responsibilities regarding corrective action or restructuring.
- The second priority must be LEAs with campuses identified as in need of improvement.
- The third priority must be Title I LEAs and campuses that need additional support and assistance. §§1116(b)(14); §1117(a)(2); §200.49(b)

D-6. What is a school support team?

A school support team is a group of skillful and experienced individuals charged with providing struggling campuses with practical, applicable, and helpful assistance in order to increase the opportunity for all students to meet the State's academic content and student

academic achievement standards. Each support team must be comprised of individuals who are knowledgeable about scientifically based research and practice and its potential for improving teaching and learning. In addition, support team members should be familiar with a wide variety of campus reform initiatives, such as schoolwide programs, comprehensive school reform, and other means of improving educational opportunities for low-achieving students.

Typically, support teams will include some or all of the following: (1) highly qualified or distinguished teachers and principals; (2) pupil services personnel; (3) parents; (4) representatives of institutions of higher education; (5) representatives of educational laboratories or regional technical assistance centers; (6) representatives of outside consultant groups; or (7) other individuals that TEA, in consultation with the LEA, may deem appropriate. An extensive knowledge base, wide-ranging experience, and credibility are essential qualifications for support team members. §1117(a)(5)(a)

D-7. What are the responsibilities of the school support team?

The school support team has one primary responsibility: assisting the campus in strengthening its instructional program to improve student achievement. Specifically, the school support team must:

- Review and analyze all facets of the campus' operation, including the design and operation of the instructional program, using the findings from this review to help the campus develop recommendations for improved student performance;
- Collaborate with campus staff, LEA staff, and parents to design, implement, and monitor a meaningful and realistic campus improvement plan that can be expected to help the campus meet its improvement goals if implemented;
- Monitor the implementation of the campus improvement plan and request additional assistance from the LEA or TEA that either the campus or the support team needs; and
- Provide feedback at least twice a year to the LEA, and to TEA when appropriate, about the effectiveness of the personnel assigned to the campus. The team must also identify outstanding teachers and principals.

Clearly, the overall charge of the support team is to help the campus create and implement a coherent, efficient, and practical plan for improvement. Effective support team members will possess the knowledge, skills, experience, and interpersonal skills that will enable them to address and counter the chronic problems that are symptomatic of campuses in need of improvement. §1117(b)

D-8. How long should the school support team continue to work with a campus in need of improvement?

After one year of working with the campus, the support team should consult with the LEA and make a “next-steps” recommendation to TEA. The team should recommend either (1) that the team continue to assist the campus or (2) that the LEA or TEA, as appropriate, take alternative action with the campus.

D-9. What responsibility does TEA have to assist campuses in need of improvement?

The LEA has primary responsibility for assisting its campuses that do not make adequate progress toward meeting established student academic achievement targets. However, if the LEA does not carry out its responsibilities in this area, TEA must take the actions it determines to be appropriate, in compliance with State law concerning school governance. §200.49(d). TEA provides technical assistance through the School Improvement Resource Center housed at Region 13 ESC. See <http://www5.esc13.net/sirc/> for more information.

E. SCHOOL IMPROVEMENT – STAGE TWO

E-1. What causes a campus to enter stage two of school improvement status?

If a campus in school improvement status for one school year does not, during the course of that year, make AYP as it is defined by the State accountability system, it must be identified for stage two of school improvement status. For example, if a campus that implements stage one of school improvement during the 2004-05 school year does not make AYP by the end of that year (2005 AYP status), it must implement stage two during the 2005-06 school year.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2002-03	N
By end of 2003-04	N
Beginning of 2004-05	Stage 1, school improvement
By end of 2004-05	N
Beginning of 2005-06	Stage 2, school improvement

E-2. May an LEA delay implementing the second stage of school improvement?

An LEA may only delay the implementation of stage two of school improvement if, after undergoing one year of school improvement, (1) the campus makes adequate yearly progress as defined by its State accountability system, or (2) the campus does not make AYP due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the district or campus. (This would require extensive documentation and approval by TEA.)

This delay is temporary (it may not exceed one school year), and it is not intended to reset the sequence of school improvement, corrective action, or restructuring that is detailed in the statute. The LEA may not take the delay into account in determining the

number of years a campus has missed its AYP targets and must, after the delay, subject the campus to further actions as if the delay never occurred.

For example, if a campus undergoes stage one of school improvement during the 2004-2005 school year but meets its AYP targets on the basis of results of academic assessments administered during that year, the LEA may delay placing the campus in stage two of school improvement during the 2005-2006 school year. During this delay, the campus must continue to implement its campus improvement plan and provide public school choice. If the results of assessments administered during the 2005-2006 school year indicate that the campus has once again not made AYP targets, then for 2006-2007 the campus must implement the requirements of stage two of school improvement. During this year the campus must, in addition to continuing implementation of its improvement plan, provide both choice and, to eligible students, supplemental educational services.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2002-03	N
By end of 2003-04	N
During 2004-05	Stage 1, school improvement
By end of 2004-05	Y
During 2005-06	Delay; choice provided.
By end of 2005-06	N
During 2006-07	Stage 2, school improvement; choice and supplemental services provided.

E-3. Must the LEA continue to provide technical assistance during this delay?

Since the campus must continue to implement its improvement plan during the delay, and since the LEA is required to provide technical assistance throughout the implementation of the campus improvement plan, the LEA must continue to provide technical assistance during the delay period.

E-4. What notification requirements apply when a campus enters stage two of school improvement?

When a campus is identified for stage two of school improvement, the LEA must promptly notify the parents of each child enrolled in the campus of:

- Their option to transfer their child to another, higher-performing public school campus served by the LEA. (See B-6.)
- The availability of supplemental educational services for eligible children. The LEA must provide the names of approved providers of services available within the LEA or within a reasonable distance of that area, along with a brief description of the services, qualifications, and demonstrated effectiveness of these providers. For more detailed information on the provision of supplemental educational services, please see the Department of Education’s Supplemental Educational Services Non-Regulatory Guidance at <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>.

E-5. What assistance is available to a campus in stage two of improvement?

During its second stage of school improvement, an LEA must ensure that the campus continues to receive the technical assistance that was begun in stage one; that assistance should be focused specifically on the continued implementation of the campus improvement plan.

CORRECTIVE ACTION FOR CAMPUSES

If, after two years of undergoing school improvement, implementing a campus improvement plan, and receiving extensive technical assistance, a campus still does not make adequate yearly progress, the State and LEA must identify it for corrective action. Identifying a campus for corrective action signals the LEA's intention to take greater control of the campus' management and to have a more direct hand in its decision-making. This identification signifies that the application of traditional school improvement methods and strategies has been unsuccessful and that more significant intervention is needed to improve learning conditions for all students. Taking corrective action is designed to increase substantially the likelihood that all students enrolled in the campus will meet or exceed the State's proficient levels of achievement.

F. CORRECTIVE ACTION PROCESS – STAGE THREE

F-1. What is corrective action?

Corrective action is a significant intervention in a campus that is designed to remedy the campus' persistent inability to make adequate progress toward all students becoming proficient in reading and mathematics. (See also F-4.)

F-2. What causes a campus to be identified for corrective action?

If a campus that receives Title I, Part A funds does not make AYP for four consecutive years, the LEA must identify the campus for corrective action.

For example, if a campus does not make AYP as defined by its State accountability system by the end of the 2002-03 and the 2003-04 school years, the LEA must identify it for stage 1 school improvement, to begin with the 2004-05 school year. At the end of that campus year, if the campus does not make adequate progress, it must be identified for stage 2 school improvement, to be implemented during the 2005-06 school year. If by the end of the 2005-06 year the campus still does not meet its annual target, the LEA must identify that campus for corrective action, to be implemented during the 2006-07 school year.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2002-03	N
By end of 2003-04	N
Beginning of 2004-05	Stage 1, school improvement
By end of 2004-05	N
Beginning of 2005-06	Stage 2, school improvement
By end of 2005-06	N
Beginning of 2006-07	Corrective action

F-3. What notification requirements apply when a campus is identified for corrective action?

If a campus is identified for corrective action, the LEA must promptly notify the parents of

each child enrolled in the campus. The notification must explain:

- What the identification means, and how academic achievement levels at this campus compare to those at other campuses in the LEA and in the State.
- Why the campus was identified and how they as parents can become involved in addressing the academic issues that led to the identification.
- The parents' option to transfer their child to another campus in the LEA that has not been identified for school improvement. The LEA must provide parents with information that helps them make an informed decision about whether or not to exercise this option. At a minimum, the LEA must tell parents about the academic achievement level of students at the campus or campuses to which their child may transfer, but the LEA may choose to include additional information as well. (See also B-6.)
- How parents of eligible children can obtain supplemental educational services for their child. This notice must include information about the availability of providers and brief descriptions of their services, qualifications, and effectiveness. (See also E-4.)

F-4. What are the responsibilities of the LEA when the State identifies a campus for corrective action?

If a State identifies a campus for corrective action, the LEA must:

- Continue to ensure that all students have the option to transfer;
- Continue to ensure that supplemental educational services are available to eligible students in the campus; and
- Continue to provide technical assistance to the campus.

In addition, the LEA must take at least one of the following corrective actions:

- Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the campus to make AYP;
- Extend the length of the school year or school day;
- Replace the campus staff who are deemed relevant to the campus not making adequate progress;
- Significantly decrease management authority at the campus;
- Restructure the internal organization of the campus; or
- Appoint one or more outside experts to advise the campus (1) how to revise and strengthen the improvement plan it created while in school improvement status; and (2) how to address the specific issues underlying the campus' continued

inability to make AYP. §1116(b)(7)(C); §200.42 This expert must be in addition to the required TAP or if using the TAP as this corrective action an additional corrective action must be implemented in addition to the required TAP.

F-5. What technical assistance is available to a campus in corrective action?

The LEA must continue to provide technical assistance to a campus in corrective action, either directly, through the statewide system of support, or through the use of other entities such as institutions of higher education, educational service centers, or private organizations. (See D-1.)

Because being in corrective action is a sign of serious problems with the instructional program of a campus, providing technical assistance for a campus in corrective action demands a high degree of skill and expertise. The providers of technical assistance should have experience in complex problem analysis; effective, scientifically based curriculum and instruction; and working with teachers to create positive change.

F-6. How does a campus exit from corrective action status?

An LEA may remove a campus from corrective action if the campus makes AYP, as defined by the State accountability system, for two consecutive years after it is identified.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
Beginning of 2006-07	corrective action
By end of 2006-07	Y
Beginning of 2007-08	corrective action
By end of 2007-08	Y
Beginning of 2008-09	No longer in corrective action/school improvement

SCHOOL RESTRUCTURING – STAGE FOUR

In some cases, ensuring that all children have the opportunity to achieve requires that the LEA make an extensive intervention in the functioning of a campus identified for school improvement. A campus that continues to miss its annual achievement targets for several years is a campus where some students have not mastered challenging content in the core academic subjects of reading and mathematics over a sustained period of time. As a stage in the school improvement process, restructuring requires major changes in a campus' operation.

G. SCHOOL RESTRUCTURING – YEAR ONE (PLANNING)

G-1. What is restructuring?

In restructuring the LEA undertakes a major reorganization of a campus, making fundamental reforms, such as significant changes in the campus' staffing and governance. The purpose of restructuring is to improve student academic achievement and enable the campus to make AYP as defined by the State's accountability system. (See also G-7.)

G-2. What causes a campus to be identified for restructuring?

A campus is identified for restructuring if it does not make AYP after one school year of corrective action.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2001-02	N
By end of 2002-03	N
Beginning of 2003-04	Year 1, school improvement
By end of 2003-04	N
Beginning of 2004-05	Year 2, school improvement
By end of 2004-05	N
Beginning of 2005-06	Corrective action
By end of 2005-06	N
Beginning of 2006-07	Year 1 restructuring (planning)

G-3. What is the timeline for the restructuring process?

As defined in NCLB, school restructuring is a two-step process. Under the first step, the LEA must prepare a restructuring plan and make arrangements to implement the plan if a campus does not meet its AYP targets after one full year of corrective action (fifth year of not making AYP). The second step occurs if, during the school year in which the LEA is developing the restructuring plan, the campus does not make AYP for a sixth year. In this case, the LEA must implement the restructuring plan no later than the beginning of the following school year.

The following example illustrates this timeline: If a campus is in corrective action during the 2005-06 school year and during that school year does not meet AYP, it will be identified for restructuring. The first year of restructuring (the planning year) will be the 2006-07 school year. If, once again during that year, the campus does not meet AYP, the campus will enter its second year of restructuring during the 2007-08 school year, in which the LEA will implement its restructuring plan. §1116(b)(8)

G-4. What notification requirements apply when a campus is identified for restructuring?

When an LEA identifies a campus for restructuring, it must –

- Provide both parents and teachers with prompt notice of the decision;
- Provide both groups with the opportunity to comment before it takes any restructuring action; and
- Invite both teachers and parents to participate in the development of the campus' restructuring plan. §1116(b)(8)(C)

Additional notification required for parents is similar to the notice required when a campus enters corrective action. The LEA must notify the parents of all children enrolled in the campus and explain –

- What the identification means, and how academic achievement levels at this campus compare to those at other campuses in the LEA;
- Why the campus was identified and how they as parents can become involved in addressing the academic issues that led to the identification;
- Their option to transfer their child to another public school in the LEA that is not identified for improvement, corrective action, or restructuring; and
- The supplemental educational services that are available to eligible children.

G-5. What action must an LEA take when it identifies a campus for restructuring?

When it identifies a Title I campus for restructuring, an LEA must:

- Continue to ensure that all students have the option to transfer to another public school in the LEA that is not identified for improvement, corrective action, or restructuring;
- Continue to ensure that supplemental educational services are available to eligible students; and
- Prepare a plan to implement an alternative governance system for the campus. §200.43(b)(1), (2), and (3).

G-6. What responsibilities does an LEA have to parents of the children in a campus that is planning for restructuring?

The process for developing a restructuring plan must be open and collaborative. As noted in G-4, when a campus is slated for restructuring, the LEA must promptly notify parents about both what is being done to improve the campus and how parents can be involved in the development of any restructuring plan. The LEA must provide parents and teachers an opportunity to comment before the LEA develops the restructuring plan or takes any restructuring actions. Parents and teachers must also be provided the opportunity to participate in the development of any restructuring plan.

The parental notification requirements, along with the parental involvement provisions of NCLB, encourage LEAs and campuses to explore strategies and tools to involve parents as meaningful and effective partners in their child's education. Successful parental involvement approaches develop parents as leaders and equal partners in the schooling process. These approaches do not begin and end when an LEA identifies a campus for restructuring.

Parents need to be well informed about the campus' progress so they can make good decisions about their child's education. If a campus does not make AYP for a fifth year, parents will want to know why, and they should be given information about the extent of the problem and the types of restructuring options the LEA is considering to address the needs of students in the campus. One approach is to hold collaborative, face-to-face community outreach meetings with parents to explain the restructuring options under NCLB and the data the LEA is using to make restructuring decisions. The LEA can use this outreach as an opportunity to establish a wider conversation about the campus and invite greater parent participation in their child's education — including participation in activities that support the campus' student achievement goals. The more transparent campuses and LEAs are about student achievement and the overall condition of a campus, the more likely that parents will be involved in the campus and the public school system.

G-7. What alternative governance arrangements must an LEA plan to implement?

The restructuring plan that an LEA prepares must include one of the following "alternative governance" arrangements for the campus, consistent with State law:

- Reopen the campus as a public charter school;
- Replace all or most of the school staff, which may include the principal, who are relevant to the campus' inability to make AYP;
- Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the campus as a public school;

- Turn the operation of the campus over to the TEA if this action is permitted under State law and the State agrees; or
- Implement any other major restructuring of the school's governance arrangement that is consistent with the NCLB principles of restructuring. (See H-2.)

The list of available alternative governance arrangements are meant to afford an LEA multiple options so that the LEA can choose the best one to address the needs of students in each identified campus. Each option leverages a significant shift in how the campus is governed. The purpose of restructuring is for the campus to improve its ability to teach all children and achieve annual academic performance targets. By achieving this purpose, the campus is also removed from restructuring status. §1116(b)(8)(B)

G-8. What constitutes "other major restructuring of the school's governance" under §1116(b)(8)(B)(v) of NCLB?

The focus of the school restructuring requirement is on the alternative governance arrangements that an LEA must carry out in a campus that does not make AYP for five or more years. In preparing a restructuring plan, §1116(b)(8)(B)(v) permits an LEA to choose "any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve academic achievement in the campus and that has substantial promise of enabling the campus to make adequate yearly progress." This restructuring option provides the LEA the flexibility to choose additional reform solutions that best meet the needs of students in the campus and community. Examples of such efforts may include:

- Change the governance structure of the campus in a significant manner that either diminishes school-based management and decision making or increases control, monitoring, and oversight of the campus' operations and educational program by the LEA;
- Close the campus and reopen it as a focus or theme school with new staff or staff skilled in the focus area (e.g., math and science, dual language, communication arts);
- Reconstitute the campus into smaller autonomous learning communities (e.g., school-within-a-school model, learning academies, etc.);
- Dissolve the campus and assign students to other campuses in the district;
- Pair the campus in restructuring with a higher performing campus so that K-3 grades from both campuses are together and the 4-5 grades from both campuses are together; and
- Expand or narrow the grades served, for example, narrowing a K-8 campus to a K-5 elementary campus.

See G-10 for a broader discussion on non-governance issues that the LEA and school planners must address in planning for restructuring, including assessment, curriculum, professional development, etc.

G-9. If the restructuring process results in the creation of a new campus, may that restructured campus be treated like any other new campus in the State's accountability system?

Yes, if in fact the restructured campus is legitimately and legally a new campus. While most of the restructuring options outlined in section 1116(b)(8)(B) of Title I would not result in the creation of a new campus, it is possible that some restructuring options might. If, as a result of restructuring, a campus is significantly reconfigured (for example, to serve different students and different grades) and accordingly meets the State's definition of a new campus, that campus may be treated like any other new campus in the State. Depending on the State's operational rules, this may mean starting over on the school improvement timeline.

TEA will determine whether the restructuring has, in deed, created a new campus. For example, a State derives an AYP determination for the new campus based on the scores of students feeding into the campus or the AYP determinations of the campuses from which the new campus is created. In other cases, when an AYP determination cannot be derived, a State starts the new campus afresh in the school improvement timeline. How TEA will treat a new campus should depend on the extent to which the campus has changed. For example, adding one grade, such as kindergarten, would likely not constitute a new campus; however, adding three new grades out of six might.

G-10. What process should an LEA follow to determine which "alternative governance" option is the right one and matches the reason the campus is in year four of improvement?

In determining which alternative governance option to employ, LEA leaders need to understand how and when each option works to improve student learning based upon the campus' strengths and weaknesses. The restructuring process must be substantial enough to transform and sustain change. The variety and rigor of restructuring options under NCLB allow an LEA to choose one or more "alternative governance" interventions that best address the identified needs of the campus and campus community. While these restructuring options can be described as discrete and can be categorized into particular types, none should be applied as an isolated quick fix (e.g., a principal change, a replacement of most or all staff, or contracting with an external education management provider). The restructuring intervention will likely not address all of the identified needs of a campus and cannot substitute for a coherent plan for systemic change. The intervention the LEA chooses should be viewed as one strategy in a campus' comprehensive plan for improvement.

In choosing an alternative governance option, the LEA and campus planners should consider what has occurred in the campus that resulted in its being identified for restructuring. Also, the restructuring plan should take into account the actions initiated in

prior years. In other words, the actions required under the restructuring plan might be seen as deeper, broader, or more targeted to meet identified needs. For example, the LEA should make distinctions between campuses in restructuring status that have experienced some improvement in student achievement and those that do not, and tailor the restructuring interventions accordingly. The LEA should use AYP to target the unique needs of a campus' students to improve its ability to teach all children and achieve annual academic performance targets. By achieving this purpose, the campus is also removed from restructuring status.

An LEA must also consider that governance changes alone will not likely produce significant changes in student performance without also considering such issues as staff development, curricula, instruction, use of technology, assessment, and other factors that are essential for success. Hiring and retaining qualified teachers and principals who are committed to restructuring can facilitate implementation. A highly skilled principal who is committed to restructuring is critical to authentic change; however, changing campus leadership alone will likely not lead to significant change without the new principal being committed to restructuring and having the authority to make staffing and curricula changes. It has also become increasingly clear from research and practice that campus leaders alone cannot bring about the desired improvement in the educational system in isolation - the restructuring plan will require the active support and involvement of campus and district personnel, parents, teachers, business and community organizations, State education personnel, governmental agencies and others.

- G-11. What type of "alternative governance option" should be chosen for a campus that has been identified solely due to the performance of a specific student subgroup (i.e., students with disabilities, students with limited English proficiency, students who are economically disadvantaged) or solely due to insufficient participation?**

Under NCLB, campuses must show AYP in making sure that all students achieve academic proficiency in order to close the achievement gap. Therefore, campuses need to be accountable for all students. To achieve that goal, AYP is intentionally designed to identify those areas where campuses need to improve the achievement of their students. The ESEA aims to improve the achievement of all students and recognizes that campuses must ensure that all student groups receive the support they need to achieve to high standards. By including students with disabilities, students with limited English proficiency, students who are economically disadvantaged, and other student subgroups in the overall accountability system, the law makes their achievement everybody's business in the school.

The primary goal of the NCLB is to improve academic achievement through high expectations and high-quality education programs. The statute works to achieve that goal by focusing on school accountability, teacher quality, parental involvement through access to quality information and choices about their children's education, and the use of evidence-based instruction. In determining which alternative governance option the campus should implement, LEA and campus staff should analyze the causes of why individual students are not learning, identify barriers to learning that affect students, and seek solutions to correct the problems. Planning for restructuring does not necessitate a

"one size fits all" response and is intended to stimulate new thinking about how to address such concerns as the professional development needs of teachers, using appropriate instructional approaches, and effective organization and management of instruction. For example, a campus undergoing restructuring may not be able to improve instruction without attending to leadership, improve leadership without emphasizing parent involvement, or concentrate on high-quality programs and evidenced-based student interventions without identifying the specific problem areas and underlying causes.

Any Title I campus in which any group of students fails to meet the AYP goal must be identified as in need of improvement, and all such campuses that are identified are subject to the timeline for improvement required under Section 1116. Regardless of the degree to which a campus is not making AYP, an LEA must take actions to address the needs of all the campus' students and improve achievement, provide public school choice for all students in any school that is identified for improvement, and provide supplemental educational services for eligible students in campuses that continue to not make AYP, as required under Section 1116.

G-12. NCLB states that small, rural school districts may contact the Secretary of Education for assistance in restructuring. What assistance will the Department provide for such requests?

The Department has arranged for 21 comprehensive technical assistance centers (16 regional centers and five content centers) to provide technical assistance to small, rural school districts that request assistance from the Department in restructuring the schools that they serve. The new Regional Centers provide frontline assistance to States to help them implement the ESEA and other related Federal school improvement programs and help increase State capacity to assist districts and schools meet their student achievement goals. In addition, the Department funds five Content Centers (Center on Assessment and Accountability, Center on Instruction, Center on Teacher Quality, Center on Innovation and Improvement, and Center on High Schools) that will supply much of the common research-based information, products, guidance, analyses, and knowledge on certain key NCLB topics that the Regional Centers will use when working with States. Information about the comprehensive centers is available at <http://www.ed.gov/programs/newccp/awards.html>.

Further, a school district that meets the statutory requirements (a district that has an average daily attendance of fewer than 600 students and serves only campuses with a National Center for Education Statistics locale code of 7 or 8) may participate in the Rural Education Achievement Program (REAP). Under REAP, these districts receive additional flexibility (REAP-Flex) in the use of formula funds they receive under the Improving Teacher Quality State Grants, Educational Technology State Grants, State Grants for Innovative Programs, and Safe and Drug-Free Schools and Communities State Grants programs. Under the REAP-Flex authority, an eligible school district may consolidate and use the funds from the programs mentioned above to carry out activities authorized under Part A of Title I, including school restructuring activities. In addition, rural school districts eligible to use REAP-Flex generally receive a formula allocation under the Small, Rural School Achievement (SRSA) program. An eligible school district could use its award under the SRSA program to support school restructuring activities.

G-13. Must an LEA continue to provide technical assistance to a campus in year one of restructuring?

The purpose of the restructuring provisions under section 1116(b)(8) is to require an LEA to take strong actions to improve campuses that have not made AYP for a number of years. Because the LEA has direct oversight and involvement in the restructuring process, it should provide a campus being restructured with ongoing assistance that addresses the identified needs of the campus' students and prepares the campus and community to implement the restructuring options the LEA has selected to improve the educational opportunities for students. Thus, technical assistance from the LEA is imperative and implicit in the concept of restructuring, even though it is not explicitly required under the statute. The technical assistance provided to a campus being restructured should focus on helping the campus make substantive and significant changes in its approaches to teaching and learning by emphasizing the use of student achievement data and research to inform instructional strategies. Additionally, the assistance should help the campus with budget allocation, professional development for principals and teachers, and other strategies necessary to ensure the restructuring plan is implemented and sustained in the future.

G-14. What effect do the school restructuring requirements have on an LEA's collective bargaining agreements?

Section 1116(d) provides that none of the provisions for school improvement, corrective action, or restructuring for failure to make AYP may reduce the rights or remedies of employees under the terms of a collective bargaining agreement. That section specifically reads as follows:

(d) CONSTRUCTION – Nothing in this section [Title I, Academic Assessment and Local Educational Agency and School Improvement] shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

The provision must be implemented in concert with the purpose of Title I, which is quite clear: "to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments." [Section 6301]. The statement of purpose further declares that this purpose can be accomplished, in part, by "significantly elevating the quality of instruction" and by "holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such school to enable the students to receive a high-quality education." [Section 6301(10)(4)].

Therefore, an LEA that accepts funds under Title I of the ESEA must comply with all statutory requirements, notwithstanding any terms and conditions of its collective bargaining agreements. Although section 1116(d) does not invalidate employee protections that exist under labor law or under collective bargaining and similar labor agreements, it does not exempt SEAs, LEAs, and schools from compliance with Title I, Part A. It is the Department's view that such agreements should not exempt campus officials from any obligations related to the purpose of Title I, or the school improvement, corrective action, or restructuring requirements in section 1116.

State and LEA authorities, as well as State legislatures and local governing boards, need to ensure that changes in State and local laws are consistent with Title I requirements and that any changes to collective bargaining agreements or new agreements are also consistent with Title I.

- G-15. In light of collective bargaining agreements and employee protections, what are suggested alternatives to replacing staff that may be contributing to the campus being identified for restructuring?**

Replacing all or most of the campus staff is only one of several restructuring options available to an LEA, and there is a great deal of flexibility in how to implement this option. For example, in carrying out a restructuring plan, some LEAs, in conjunction with putting a new principal in place, require all staff to reapply for their positions and to be part of the restructuring process, or to apply for a position in another school in the district. In other districts, LEA staff and unions have worked together to include provisions in their contracts to compensate teachers for working longer school days and longer school years as part of a restructuring arrangement.

An LEA may also use Title I, Part A and Title II, Part A funds to provide financial incentives and rewards to teachers in campuses in restructuring status. An LEA may provide, where appropriate under section 1113(c)(4) of the Title I statute, not more than five percent of its Part A allocation for financial incentives and rewards to teachers who serve students in Title I campuses identified for school improvement, corrective action, and restructuring, for the purpose of attracting and retaining qualified and effective teachers.

An LEA may use Title II, Part A funds to develop and implement 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 campuses in which the LEA has shortages; (b) reducing class size; (c) recruiting teachers to teach special needs children, including students with disabilities; and (d) recruiting qualified paraprofessionals and teachers from populations underrepresented in the teaching profession, and providing those paraprofessionals with alternate routes to obtaining teacher certification. (See Improving Teacher Quality State Grants, ESEA Title II, Part A, Non-Regulatory Guidance, August 3, 2005)

G-16. How does a school that is planning for restructuring or implementing a restructuring action exit restructuring status?

Under 34 C.F.R. 200.43(c)(2), a school that is in restructuring status (e.g. during the 2006-07 school year) and makes AYP for two consecutive years (e.g. based on achievement data for the 2006-07 and 2007-08 school years) may exit that status. This is the same rule that applies to Title I schools at any stage of the school improvement process.

The exception to this rule would be, as a result of restructuring, a school is significantly reconfigured to serve different students and different grades, and accordingly meets the State's definition of a "new school." This new school may be treated like any other new school in the State. Depending on the State's operational rules, this may mean removing the school from restructuring status and starting over on the school improvement timeline. (See also G-9.)

H. SCHOOL RESTRUCTURING – YEAR TWO (PLAN IMPLEMENTATION)

H-1. What causes a campus to enter year two of restructuring?

If a campus completes the restructuring plan but does not make AYP by the end of that year as it is defined by its State's accountability system, the campus must be identified for year two of restructuring. During year two of restructuring, the LEA must implement the restructuring plan it has created for the campus.

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2001-02	N
By end of 2002-03	N
Beginning of 2003-04	Stage 1, school improvement
By end of 2003-04	N
Beginning of 2004-05	Stage 2, school improvement
By end of 2004-05	N
Beginning of 2005-06	Corrective action
By end of 2005-06	N
Beginning of 2006-07	Restructuring
By end of 2006-07	N
Beginning of 2007-08	Alternative Governance

H-2. What action must the LEA take when one of its campuses is identified for year two of restructuring?

If, after being identified for restructuring and continuing to receive technical assistance, a campus still does not make adequate yearly progress, the LEA must implement the restructuring plan it has devised for that campus, no later than the beginning of the school year following the one during which the campus was in restructuring. (For example, if the campus is in restructuring during the 2003-04 school year and does not make AYP, the implementation of the restructuring plan, alternative governance must take place during the 2004-05 school year.)

During the implementation of the plan, the LEA must also:

- Continue to provide all students with the option to transfer to another public school campus in the LEA that is not identified for improvement, corrective action, or restructuring; and
- Continue to make supplemental educational services available to all eligible students. §200.43(b)(1), (2), and (3)

H-3. What notification requirements apply when a campus is identified for year two of restructuring?

Additional notification required for parents is similar to the notice required when a campus enters corrective action or year one of restructuring. The LEA must notify the parents of all children enrolled in the campus and explain –

- What the identification means, and how academic achievement levels at the campus compare to those at other campuses in the LEA and in the SEA;
- Why the campus has been identified and actions taken by the campus and the LEA to address the problems that led to the campus' identification;
- How parents can become involved in addressing the academic issues that led to the identification and a description of the parental involvement opportunities available to parents;
- Options available to parents to transfer their child to another public school in the LEA that is not identified for improvement, corrective action, or restructuring; and
- The supplemental educational services that are available to eligible children. (See also E-4 and G-4) §200.37; §200.38; §200.43

H-4. What technical assistance must the LEA provide, or provide for, while the campus is in year two of restructuring?

Because the restructuring options under NCLB are designed to change campuses significantly, implementation is complex. All require adjustments to campus' financial operations, and some may require additional resources, particularly if the campus must train staff to work together in new ways.

During year two of restructuring, while the LEA's plan is being implemented, the LEA should continue to provide the campus with quality technical support and assistance that address the complexities of implementation. This assistance will be especially valuable in helping the campus staff to remain focused on increasing student achievement while the campus is adjusting to potentially radical alterations to its administrative and governance structures.

H-5. Must a campus identified for restructuring spend not less than 10 percent of its allocation of Title I, Part A funds for professional development?

No. Section 1116(b)(3)(A)(iii) of the ESEA only requires a campus identified for improvement to spend not less than 10 percent of its allocation of Title I, Part A funds for high-quality professional development for each fiscal year that the campus is in improvement. The statute does not require a campus identified for corrective action or restructuring to spend not less than 10 percent of its Title I, Part A funds for professional development. However, because professional development is critical in the restructuring process, the LEA and campus planners should consider how Title I funds, along with other Federal, State, and/or local resources, can be used to support high-quality professional development that is directly connected to the reform efforts identified in the campus' restructuring plan. As such, because it is permissible under ESEA for a campus identified for restructuring to use part of its allocation of Title I, Part A funds for high-quality professional development, campuses are strongly encouraged to do so.

H-6. If a campus completes two years of restructuring, what is its status relative to the school improvement timeline?

A campus that undergoes the restructuring process for two years (one year of planning and one year of implementation) continues to be accountable for the academic achievement of its students. Although it might have a changed curriculum, different staff, and/or a radically different governance structure, the restructured campus must continue to offer choice and supplemental services until it makes AYP for two consecutive years.

The exception to this rule would be, as a result of restructuring, a campus is significantly reconfigured to serve different students and different grades, and accordingly meets the State's definition of a "new school." This new school may be treated like any other new school in the State. Depending on the State's operational rules, this may mean removing the campus from restructuring status and starting over on the school improvement timeline. (See also G-9.)

<i>School Year</i>	<i>School makes AYP (Y/N)</i>
By end of 2001-02	N
By end of 2002-03	N
Beginning of 2003-04	Year 1, school improvement
By end of 2003-04	N
Beginning of 2004-05	Year 2, school improvement
By end of 2004-05	N
Beginning of 2005-06	corrective action
By end of 2005-06	N
Beginning of 2006-07	Year 1 restructuring (planning)
By end of 2006-07	N

Beginning of 2007-08	Year 2 restructuring
By end of 2007-08	Y
Beginning of 2008-09	Year 3 restructuring
By end of 2008-09	Y
Beginning of 2009-10	No longer in restructuring

H-7. What are the expectations after a school has been restructured?

Because restructuring is only one part of an integrated improvement process, best practices suggest that LEA and school planners should rigorously monitor the implementation and effectiveness of all the school's improvement activities and make changes as needed to ensure that the strategies are contributing to the desired outcome of improved and sustained student achievement. Schools that have been restructured must continue to offer choice and supplemental educational services until they exit restructuring status. (See also G-5.) Further, the LEA should continue to provide technical assistance to the school to ensure that the necessary support is available to increase the potential for sustained improvement and success.

H-8. Does the LEA or school need to submit some type of report or a plan to the TEA describing how the school has been restructured?

Under the statute, LEAs are responsible for implementing an alternative governance arrangement and therefore, are the first line in the decision-making process. The ESEA does not require the LEA or a school to submit to the TEA a restructuring plan or a report describing the alternative governance arrangements the LEA is implementing in a campus identified for restructuring. However, the TEA, under its general authority to ensure that Title I of the ESEA is implemented according to the statute, has significant authority to ensure that alternative governance arrangements are implemented in ways that are most likely to get good results. Under this general authority, the TEA may choose to have more significant involvement in district decision-making, such as by collecting and reviewing plans or participating in plan development, modification, and monitoring. Under specific circumstances, the TEA must intervene and take appropriate actions to carry out its responsibilities under section 1116(b)(14) of the ESEA. For example, should the TEA determine that the LEA failed to develop and implement a plan for a campus identified for restructuring, as a corrective action the TEA could require the LEA to develop and submit the plan and related progress reports to the State for review and approval. (See also H-10.)

The TEA must also ensure that the LEA is implementing a restructuring plan that contains fundamental reforms that have substantial promise to improve student academic achievement and enable a campus to make AYP.

H-9. Are there consequences if an LEA does not undertake required planning for campuses in Restructuring Year 1 or implementing restructuring plans for campuses in Restructuring Year 2?

Any Title I campus in which any group of students fails to meet the AYP goal must be identified as in need of improvement, and all such campuses that are identified are subject to the timeline for improvement, corrective action, and restructuring as required under Section 1116. Regardless of the degree to which a campus is not making AYP, an LEA must take actions to address the needs of the campus and improve student achievement. The statute stipulates specific actions an LEA must take when it identifies a campus for restructuring. (See also G-5 and H-2.)

States are responsible for ensuring that LEAs with campuses subject to restructuring begin planning for restructuring and implement their restructuring plan according to the timeline in the statute. Section 1116(b)(14)(B) of the ESEA specifies that if the TEA determines that an LEA fails to carry out its responsibilities under the statute, such as not beginning to plan or implementing its restructuring plan according to the required timeline, the TEA must intervene and take appropriate actions to correct the situation, in compliance with State law. As such, States have a wide range of tools to enforce the statute, including (1) the assignment of a State support team to the campus, (2) collecting and reviewing plans and progress reports, and (3) withholding of funds.

H-10. What information and resources are available to help district and State leaders choose the best restructuring option for each campus? Where can LEAs and campuses access information about school restructuring?

States, LEAs, and campuses may wish to consult the following resources sponsored by the Department to seek information and materials about school improvement interventions and the effectiveness of particular improvement strategies or designs. The examples provided should not be viewed as the "only" or the "best" resources available. They are provided to help SEAs, LEAs, and schools consider the range of options available and to stimulate thinking about school restructuring in the context of creating high-performing schools.

- The Center for Comprehensive School Reform and Improvement (<http://www.centerforcsri.org/>) houses an online research center that includes a database of useful articles and research reports on whole-school reform and improvement, and provides access to information about reform models, technical assistance providers, and program evaluation. The Center, in conjunction with the North Central Regional Educational Laboratory, has developed a series of white papers identifying best research practices about the NCLB restructuring options. These resources, *School Restructuring Options Under No Child Left Behind — What Works When*, are available as follows:
 - Reopening as a Charter School (<http://www.centerforcsri.org/pubs/restructuring/KnowledgeIssues2Chartering.pdf>)

- Turnarounds with New Leaders and Staff
(<http://www.centerforcsri.org/pubs/restructuring/KnowledgeIssues4Turnaround.pdf>)
- Contracting with External Providers
(<http://www.centerforcsri.org/pubs/restructuring/KnowledgeIssues3Contracting.pdf>)
- State Takeovers
(<http://www.centerforcsri.org/pubs/restructuring/KnowledgeIssues1StateTakeovers.pdf>)
- The Department has arranged for 21 **comprehensive technical assistance centers** (16 regional centers and five content centers) to provide technical assistance to States in their work with LEAs and schools to close achievement gaps in core content areas and raise student achievement in schools. The 16 Regional Centers provide frontline assistance to States to help them implement the ESEA and other related Federal school improvement programs and help increase State capacity to assist districts and schools meet their student achievement goals. In addition, the Department funds five Content Centers (Center on Assessment and Accountability, Center on Instruction, Center on Teacher Quality, Center on Innovation and Improvement, and Center on High Schools) that will supply much of the common research-based information, products, guidance, analyses, and knowledge on certain key NCLB topics that Regional Centers will use when working with States. The Center on Innovation and Improvement, for example, will gather data and other information on districts and schools that are making sustained gains to identify the strategies that are proving to be successful in improvement efforts. Information about the comprehensive centers program is available at <http://www.ed.gov/programs/newccp/awards.html>.
- The Department's Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students (OELA) provides national leadership in promoting high-quality education for the nation's population of limited English proficient students. OELA funds a **National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs (NCELA)** that provides resources about various elements of school reform in programs designed to assist language minority students. These include an emphasis on high academic standards, school accountability, professional development, family literacy, early reading, and partnerships between parents and the communities. For more information visit <http://www.ncele.gwu.edu/oela/>.
- The Technical Assistance Alliance for Parent Centers supports a unified technical assistance system for the purpose of developing, assisting and coordinating Parent Training and Information Projects and Community Parent Resource Centers under the Individuals with Disabilities Education Act (IDEA). This project is funded by the Department's Office of Special Education Programs and consists of one national center and six regional centers. The project is funded to strengthen the connections to the larger technical assistance network and fortify partnerships between parent centers and State education systems at the regional and national levels. The website

has a link to scientifically based research resources. For more information visit <http://www.taaliance.org/>.

- The What Works Clearinghouse (WWC) (<http://www.whatworks.ed.gov>) provides access to comprehensive reports reviewing evidence of effectiveness of educational interventions. The WWC collects, screens, and identifies studies of the effectiveness of educational interventions (programs, products, practices, and policies).

ANNUAL REVIEW OF LEA PROGRESS

Because LEAs are the primary conduits for implementing school-level accountability, it is especially important that the State monitor their progress, provide them with assistance, and intervene in their operation when necessary. The ESEA and its regulations provide a detailed description of the State's oversight role, which includes monitoring not only progress on measures of student academic proficiency, but also LEA activities regarding technical assistance, professional development, and parental involvement.

I. LEA REVIEW PROCESS

I-1. Why does TEA annually review all LEAs in the State?

TEA must annually review the progress of each LEA in the State that receives funds under Title I, Part A to determine whether the campuses served by the LEA are making adequate progress in meeting the State's student academic achievement standards. The state also considers the graduation rate for high schools and attendance rates for elementary and middle schools.

This review focuses primarily on the results of State-administered academic assessments in each campus in the LEA, to determine whether all defined subgroups met annual measurable objectives and student participation targets. However, TEA review also determines whether an LEA is carrying out its responsibilities with respect to school improvement, technical assistance, parental involvement, and professional development. If the State determines that the LEA is not making adequate progress, it must identify the LEA for improvement. §200.50(a)(1)(i)

I-2. Does TEA review LEAs that do not receive Title I, Part A funding?

Yes. The Elementary and Secondary Education Act (ESEA), as amended by the NCLB Act of 2001, requires that TEA annually review the progress of all LEAs as a part of the State's single, statewide accountability system.

I-3. Should an LEA examine the data that TEA reviews?

Yes. LEAs can and should analyze the data TEA reviews and apply the findings to the development of improvement strategies. The data provide a consistent set of indicators by which an LEA can assess not only individual campuses but also the LEA's overall performance. The findings can be used to shape LEA policies and procedures, especially those that affect curriculum, management, and budget allocation.

I-4. If after conducting its review, TEA proposes to identify an LEA for improvement, must the LEA be given an opportunity to review the data?

Yes. Before the final AYP release identifying an LEA for improvement, the State must provide the LEA with an opportunity to review the data on which it has based the proposed identification. If the LEA believes that the proposed identification is in error for statistical or

other substantive reasons, the State must consider any supporting evidence that the LEA provides to refute the identification. TEA must make a final determination regarding the identification of the LEA no later than 30 days after the LEA is notified of the pending action. §1116(c)(5)

- I-5. **What notification requirements apply during the LEA review and after the results of the review are determined?**

Throughout the LEA review process the SEA must communicate with parents, ensuring that it provides information in an understandable and uniform format, including alternative formats upon request; and to the extent practicable, in a language that parents can understand. The SEA must provide information to the parents of each student enrolled in a school served by the LEA both directly, through regular or e-mail, and indirectly, using the Internet, the media, or public agencies serving the student population and their families. If the SEA does not have access to individual student addresses, it may distribute information through the LEA or schools.

Once the LEA review is completed, the SEA must promptly publicize and disseminate the results to the LEAs, school staffs, the parents of each student enrolled in a school served by the LEA, students, and the community. (See also J-3.)

- I-6. **If, after conducting its review, an SEA determines that an LEA has exceeded its annual AYP objectives for two consecutive years, may it reward the LEA?**

Yes. A reward structure for LEAs and schools that make significant progress toward reaching the long-term goal of proficiency in core academic subjects of reading/language arts and mathematics by 2013-14 is an integral part of every State's accountability plan. Toward that end, the SEA may reserve funds to reward LEAs that have met their annual targets for two consecutive years. The SEA may reserve for these rewards up to five percent of the excess allocation it receives; this excess is defined as the positive difference between a State's Title I, Part A allocation in one fiscal year and its allocation for the previous fiscal year. §1116(c)(2), §1117(b), and (c)(2)

LEA IMPROVEMENT

J. LEA IMPROVEMENT – STAGES ONE, TWO and Three

- J-1. **Which LEAs must TEA identify for improvement?**

TEA must identify for improvement any LEA that, for two consecutive years, does not make adequate progress for the same indicator. §200.50(d)

- J-2. **Is it possible for an LEA to be identified for improvement even if none of its campuses are so identified?**

Yes, it is possible for an LEA to be identified for improvement even if none of its campuses are identified. Adequate yearly progress for an LEA is determined by

aggregating the results of academic achievement measures in reading/language arts and mathematics, student participation rates in these assessments, graduation rates for high schools and attendance rates for middle schools and elementary schools. Tested subgroups that are not large enough to meet the minimum group size at an individual campus will, in many cases, reach or surpass that number at the LEA level, and thus be included in the calculation of whether or not the LEA has made adequate progress.

For example, TEA may have decided on a minimum group size of 30 for any subgroup included in the accountability system. If an LEA within that SEA has two elementary schools, each of which has 20 limited English proficient (LEP) students, then neither school has enough LEP students for their assessment scores to be included in the campus' accountability determination. However, when aggregated at the LEA level, there are assessment results for 40 LEP students (10 or more than the minimum 30). In this case, the LEA would be held accountable for the progress of LEP students as a subgroup.

- J-3. **Must the State notify the public when an LEA is identified in stage 1, stage 2, or Stage 3 school improvement?**

Yes, TEA provides public notice of improvement status on the TEA website.

- J-4. **If TEA identifies an LEA for improvement, what actions must the LEA take?**

If TEA identifies an LEA for improvement, the LEA must develop or revise an improvement plan, no later than three months after the identification. In developing or revising this plan, the LEA must consult with parents, school staff, and others. §200.52

- J-5. **What is the purpose of the LEA improvement plan?**

The purpose of the LEA improvement plan is to address the deficiencies in the LEA that prevent students in its campuses from achieving proficiency in the core academic subjects of reading, mathematics, attendance rate and/or graduation rate. Improving the centralized leadership structure of a school district is difficult and complex work. The improvement plan must analyze and address LEA insufficiencies as they relate to leadership for campuses, governance and fiscal infrastructures, and curriculum and instruction. The plan-writing process should result in a determination of why the LEA's previous efforts to improve were ineffective and a framework of detailed action steps to improve on those efforts.

- J-6. **What components must the LEA improvement plan contain?**

The purpose of the LEA plan is to improve student achievement throughout the LEA. Therefore, the plan overall must identify actions that, if implemented, have the greatest likelihood of accomplishing this goal.

Specifically, the plan must:

- Address the fundamental teaching and learning needs of campuses in the LEA, especially the academic problems of low-achieving students;
- Define specific measurable achievement goals and targets for each of the student subgroups whose disaggregated results are included in the State's definition of AYP;
- Incorporate strategies grounded in scientifically based research that will strengthen instruction in core academic subjects;
- Include, as appropriate, student learning activities before school, after school, during the summer, and during any extension of the school year;
- Provide for high-quality professional development for instructional staff that focuses primarily on improved instruction;
- Include strategies to promote effective parental involvement in the campuses served by the LEA; and
- Include a determination of why the LEA's previous plan did not bring about increased student academic achievement.

The plan must also specify the fiscal responsibilities of the LEA and detail the required technical assistance that TEA will provide. §1116(c)(7)(A); §200.52

J-7. What is the implementation timeline for the LEA improvement plan?

The LEA must implement its improvement plan, whether new or revised, expeditiously, but no later than the beginning of the school year immediately following the year in which the assessments were administered that resulted in the LEA's identification for improvement by TEA.

J-8. What is the source of funding for the high-quality professional development required when the LEA is identified for improvement?

When an LEA is identified for improvement, it must reserve not less than 10 percent of its Title I, Part A funds for high-quality professional development for instructional staff that is specifically designed to improve classroom teaching. The LEA must continue to reserve and use these funds for this purpose during each fiscal year it is identified for improvement.

LEAs may include in this 10 percent total the Title I, Part A funds that campuses within the LEA reserve for professional development when they are in school improvement status. However, the LEA may not include in the total any part of the funds designated to help teachers who are not highly qualified become highly qualified, as specified in §1119(1) of the ESEA. §1116(c)(7)(A)(iii)

J-9. Must TEA provide technical assistance to an identified LEA?

Yes. If requested, TEA must provide or arrange for the provision of technical or other

assistance to the LEA identified for improvement. §1116(c)(9)(A)

J-10. In what areas should the SEA provide technical assistance?

The technical assistance provided by the SEA must apply effective methods and instructional strategies grounded in scientifically based research and be of the nature to help the LEA to:

- Develop and implement its required plan;
- Work more effectively with its schools identified for improvement; and
- Address problems the LEA may have with implementing parental involvement measures and providing high-quality professional development. §1116(c)(9)(B); §200.52

J-11. How does an LEA exit from improvement status?

If, after being identified for improvement, an LEA makes AYP for two consecutive years, the LEA exits improvement status. §200.50(h)

K. LEA CORRECTIVE ACTION

K-1. What is corrective action as it applies to an LEA?

Corrective action is the collective name given to steps taken by TEA that substantially and directly respond to serious instructional, managerial, and organizational problems in the LEA that jeopardize the likelihood that students will achieve proficiency in the core academic subjects of reading and mathematics. (See also K-5.)

K-2. What causes an LEA to be identified for corrective action?

TEA must take corrective action if an LEA does not make AYP for four consecutive years. However, because the healthy functioning of the LEA is so crucial to campus and student academic success, TEA may, after providing technical assistance, identify an LEA for corrective action at any time in the improvement process. §1116(c)(10)

K-3. Must the SEA provide prior notice and a hearing before it identifies an LEA for corrective action?

If State law provides for a notice and hearing, the SEA that identifies an LEA for corrective action must notify the LEA and provide it with a public hearing no later than 45 days following TEA's decision. §1116(c)(10)(D)

K-4. Are there any circumstances under which TEA can delay the implementation of corrective action in an LEA?

TEA may choose to delay LEA identification for corrective action if the LEA makes adequate yearly progress for one year. Otherwise, only extreme circumstances justify a

delay, such as a natural disaster, precipitous and unforeseen decline in the financial resources of the LEA, or other exceptional or uncontrollable circumstances (This would require extensive documentation and approval by TEA.) In any case, if the State chooses to delay identification, it may do so for only one year and in subsequent years must apply appropriate interventions as if the delay never occurred. §1116(c)(10)(F)

K-5. Must TEA notify the public when an LEA is identified for corrective action?

Yes, TEA provides public notice of improvement status on the TEA website.

K-6. What actions must TEA take in an LEA that it identifies for corrective action?

If TEA identifies an LEA for corrective action, TEA must: (1) continue to ensure that the LEA is provided with technical assistance; and (2) take at least one of the following corrective actions, as consistent with State law:

- Defer programmatic funds or reduce administrative funds;
- Institute and fully implement a new curriculum based on State and local content and academic achievement standards that includes appropriate, scientifically research-based professional development for all relevant staff;
- Replace LEA personnel who are relevant to the inability of the LEA to make adequate progress;
- Remove individual campuses from the jurisdiction of the LEA and arrange for their public governance and supervision;
- Appoint a receiver or trustee to administer the affairs of the LEA in place of the superintendent and school board; and/or
- Abolish or restructure the LEA.

In conjunction with at least one of the actions on this list, TEA may also authorize parents to transfer their child from a school operated by the LEA to a higher-performing public school operated by another LEA that is not identified for improvement or corrective action. If it offers this option, TEA must also provide transportation or provide for the cost of transportation to the other school. §1116(c)(10)(C)

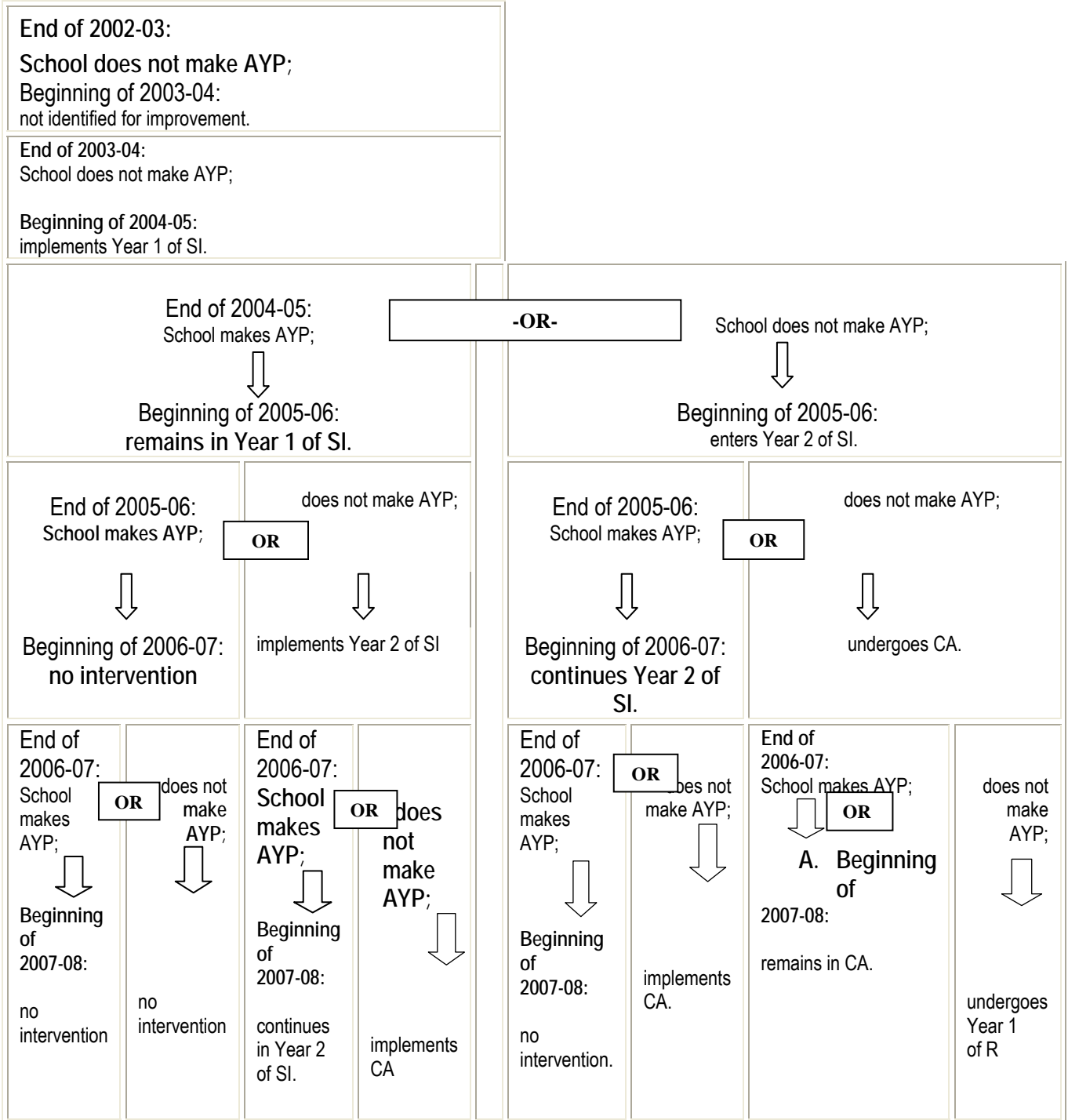
K-7. How does an LEA exit from corrective action status?

An LEA may exit from corrective action status when it makes adequate progress for two consecutive years following its identification for corrective action.

Appendix A

The chart below illustrates the relationship of school improvement, corrective action, and restructuring, and the possible consequences for a single school as it moves through the school improvement process.

AYP = Adequate Yearly Progress; SI = School Improvement, Year 1 and Year 2; CA = Corrective Action; R = Restructuring, Year 1 and Year 2



Part II: Public School Choice

2008-2009

Based on February 6, 2004 USDE Guidance

Public School Choice

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Public School Choice

INTRODUCTION

The *No Child Left Behind Act of 2001* (NCLB) responds to that need by giving parents of children enrolled in campuses that receive Title I funding and that are identified for “school improvement” the opportunity to transfer their children to a campus within the LEA that has not been so identified. These provisions of the statute, along with other elements that focus new attention and resources on turning around the campuses identified for improvement, are critical mechanisms for achieving the vision embodied in NCLB, a high-quality education for all children. It is important that school officials engage energetically both in efforts to improve low-achieving campuses and in implementing the public school choice provisions, so that this vision can be achieved.

The No Child Left Behind Act amended the Elementary and Secondary Education Act of 1965 (ESEA) in a number of areas to strengthen parent involvement and choice in education. The most critical amendments, and the subject of this guidance, require LEAs to provide the opportunity to transfer to another campus to students enrolled in campuses that administer Title I programs and that have been identified for (1) school improvement, (2) corrective action, or (3) restructuring (both in the planning year for restructuring and in any implementation years).

This part highlights important aspects of the public school choice component of Title I, and provides guidance on its provisions that may be useful in administering and implementing these requirements.

A. GENERAL INFORMATION

A-1. Which campuses and local educational agencies (LEAs) are required to offer public school choice?

LEAs receiving funds under Title I, Part A are required to make choice available to all students who are enrolled in Title I campuses if their campus has been identified as in: (1) school improvement; (2) corrective action; or (3) restructuring. The LEA is responsible for paying all or a portion of the transportation necessary for students to attend their new campuses, subject to the limitations discussed in item J-3.

Note: Open-enrollment public charter schools are, by design, a school of choice. Public School Choice is not applicable to open-enrollment charter schools that are identified in school improvement or other types of campuses that are by design already a school of choice.

A-2. What if no other campus exists in the LEA to offer the school choice provision to parents?

See Questions E-10 and E-11 below for answers.

A-3. What are the key principles that should form the foundation for a quality public school choice plan?

A quality public school choice plan should embody the following principles:

1. Choice is an important opportunity for parents and children.
2. Choice is an important component of the overall district educational improvement plan.
3. An overriding goal is to provide students with access to quality instruction.
4. Communication with parents is timely and thorough.
5. Information on choices is provided to parents and students in a format that is easy to understand.
6. Real choice means giving parents more than one option from which to choose.

B. TIMING AND DURATION OF CHOICES

B-1. For which students is an LEA required to offer public school choice?

An LEA must offer all students enrolled in Title I campuses (that is, campuses that operate programs funded under Title I, Part A of the ESEA) the opportunity to transfer to another public school campus when those campuses fall within one of the stages of improvement detailed in the legislation and noted below. Beginning with the 2002-2003 school year, LEAs have been required to offer choice to students enrolled in campuses in the following categories:

1. Campuses that are in the first stage of school improvement.
2. Campuses that are in the second stage of school improvement.
3. Campuses that are in corrective action.
4. Campuses that are in restructuring (both the planning year for restructuring and any implementation years of alternative governance) [*Sections 1116(b)(5)(B), 1116(b)(7), and 1116(b)(8), and 34 C.F.R. Section 200.43(b)(2)*].

B-2. When must an LEA make public school choice available to eligible students?

Statute requires an LEA must make choice available for students not later than the first day of the school year following the school year in which the LEA administered the assessments that resulted in the campus being identified as in need of school improvement, corrective action, or restructuring [*Section 1116(b)(1)(E)*]. If possible, an LEA should notify parents about their available choices well before the beginning of the school year in which those choices will be available (See Question B-5 also).

B-3. How should year-round schools meet the requirement to offer school choice by the beginning of the school year?

In the case of year-round schools, choice must be offered before the beginning of the "school year" as that term is defined by the district. Parents of children attending these

campuses should be informed of their opportunity to choose another school as early as possible, and before the start of the new school year (See Question B-5 also).

B-4. What is the responsibility of the TEA to ensure that public school choice is available at the start of a new school year?

TEA must provide student assessment results, as well as lists of campuses identified for improvement, corrective action, and restructuring, to each LEA in a timely manner so that the LEA can, before the beginning of the new school year, identify those campuses whose students may transfer and inform parents that they may choose a different campus for their child.

B-5. If any LEA does not receive from TEA, prior to the start of the school year, student achievement results or the list of campuses identified for improvement, corrective action, and restructuring, when must it offer public school choice?

The law requires TEA to ensure that TAKS results are available to LEAs before the beginning of the school year (that is, before the start of the school year that follows the school year in which the TAKS tests were administered) [Section 1116(a)(2)]. It also requires LEAs to offer choice to eligible students prior to the beginning of the school year.

If, however, an LEA does not receive the information in time to offer choice before the beginning of the school year, it must make choices available as quickly as possible, so that parents can exercise choice and students can enter new campuses before the school year gets well underway. The specific schedule for 2004-05 was mailed to applicable LEAs on September 14, 2004.

Under no circumstances should an LEA wait until the next school year before providing the opportunity to transfer to eligible students. For example, an LEA that receives its listing of campuses identified for improvement in the fall might offer choice to students immediately or for the second semester [34 C.F.R. Section 200.32(f)]. Although parents must be notified immediately when the school improvement status is released during the school year, the parent may decide to have their student remain at the original campus for the remainder of the school year and begin implementing school choice with the start of the following school year.

B-6. How long must an LEA continue to offer students in eligible Title I campuses the option to attend another public school?

An LEA must offer choice to all students in an eligible Title I campus until the campus is no longer identified for improvement, corrective action, or restructuring, i.e., until the campus makes AYP for two consecutive years.

B-7. How long must students who change campuses be allowed to attend the campus of their choice?

If an eligible student exercises the option to transfer to another public school campus, an LEA must permit the student to remain in that campus until he or she has completed the highest grade in the campus. However, the LEA is no longer obligated to provide transportation for the student after the end of the school year in which the student's campus of origin is no longer identified for school improvement, corrective action, or restructuring [34 C.F.R. Section 200.44(g)].

In addition, the statute does not require students who change campuses to remain in their new campus through the highest grade of the school. To the extent feasible, those students should have the opportunity to return to the original campus if their parents decide that would be in their educational interest.

If an eligible student has transferred out of a campus that is in school improvement status and the student's original campus leaves that status after the school year has begun (as a result of an appeal being approved), the LEA must allow the student to continue to attend his or her current school of choice through the final grade of that school, but no longer is required to provide transportation. Since the school year will already be underway, however, the LEA should give parents reasonable time to come up with other options rather than immediately terminating the provision of transportation. For example, it might want to continue to provide transportation until the semester break.

B-8. What opportunities for public school choice must an LEA provide to a student who has changed campuses under the Title I choice provisions and whose new campus of choice is subsequently identified as in need of improvement?

Like other children enrolled in campuses identified for improvement, that child must be offered the choice of attending another campus that has not been so identified and, subject to the limitations described in Section J, offered the opportunity to receive transportation to such campus. Note, however, that this policy must be read together with the policy set forth in item B-7; if a child's original campus is no longer on the State's school improvement list, the LEA is not required to provide transportation to that child.

B-9. If an eligible student changes campuses but, in a subsequent year, moves out of the attendance area for his or her original campus and no longer lives in the attendance area of a campus identified for improvement (but continues to live in the same school district), must the LEA continue to allow that student to attend the new campus and continue to provide transportation?

As with students whose original campus is no longer identified as in need of improvement, students who change campuses and then move out of the attendance zone served by a campus in improvement status must be permitted to continue attending their new campus until they have completed the highest grade at that campus. However, once they move, the LEA is no longer obligated to provide for transportation.

B-10. What can an LEA do to plan for public school choice even before assessment results and identifications of campuses in need of improvement are available?

An LEA has several options that may facilitate planning for public school choice before assessment results are available. For example, transportation and communication plans can be developed before implementation is required.

An LEA will know in advance many of the campuses that must offer choice, since a campus in improvement status must make AYP for two consecutive years before it no longer has to offer choice. For campuses that will continue to be in improvement status for at least an additional year, plans can be made and parents can be notified well before the end of the school year.

In other instances, an LEA may choose to introduce or expand programs that allow open enrollment, which can then be modified to accommodate students who will be eligible to transfer if their campus is identified for improvement.

B-11. May an LEA that is required to offer school choice (but not supplemental educational services) to students enrolled in a particular campus offer those students the opportunity to receive supplemental educational services?

An LEA may give students enrolled in campuses in their first stage of improvement the opportunity to obtain supplemental educational services, so long as they also offer those students the opportunity to change campuses. However, because the law requires the provision of choice (but not supplemental educational services) to these students, all students who want to change campuses must be able to do so, and their transportation needs must be met (subject to the 20 percent limit discussed in item J-3) before any of these students are given supplemental educational services. LEAs that offer parents of those students the option of having their child change campuses or receive supplemental educational services must make it clear to the parents that, depending on the demand for choice (and the cost of transporting students to their new campuses), supplemental services might or might not be provided.

In addition, if an LEA has both campuses in their first stage of improvement and campuses in their second stage of improvement or undergoing corrective action or restructuring, it must give priority for supplemental educational services to students enrolled in the campuses in their second stage of improvement or in corrective action or restructuring (the students who, under the statute, are entitled to be given the opportunity to receive those services).

C. ELIGIBLE STUDENTS

- C-1. Which students are eligible to change campuses under the Title I public school choice provisions?

All students enrolled in Title I campuses identified for school improvement, corrective action, or restructuring are eligible to transfer to another public school campus within the district (which may be a charter school) that is not in school improvement. This requirement for all students applies whether the campus in which a child is enrolled administers Title I as a schoolwide program [Section 1114] or as a targeted assistance program [Section 1115]. The only exception applies in the situations discussed in item E-12, when there are no other campuses in the district (or outside the district) to which students could transfer.

In the case of a campus that operates a targeted assistance program, all students in the campus, not just those receiving Title I services, must have the opportunity to change campuses.

- C-2. Are students who plan to attend, but are not yet “enrolled” in, a campus eligible to take advantage of the Title I choice provisions?

The Title I statute requires that choice be made available to all students enrolled in campuses identified for improvement (or corrective action or restructuring), but does not define “enrollment.” The USDE believes, however, that students planning to enter a campus for the first time, such as entering kindergartners, or students moving from elementary to middle school, or those who have just moved into the school attendance area served by a Title I campus, should generally have the same opportunity to exercise choice as students previously enrolled in a campus.

- C-3. What does the law mean when it says that the LEA shall “give priority to the lowest achieving children from low-income families”?

The LEA must give all students in a campus identified for improvement the opportunity to transfer to another public school. In implementing this option to transfer, however, there may be circumstances in which the LEA needs to give priority to the lowest-achieving children from low-income families [Section 1116(b)(1)(E)(ii)]. For example, if not all students can attend their first choice of campuses, an LEA would give first priority in assigning spaces to the low-achieving low-income students. Similarly, if an LEA does not have sufficient funding to provide transportation to all students who wish to transfer, it would apply this priority in determining which students can receive transportation.

- C-4. In applying this priority, how does an LEA determine which students are from low-income families?

The statute requires that LEAs make this determination using the same data that they use in allocating Title I funds to campuses [Section 1116(e)(12)(A)].

- C-5. **May LEAs use information from the National School Lunch Program in determining which students are from low-income families and thus may be eligible for the priority for public school choice?**

Because the law requires LEAs, in determining which students are eligible for the priority, to use the same data they use in making Title I allocations, and because most LEAs use school lunch data in calculating those allocations, most LEAs will, in fact, have to use school lunch data in identifying students as eligible for the priority.

LEAs should do so, however, in a manner that protects the confidentiality of school lunch data, as provided for in the Richard B. Russell National School Lunch Act. They should establish procedures that allow release of information on school lunch eligibility only to officials who need that information for proper administration and enforcement of the school choice program and should include safeguards to protect family privacy. Additional information on this issue is provided in a December 17, 2002, letter from the U.S. Departments of Education and Agriculture (available at <http://www.ed.gov/programs/titleiparta/letter121702.html>).

- C-6. **How may LEAs that operate school lunch programs under Provisions 2 and 3 of the National School Lunch Act determine which students are from low-income families and thus may be eligible for the priority?**

“Provision 2” and “Provision 3” allow campuses that offer students lunches at no charge, regardless of the students’ economic status, to certify students as eligible for free or reduced price lunches once every four years and longer, under certain conditions. National School Lunch Program regulations prohibit schools that make use of these alternatives from collecting eligibility data and certifying students on an annual basis for other purposes.

For the purpose of identifying students as eligible for the priority for public school choice under Title I, school officials may deem all students enrolled in Provision 2 and Provision 3 schools as “low-income.” For additional information, see the U.S. Department of Education-Department of Agriculture letter on this issue (available at <http://www.ed.gov/programs/titleiparta/22003.html>).

- C-7. **How does an LEA determine which students are “lowest achieving”?**

LEAs have flexibility in determining which students from low-income families are lowest achieving and thus must be given a priority for public school choice. Eligible students might be rank-ordered, based on their achievement levels as determined using objective educational measures, such as the State assessment administered under ESEA section 1111. (However, students may not be rank-ordered by family income level, because this method would not give priority to the lowest-achieving educational students.)

Alternatively, the LEA might allow all eligible students who receive less than a certain score on TAKS (for instance, all those students not making the passing standard on TAKS reading or mathematics) to change campuses. This method could be used to focus attention on subject areas where the campus or LEA did not meet State AYP goals. Another option might be to base the determination on student grades, or on the scores students receive on other tests.

For Title I, Part A Targeted Assistance campuses, the campus should use procedures for all students that align to their existing Title I procedures for ranking students as greatest need for Title I services.

- C-8. What if a particular student attends a campus that has been identified for improvement, but has been assigned to that campus by a court order or for disciplinary reasons?**

This issue is difficult to answer in general terms, because it is dependent upon the particular circumstances surrounding a student's placement and can and should be resolved on a case-by-case basis.

For issues related to court-ordered desegregation plans, please see section G.

D. NOTIFICATION OF PARENTS

- D-1. When should parents be notified that their children are eligible for public school choice?**

Parents should be notified by the LEA well before the beginning of the school year or school term in which choice will be offered. (See questions B-2 and B-5 above.)

- D-2. How must an LEA notify parents that their children are eligible for public school choice?**

An LEA must provide an explanation of the choice option to all parents of students enrolled in Title I campuses that have been identified for school improvement, corrective action, or restructuring. This notification must be in a comprehensive, easy-to-understand format and, to the extent practicable, in a language the parents can understand. At a minimum, this notification must:

1. Inform parents that their child is eligible to attend another public school campus due to the identification of the current campus as in need of improvement;
2. Identify each public school campus, which may include campus charter schools, that the parent can select;
3. Include information on the academic achievement of the campuses that the parent may select [34 C.F.R. 200.37(b)(4)].

The LEA should also include an explanation of why the choices made available to parents may have been limited.

An LEA may provide additional information on the campuses to which the student may transfer, such as a description of any special academic programs or facilities, the availability of before- or after-school programs, and the professional qualifications of teachers. Such additional information should be presented in an unbiased manner that does not seek to dissuade parents from exercising their opportunity to choose a new campus. In addition to mailing notices directly to parents, the LEA must provide information about choice options through broader means, including newspapers, posters, and the Internet.

D-3. What should parents look for when they are given the option of school choice?

Parents should focus on the academic achievement results produced by the campuses they are considering. As noted above, when they are notified about the opportunity to choose a different campus for their child, parents must receive information regarding student academic achievement at the campuses from which they may choose. In addition, parents may want to request more detailed information and to ask to see a campus' academic report card, if available.

District officials should urge parents to consult a variety of sources for information about the campuses that are available to accept transfer students. These sources of information might include other parents, school visits, and information available on campus AEIS reports. Parents should match the strengths of a particular campus with the needs of their child, so that the child will be able to receive appropriate instruction geared toward improving his or her academic achievement.

Questions parents may wish to ask the campuses they are considering include:

1. How do you address the needs of struggling students?
2. What will you do to help my child achieve at higher levels?
3. What is the academic achievement level of your students in reading/language arts/English and math, as well as in other subjects?
4. How has this achievement changed over time?
5. How do you teach reading? Do you follow scientifically based strategies?
6. What percentage of your teachers are highly qualified?
7. Does your campus offer challenging coursework or other academic challenges at the middle or high school level?

D-4. How much time should parents have to consider their options?

An LEA might set different timelines for parents to make their decisions on choice, depending on the circumstances in the LEA and its campuses. For example, the LEA might permit parents to exercise choice at various times during the school year (e.g., in the spring of the prior school year, at the beginning of the school year, and at the beginning of the second semester). Alternatively, the LEA may establish a "window" during which parents must exercise their choice option. Whatever the case, the LEA must set a

reasonable deadline by which parents must apply and ensure that the parents have sufficient time and information to make an informed decision about selecting a campus. The LEA should work with parents to ensure that they have ample information and time to take advantage of the opportunity to choose a different public school for their child.

In any case, the LEA should allow a minimum of 30 calendar days for parents to choose to take advantage of the school choice provision.

D-5. What procedures should LEAs establish for enabling parents to communicate their choice of campus?

An LEA should ensure that its policies for receiving choice-related communications from parents do not impede parents' opportunities to exercise choice options. For example, parents should not have to appear in person to state their choices. Rather, parents should be able to communicate their choices in a variety of ways, including by standard mail, email, or fax. The LEA should confirm with parents that it has received their communication regarding choice.

D-6. If there are no campuses to which students can transfer, must parents still be notified?

Yes, parents must be notified that their child's campus is identified for improvement. Such notification might also inform parents of the option of receiving supplemental educational services for those children who are eligible or other campus reform strategies that may be implemented. (See also item E-11 and E-12)

E. SCHOOLS OF CHOICE

E-1. Which campuses may be offered to students as transfer options?

Except in the situations described in items E-9 and E-12, students must be given the option to transfer to other public school campuses, which may be campus charter schools, within the LEA. The choices made available to students may not include campuses identified for improvement (or corrective action or restructuring) under Title I or identified by the State as persistently dangerous.

Open-enrollment charter schools that fall within the boundaries of an LEA, but are not authorized by the LEA, may also be included as transfer options, in coordination and with the agreement of the individual charter school. The public schools from which students may choose may be, but are not required to be, public schools that operate Title I programs [34 C.F.R Section 200.44(a)(3)].

E-2. How many choices of campuses is an LEA required to offer to students?

If more than one campus that meets the requirements outlined in item E-1 is available, the LEA must offer more than one choice to eligible students. LEAs should strive to provide a

full menu of choices to students and parents, and must take into account parents' preferences among the choices offered [34 C.F.R. Section 200(a)(4)(ii)].

E-3. May specialty schools, such as schools for the performing arts, be offered to students as transfer options?

Yes. However, LEAs do not need to disregard entrance requirements when identifying transfer options for students. For example, an LEA may require students wishing to transfer to a fine arts magnet school or to a campus for gifted students to meet the normal eligibility requirements for those campuses, even if there are no other choices available to eligible students in the district.

E-4. When an LEA offers parents multiple choices of campuses, who makes the final decision on which campus a child attends, and how is it made?

While the final decision on the campus each child will attend is up to the LEA, and while not all parents will necessarily receive their first choice, LEAs must take parents' preferences into consideration in making these decisions. In addition, in making final decisions on assignments, LEAs must give priority to the lowest-achieving eligible children. LEAs might allow parents to rank-order their preferences among the campuses that are available to receive transfer students. LEAs should respect those preferences, to the extent practicable, when assigning students to campuses or when making decisions about transportation.

Once an LEA has made its decision, parents must have the option to decline the opportunity to move their child to the new campus identified by the LEA. If the child's current campus is in stage 2 school improvement and is subject to both the public school choice and supplemental educational services requirements, some parents, once they understand the transfer options, might elect to have their child remain in his or her original campus and receive supplemental educational services.

E-5. Must an LEA that believes it does not have the physical capacity within its campuses to accept transferring students implement the Title I public school choice provisions?

An LEA may not use lack of capacity to deny students the option to transfer but may take capacity into consideration in deciding which choices to make available to eligible students [34 C.F.R. 200.44(d)]. Note that this is a change from the Title I public school choice policy that applied prior to the enactment of *No Child Left Behind*.

The bottom line, then, is that every student enrolled in a Title I school in improvement who wishes to transfer to a campus that is not in need of improvement must have that opportunity. Moreover, an LEA's provision of a priority to the lowest-achieving eligible children (as described in Items C-3 and C-7) does not diminish the requirement for the LEA to provide choice to *all* students in its Title I schools that are in school improvement status. Thus, if an LEA does not have sufficient capacity in its campuses that are not identified for improvement (or as persistently dangerous) to accommodate the demand for

transfers by all eligible students, the LEA must create additional capacity or provide choices of other campuses.

- E-6. If an LEA does not have the physical capacity to offer transfers to all eligible students, how can it create additional capacity as described above?**

When capacity is an issue, school officials will need to employ creativity and ingenuity in creating capacity in campuses to receive additional students. Guidance on school choice located on the USDE website discusses several possible options in question E-4 which might assist the LEA in exploring appropriate options.

- E-7. What if State laws have the effect of limiting choice?**

The only type of State law that can limit or exempt an LEA from implementing the Title I public school choice requirements is a law that specifically prohibits public school choice through restrictions on public school assignments or the transfer of students from one public school to another [*34 C.F.R. Section 200.44(b)*]. Other laws, such as those that mandate specific student-teacher ratios, may make providing choice options more difficult, but may not be used to prohibit parental choices.

For issues regarding desegregation orders, see section G of this document.

- E-8. What if existing local transfer policies prohibit school choice?**

The Title I requirements supersede local laws and local school board policies that limit school choice and are inconsistent with the requirement to provide the option to transfer to all students enrolled in campuses identified for improvement, corrective action, or restructuring.

- E-9. What if choice might create health or safety problems?**

As indicated in the answers to earlier questions, LEAs have broad latitude in determining which transfer options to offer for parental consideration. They may consider health and safety factors in determining the transfer options. However, as indicated in the answer to question E-5, lack of capacity and health and safety concerns -- including overcrowding problems -- do not excuse an LEA from meeting the Title I public school choice requirement. The expectation is that an LEA will need to find ways to provide choice, consistent with its obligations to provide a healthy and safe learning environment.

- E-10. May an LEA provide eligible students with an option to transfer to campuses outside of the district?**

Yes. In fact, the law states that if all public school campuses within an LEA to which a child may transfer are identified for school improvement, corrective action, or restructuring, the LEA must, to the extent practicable, establish a cooperative agreement with other LEAs in the area that are willing to accept its students as transfers. In addition, LEAs that

are not in this situation may want to include inter-district transfers in their plans, in order to broaden the range of student choices or mitigate capacity concerns in the district, or both.

E-11. What if providing the option to transfer to another campus within the district is not possible?

A number of LEAs may have no campuses available to which students can transfer. This situation might occur when all campuses at a grade level are in school improvement or when the LEA has only a single campus at that grade level. It may also occur in rural areas where an LEA's campuses are so remote from another that choice is impracticable. For example, if the only other elementary school is over 50 miles away, then choice is likely impracticable. On the other hand, if other potential elementary school choices are located outside an LEA-defined attendance zone or internal boundary, these LEA defined boundaries may not be used to prevent student transfers.

In these cases, the LEA must, to the extent practicable, enter into cooperative agreements with other LEAs in the area (or with open-enrollment charter schools in the State) that can accept its students as transfers [*Section 1116(b)(11)*]. The LEA may also wish to offer supplemental services or other campus reform strategies to students attending campuses in their first stage of improvement who cannot be given the opportunity to change campuses [*34 C.F.R. Section 200.44(h)(2)*].

E-12 If an LEA cannot provide school choice to students in a campus in stage 1 of school improvement (because there are no eligible campuses to which students could transfer) and the LEA voluntarily decides to offer supplemental educational services a year early, do the supplemental services requirements in section 1116 apply?

No. Because an LEA is not required to offer supplemental educational services to eligible students enrolled in a campus in its first stage of school improvement, the requirements of section 1116(e) do not apply. In other words, such an LEA would not need to provide supplemental educational services only to low-income students, to contract only with State-approved providers, or to fund supplemental educational services at the per-student amount set forth in that subsection.

However, because the LEA will be required to offer supplemental educational services (that meet all the statutory requirements) to students in that campus the next year if the campus remains in improvement status, it would help avoid confusion and administrative complexity if the LEA, in that first year, abides by the requirements of section 1116(e) as much as possible. In addition, if the LEA uses Title I funds to provide supplemental educational services, it must meet all the requirements governing the use of those funds in schoolwide and targeted assistance programs.

F. SPECIAL EDUCATION AND CHOICE

F-1. What are the responsibilities of the campus that receives transfer students with disabilities?

LEAs must ensure that students with disabilities are provided a free appropriate public education (FAPE) consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (ADA Title II) in their campuses of choice. A campus to which a student transfers may elect to implement the individualized education program (IEP) or Section 504 plan (for students eligible only under Section 504 and Title II) developed by the prior campus, or to convene an IEP team meeting and develop a new IEP in consultation with the parents that meets the student's needs (or, for the Section 504/Title II-only eligible student, determine the regular and special education and related aids and services necessary to meet the student's needs).

Prior to the parents making a final decision on transferring their child to a new campus, LEAs should encourage them to discuss their child's specific needs with the prospective campus' staff and visit the prospective campus so that the parents are aware of the differences in school size, curriculum, faculty, and other factors that that may affect the ways in which the campus will provide a free appropriate education to their child. In addition, LEAs must ensure that campuses comply with the other provisions of Section 504 and the ADA, including accessibility provisions [*34 C.F.R. Section 200.44(j)*].

For information on funding for special education, see item I-4.

F-2. What should parents be aware of in transferring their student?

Students with disabilities have special and specific needs. Along with the information suggested in D-3, parents should discuss their child's specific educational and developmental needs with, and visit, the prospective campus, so that every parent is aware of the school environment and its mission. While every student with a disability must be provided FAPE consistent with the IDEA, Section 504 and ADA Title II, the implementation and delivery of a free appropriate public education do not have to be identical at each campus. When a parent chooses to transfer a child to a different campus and prepares to develop or amend an IEP, the parent must recognize that there are different ways to address the needs of their child.

F-3. Must students with disabilities be offered their choice of the same campuses as nondisabled students?

School districts must offer students with disabilities and those eligible under Section 504 the opportunity to be educated in a campus that has not been identified as in need of school improvement and has not been identified by the State as persistently dangerous, if nondisabled students have that opportunity.

However, an LEA is not required to offer students with disabilities the same choices of campuses as it offers to nondisabled students. In determining the choices available to such students, the LEA should match the abilities and needs of a student with disabilities with those campuses that have the ability to provide the student FAPE.

- F-4. Does the movement of a student with disabilities to a school of choice constitute a “change of placement” under the IDEA?

A change in the location of delivery of services, in and of itself, does not constitute a “change of placement” as defined under the IDEA. The IDEA statute and implementing regulations contain specific requirements regarding “change of placement” provisions, and LEAs must comply with these requirements when they are triggered.

G. DESEGREGATION AND CIVIL RIGHTS ISSUES

- G-1. Must an LEA provide the option to transfer if the LEA is complying with a desegregation plan?

Yes. If an LEA is subject to a desegregation plan, whether that plan is voluntary, court-ordered, or required by a Federal or State administrative agency, the LEA is not exempt from offering students the option to transfer *[34 C.F.R. Section 200.44(c)(1)]*.

- G-2. What if a desegregation plan limits the opportunity for students to transfer?

The LEA must still implement public school choice under Title I. However, the LEA should take into account the requirements of the plan in determining how to implement the Title I choice option *[34 C.F.R. Section 200.44(c)(2)]*.

- G-3. What if the desegregation plan is a court-ordered plan or a plan entered into with the USDE Office for Civil Rights?

An LEA that is operating under a court-ordered plan should first determine whether it is able to offer choice within the parameters of its plan. If it is not able to do so, the LEA needs to seek court approval for amendments to the plan that permit a transfer option for students enrolled in campuses identified for school improvement, corrective action, or restructuring. If the LEA is unable to secure changes to the plan that permit a transfer option, the LEA will be out of compliance with Title I. If that occurs, it should notify TEA and the USDE Office for Civil Rights (OCR) of its request to the court and of the court’s decision *[34 C.F.R. Section 200.44(c)(3)]*.

If the plan has been agreed to with the Department’s Office for Civil Rights (OCR), OCR will work with the LEA to identify permissible amendments to the plan that will enable the LEA to comply with Title I public school choice requirements.

G-4. How do Federal civil rights laws apply to LEAs implementing public school choice?

In providing public school choice, an LEA may not discriminate on the basis of race, color, national origin, sex, disability, or age, consistent with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, ADA Title II, and the Age Discrimination Act of 1975.

See section F concerning the implementation of the Title I choice requirements for students with disabilities.

H. RESPONSIBILITIES OF CAMPUSES RECEIVING TRANSFER STUDENTS

H-1. What are the responsibilities of a campus that receives transfer students under this program?

A campus that receives students under this provision must ensure that transferring students are enrolled in classes and other activities in the campus in the same manner as all other students in the campus [Section 1116(b)(1)(F)]. For instance, students entering a campus as a result of the Title I choice provisions must have the same opportunity to select courses, to take part in special programs (such as activities for gifted and talented students), and to participate in extracurricular activities as all other students enrolled in the campus.

H-2. May districts prohibit students transferring from a campus identified for improvement the opportunity to participate in interscholastic sports in their new campus?

If a district has a general policy that requires all students who transfer under any other choice option within the district to “sit out” from interscholastic sports for a specified period of time after the transfer, then the district may apply that policy to students who transfer under Title I. If it does not have such a general policy, it may not impose one on students who enter the campus under the Title I provisions. Policies promulgated by TEA or the University Interscholastic League (UIL) should be applied in the same way.

I. GENERAL FUNDING ISSUES

I-1. Are there any requirements as to how general educational services for transfer students are to be funded by the LEA?

No. The Title I statute and regulations do not require that any local, State, or Federal funds “follow the child” to his or her new campus. However, LEAs should take care to ensure that receiving campuses have available the staff, materials, equipment, and other resources needed to accommodate the students who enter the campus through the exercise of the Title I choice option.

- I-2. If a child transfers out of her or his original campus, should an LEA include that child (1) in the count of children used to determine the Title I allocation to the campus of residence, or (2) in the count used to determine the Title I allocation to the campus of enrollment?

Generally, Title I campus eligibility and Title I allocations are based on the count of poor children who reside in the campus attendance area of a given campus [Section 1113]. Consistent with this general rule, an LEA would include a transferring child as part of the count of the campus of residence. However, LEAs also have the option of using enrollment as the basis for determining Title I eligibility and allocations [Section 1113(b)(1)(B)]. In the case of an LEA that uses enrollment, the transferring student would be counted in the campus in which the student is enrolled (the receiving campus).

- I-3. May Title I funds be used to benefit non-Title I campuses that receive students transferring from Title I campuses identified for improvement?

Title I dollars and services do not follow a child who transfers from a Title I campus identified for improvement to a non-Title I campus. However, in subsequent school years, the receiving campus may become eligible for Title I funds if a sufficient number of low-income students transfer into it (if the LEA bases its eligibility determinations on enrollment). If the number of students transferring into a receiving campus causes that campus to be designated as a Title I campus, then it will receive Title I funds.

- I-4. Does special education funding follow a child with disabilities to the campus of his or her choice?

Federal special education funding is distributed to school districts, not individual campus. It is up to the school district to determine how that money is spent and how those funds are distributed among individual campuses within the district.

J. TRANSPORTATION FUNDING AND OTHER TRANSPORTATION ISSUES

- J-1. Is an LEA required to provide transportation to campuses of choice?

Yes, an LEA must pay for or provide transportation to the new campus, subject to the limitations described in item J-3 [34 C.F.R. Section 200.44(i)].

- J-2. What funds may be used by an LEA to pay for choice-related transportation?

An LEA may use Title I funds, as well as other allowable Federal, State, local, and private resources, to pay for the transportation required to implement the Title I school choice requirements. (See item J-8.)

- J-3. How much must an LEA pay to provide choice-related transportation?

The law establishes a joint funding mechanism for choice-related transportation and supplemental educational services [Section 1116(b)(10)]. Unless a lesser amount is

needed to meet demand for choice-related transportation and to satisfy all requests for supplemental educational services, an LEA must spend an amount equal to 20 percent of its Title I, Part A allocation, before any reservations, on:

1. Choice-related transportation;
2. Supplemental educational services; or
3. A combination of (1) and (2).

Moreover, the 20 percent must be calculated before the LEA takes any reservations “off the top” of its Title I, Part A allocation for parental involvement, private school equitable participation, or other purposes.

This flexible funding approach means that the amount of funding that an LEA must devote to choice-related transportation depends in part on how much it spends on supplemental educational services. However, if the cost of satisfying all requests for supplemental educational services exceeds 5 percent of an LEA’s Title I, Part A allocation, the LEA may not spend less than an amount equal to 5 percent on those services. Similarly, if the demand from parents of eligible students for transportation needed for choice exceeds 5 percent of the allocation, the LEA must spend the equivalent of at least 5 percent on transportation. The LEA has flexibility in allocating the remaining 10 percent between choice-related transportation and supplemental educational services, and in doing so should take into consideration the level of parental demand and the costs of meeting that demand [*34 C.F.R. Section 200.48(a)*].

An LEA may, but is not required to, spend an amount exceeding 20 percent of its Title I, Part A allocation if additional funds are needed to meet all demands for choice-related transportation and supplemental educational services. A school district could also spend State or local funds, if it wishes, to assist in paying for transportation.

- J-4. If an LEA is not required or is unable to provide supplemental educational services to eligible students, how much money is it required to spend on choice-related transportation?

Some LEAs, in a given year, will not be required to provide supplemental educational services because they have no campuses that are in stage 2 of improvement or undergoing corrective action or restructuring or will have received a one-year exemption from TEA from the requirement to provide services [*Section 1116(e)(10)*]. LEAs in this situation must spend the equivalent of 20 percent of their Title I allocations on choice-related transportation, or a lesser amount that satisfies all the demand from the parents of eligible students for transportation.

- J-5. If the cost of continuing to provide choice-related transportation to students who exercised the option to change campuses in previous years exceeds 15 percent of an LEA’s Title I, Part A allocation, must the LEA use an amount equal to at least 5 percent of its allocation to provide supplemental educational services?

Yes. The statute requires LEAs to permit a student who changes campuses, pursuant to the Title I choice provisions, to remain in the new campus until he or she has completed the highest grade in that campus, and it terminates the obligation of the LEA to provide transportation prior to completion of that grade only if the child's original campus is no longer identified for improvement or subject to corrective action or restructuring [*Section 1116(b)(13)*]. However, this provision does not exempt an LEA subject to the requirement to provide supplemental educational services from having to spend an amount equal to at least 5 percent of its Title I, Part A allocation on those services. LEAs whose costs of providing transportation to students who continue to enroll in their new campuses would exceed 15 percent of their allocations may choose to spend more than 20 percent on the combination of choice-related transportation and supplemental educational services or could reduce their spending on transportation in order to free up 5 percent for supplemental educational services.

J-6. What must an LEA do if funds are not sufficient to provide transportation to all students wishing to transfer?

If the funds available are insufficient to provide transportation to each student who requests a transfer, the LEA must give priority to the lowest-achieving students from low-income families. However, LEAs must still offer the opportunity to transfer to all students. (See also item C-3.)

J-7. Must an LEA reserve a portion of its Title I allocation to pay for choice-related transportation?

No. The statutory phrase “an amount equal to” means that the funds required to pay the costs of choice-related transportation and supplemental educational services need not come from Title I allocations, but may be provided from Title I allocations or from other allowable Federal, State, local, or private sources. (See also item J-8.)

For example, if a district already operates transportation services, the LEA may be able to provide the transportation required by the Title I school choice provision through its existing transportation program. In such a case, the LEA may count, toward the 20 percent requirement, the portion of its transportation costs that is attributable to providing choice to students exercising the Title I choice option.

J-8. What other Federal program dollars may be used to pay for choice-related transportation?

LEAs may use their Title V, Part A—Local Innovative Education Program funds to pay for choice-related transportation. LEAs also may use funds transferred to Title I or Title V from other Federal education programs under the ESEA Section 6123 “transferability” authority to pay such costs.

An LEA must include any funds transferred into Title I, Part A (under Section 6123-Funding Transferability) in the base used in calculating the “amount equal to 20 percent” of its Title I

allocation, to determine required expenditures for choice-related transportation and supplemental educational services.

- J-9. Is an LEA required to pay for transportation for students who have left a campus in improvement prior to the enactment of *No Child Left Behind*?

No, this is not required.

- J-10. If an LEA does not already directly provide for transportation to and from campuses, must the district provide transportation for students choosing to transfer under these provisions?

Yes. However, the statute permits an LEA to make alternative arrangements for providing transportation, such as reimbursing parents for the cost of providing transportation or using city transportation. In addition, the LEA would not be required to provide transportation to students who live only a short distance from their new campus, as discussed in J-11.

- J-11. If an LEA does provide transportation but has a general policy of not providing it to students who live within a certain distance of their campuses, would it have to provide transportation to students who elect, under the Title I school choice provisions, to transfer to campuses that are within that distance of their homes?

No. For instance, an LEA might have a policy of providing transportation only to students who live more than two (2) miles from the campuses they attend. In that situation, the LEA would not be required to provide for transportation to students who elect, under the Title I provisions, to transfer to campuses within two miles of their homes.

- J-12. May an LEA establish transportation zones within an LEA based on the geographic location of campuses?

Yes, an LEA has latitude in deciding which options to provide for eligible students. For example, it might establish transportation zones based upon geographic location and fully fund transportation to different campuses within a zone. This option would allow the district to offer more than one choice of campuses while ensuring that transportation can be reasonably provided or arranged.

Outside the transportation zone, the district could decide to pay for only part of the transportation to the campus. Parents might select a campus outside of their designated attendance zone, but they would be informed prior to making this decision that they may be responsible for providing or arranging transportation for their children.

If transportation zones are developed, they should be drawn to provide genuine choice and address only issues of geographic distance. LEAs should ensure that there is sufficient capacity to accommodate the demand for choice within each zone. If this cannot be done, students must be given the opportunity to attend a campus outside their zone of residence and provided with transportation.

J-13. Does the Title I “supplement, not supplant” requirement apply to transportation funds?

Yes. Title I funds may be used only to supplement the level of funds that, in the absence of the Title I funds, would be made available from non-Federal sources for the transportation of children. For example, if an LEA is required by State or local law to provide transportation to students who choose to transfer to another campus under an existing choice plan, it may not use Title I funds to supplant the State or local funds that it otherwise would use to provide transportation, even though transportation costs generally are an allowable use of Title I funds.

Part III: Supplemental Educational Services (SES)

2008-2009

Based on June 13, 2005, USDE Guidance

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Supplemental Educational Services

INTRODUCTION

A. GENERAL INFORMATION

A-1. What are supplemental educational services?

Supplemental educational services are additional academic instruction designed to increase the academic achievement of students in campuses needing improvement. These services may include academic assistance such as tutoring, remediation and other educational interventions, provided that such approaches are consistent with the content and instruction used by the local educational agency (LEA) and are aligned with the State's academic content standards. Supplemental educational services must be provided outside of the regular school day. Supplemental educational services must be high-quality, research-based, and specifically designed to increase student academic achievement [Section 1116(e)(12)(C)].

A-2. What is the purpose of supplemental educational services?

When students are attending Title I campuses that have failed to make adequate yearly progress (AYP) for three consecutive years (Stage 2 School Improvement), the LEA must provide parents of eligible children opportunities to ensure that their children achieve at high levels. Supplemental educational services are a component of Title I of the Elementary and Secondary Education Act (ESEA) as reauthorized by the *No Child Left Behind Act* (NCLB) that will provide extra academic assistance for eligible children.

Students from low-income families who are attending Title I campuses that are in stage 2 of school improvement (i.e., have not made AYP for three or more years), in corrective action, or in restructuring status are eligible to receive these services.

The State is required to identify organizations, both public and private, that qualify to provide these services. Parents of eligible students are then notified by the LEA that supplemental educational services will be made available, and parents can select any approved provider that they feel will best meet their child's needs in the area served by the LEA or within a reasonable distance of that area. The LEA will sign an agreement with providers selected by parents, who will then provide services to the child and report on the child's progress to the parents and to the LEA.

The goal is to ensure that these students increase their academic achievement, particularly in reading/language arts and mathematics. This component of Title I offers parents choices in addressing their child's educational needs, and offers students extra help.

A-3. When must districts make supplemental educational services available?

In general, LEAs must make supplemental educational services available for eligible students attending campuses in stage 2 of school improvement (three years of not making AYP). For example, if a campus does not make adequate yearly progress in the 2002-03, 2003-04, and 2004-05 school years, the LEA must make available supplemental educational services to eligible students in the campus at the beginning of the 2005-06 school year.

Campuses must continue offering supplemental educational services to their eligible students until the campuses are no longer identified for school improvement, corrective action, or restructuring. Campuses are no longer identified for improvement, corrective action, or restructuring if they have made AYP for two consecutive years.

A-4. Who is eligible to receive supplemental educational services?

Eligible students are all students from low-income families who attend Title I campuses that are in stage 2 of school improvement, in corrective action, or in restructuring. Eligibility is thus determined by whether a student is from a low-income family and the improvement status of the campus the student attends. Eligibility is not dependent on whether the student is a member of a subgroup that caused the campus to not make AYP or whether the student is in a grade that takes the statewide assessments as required by Section 1111 of the ESEA as reauthorized by NCLB.

If the funds available are insufficient to provide supplemental educational services to each eligible student whose parent requests those services, the LEA must give priority to providing services to the lowest-achieving eligible students. In this situation, the LEA should use objective criteria to determine the lowest-achieving students. For example, the LEA may focus services on the lowest-achieving eligible students in the subject area that caused the campus to be identified. The services should be tailored to meet the instructional needs of eligible students in order to increase their academic achievement and help them attain proficiency in meeting the State's achievement standards. (For more information on student eligibility, please see Section E.)

B. IDENTIFICATION AND APPROVAL OF PROVIDERS

B-1. How is the approved list of supplemental educational service providers determined?

Provider applications received by the Texas Education Agency are reviewed and scored by the Title I Committee of Practitioners to determine if the provider should be approved to be included in the state's list of providers. The approved list is posted on the Agency's NCLB web site.

The Texas Education Agency accepts applications through December 1 of each school year from potential supplemental educational service providers for consideration for inclusion on the state's list of approved providers. The state's list of approved providers is updated periodically as new applications are approved. Eligible potential providers include

non-profit entities, for-profit entities, regional service centers, and local educational agencies that meet the following criteria:

- have a demonstrated record of effectiveness in increasing student academic achievement;
- be capable of providing supplemental educational services that are consistent with the instructional program of the LEA and the state's academic standards; and
- be financially sound.

B-2. What Federal civil rights requirements apply?

Under section 1116(e)(5)(C) of Title I, a supplemental educational service provider must meet all applicable Federal, State, and local civil rights laws (as well as health and safety laws). With respect to Federal civil rights laws, most apply generally to "recipients of Federal financial assistance."

B-3. What are the obligations of the State and LEAs for providing options for parents of students with disabilities or students covered under Section 504?

Each LEA that arranges for supplemental educational services must ensure that eligible students with disabilities and students covered under Section 504 may participate. Furthermore, the supplemental educational services program within each LEA may not discriminate against these students. Consistent with this duty, an LEA may not, through contractual or other arrangements with a private provider, discriminate against an eligible student with a disability or an eligible student covered under Section 504 by failing to provide for appropriate supplemental educational services with necessary accommodations. Such services and necessary accommodations must be available, but not necessarily from each provider. Rather, the LEA is responsible for ensuring that the supplemental educational service providers made available to parents include some providers that can serve students with disabilities and students covered under Section 504 with any necessary accommodations, with or without the assistance of the LEA. If no provider is able to make the services with necessary accommodations available to an eligible student with a disability, the LEA would need to provide these services, with necessary accommodations, either directly or through a contract.

Supplemental educational services must be consistent with a student's individualized education program (IEP) under Section 614 of the Individuals with Disabilities Education Act (IDEA) or a student's individualized services under Section 504. However, these services are in addition to, and not a substitute for, the instruction and services required under the IDEA and Section 504 and should not be written into individualized education programs under IDEA or into any Section 504 plans. In addition, parents of students with disabilities (like other parents) should have the opportunity to select a provider that best meets the needs of their child.

B-4. What are the obligations of the State and LEAs for providing options for parents of students with limited English proficiency?

An LEA that arranges for supplemental educational services must ensure that eligible students with limited English proficiency (LEP) may participate. The LEA is responsible for ensuring that eligible LEP students receive supplemental educational services and language assistance in the provision of those services through either a provider, or providers, that can serve LEP students with or without the assistance of the LEA; or if no provider is able to provide such services, including necessary language assistance, to an eligible LEP student, the LEA would need to provide these services, either directly or through a contract. However, it is always up to the parents to select the provider that best meets the needs of their child.

B-5. If an LEA must provide (either directly or through a contractor) supplemental educational services to children with disabilities or children with limited English proficiency because there are no other providers available that can do so, must the LEA or its contractor meet the State's criteria for approved providers?

An LEA that must provide supplemental educational services to disabled or limited English proficient students because there are no approved providers available to do so should make every effort to ensure that the services provided (by the LEA or its contractor) meet the standards of quality that apply to approved providers in the State. The LEA or its contractor must also abide by all other requirements applicable to provision of supplemental educational services (such as the requirement to establish and measure progress against specific goals for students, and the requirement to regularly inform parents of a student's progress).

It is also important to stress that an LEA should only determine that there are no approved providers available to provide services to its disabled or limited English proficient students after completing an exhaustive review of the providers on the State's approved list. It is possible, for instance, that nearby providers (that is, providers located close to but not within the geographic jurisdiction of the LEA) or those that offer distance learning services will be able to provide services to those two populations, even if no provider is located within the area served by the LEA can do so.

B-6. What entities may serve as supplemental educational service providers?

A provider of supplemental educational services may be any public or private (nonprofit or for-profit) entity that meets the State's criteria for approval. Public schools (including charter schools), private schools, LEAs, educational service agencies, institutions of higher education, faith-based and community-based organizations, and private businesses are among the types of entities that may apply for approval by the State.

However, campuses and LEAs that have been identified for improvement may not be supplemental service providers.

Regardless of the identity of a provider, the instruction and content must be secular, neutral, and non-ideological [Section 1116(e)(5)(D) and Section 1116(e)(9)].

B-7. May providers use technology to deliver supplemental educational services?

Yes. The statute permits providers, including those that are not based within the LEA, to use alternate methods for delivery of services, which may include online, Internet-based approaches as well as other distance-learning technologies. Rural districts or districts with limited availability of service providers are especially encouraged to work with providers using these technologies.

B-8. May an individual or group of individuals be a supplemental educational service provider?

Yes, an individual or group of individuals may be a supplemental educational service provider if they organize as a non-profit or for-profit entity and they meet the applicable statutory and regulatory requirements, as well as the State's criteria for approval.

B-9. Must supplemental educational services be of 'high quality and research based'?

A major focus of *No Child Left Behind* is to use only those educational practices that have evidence to suggest that they will increase student academic achievement. This means the *most important consideration* in assessing the educational practices of a potential provider should be whether those practices result in improved academic achievement in reading/language arts and mathematics. Whenever possible, a provider should submit, as part of the State approval process, any academic research supporting the particular instructional methods used by the provider.

In addition, the State must ensure that the services offered by a potential provider will be consistent with the State's academic content and achievement standards, as is required by the statute.

B-10. What does it mean to provide instruction consistent with the LEA's instructional program and aligned with State student academic achievement standards?

States are responsible for determining whether a provider can deliver supplemental instruction that is aligned with State student academic achievement standards. This does not mean that the instructional content and methods of a potential provider must be identical to those of the LEA, but they must share a focus on the same State academic content and achievement standards and be designed to help students meet those standards.

B-11. How does the State determine whether a provider is "financially sound"?

The State requires potential supplemental educational service providers to submit financial statements or other evidence of their financial soundness.

- B-12. Are supplemental educational service providers governed by the teacher quality requirements of Section 1119?**

No. The requirements of section 1119 do not apply to supplemental service providers.

C. MONITORING REQUIREMENTS

- C-1. Supplemental educational service providers are required to demonstrate student academic progress. What assessments may they use for this purpose?**

Student performance can be measured in a number of ways. For example, providers might use their own assessments, or could use standardized assessments given by the State or district. The best practice would be to specify, in the contract between the LEA and the provider, the assessment or assessments that will be used.

- C-2. How may a State terminate approval of a provider that is not meeting the statutory requirement to increase students' academic achievement?**

The State will use a consistent policy for withdrawing supplemental educational service providers from the State-approved list. The statute requires States to remove from the approved list any provider that fails, for two consecutive years, to contribute to increased student proficiency relative to State academic content and achievement standards [Section 1116(e)(4)(D)]. In addition, a provider must be removed from the list if it fails to provide supplemental educational services consistent with applicable health, safety, and civil rights requirements.

- C-3. What role does the State have in ensuring that LEAs are abiding by the requirements to provide proper notification to all parents of eligible children about the availability of supplemental educational services, to spend the correct amount (of their Title I or other dollars) for those services, and to spend the correct per-pupil amount for the services parents select for their children?**

Data will be collected as part of the SAS application for School Improvement Program funding. TEA will also monitor these requirements.

D. OVERVIEW OF LEA RESPONSIBILITIES

- D-1. What is the responsibility of an LEA in providing supplemental educational services?**

1. Notify parents about the availability of services, at least annually (see E-2 for additional information) [Section 1116(e)(2)(A)]. This information should be easily understandable; in a uniform format; including alternate formats, upon request; and, to the extent practicable, in a language the parents can understand.
2. Help parents choose a provider, if requested [Section 1116(e)(2)(B)].

3. Determine which students should receive services if not all students can be served (see F-3 for additional information) [Section 1116(e)(2)(C)].
4. Enter into an agreement with a provider selected by parents of an eligible student (see G-2 for additional information).
5. Assist the State in identifying potential providers within the LEA (See C-1 for additional information).
6. Provide the information the State needs to monitor the quality and effectiveness of the services offered by providers (See D-1 for additional information).
7. Protect the privacy of students who receive supplemental educational services (See F-9 and F-10 for additional information) [Section 1116(e)(2)(D)].

D-2. What must the notice to parents contain?

In general, an LEA should work to ensure that parents have comprehensive, easy-to-understand information about supplemental educational services [Section 1116(e)(2)]. At least annually, an LEA must provide notice to the parents of each eligible student regarding the availability of supplemental educational services. Specific information about services should be provided directly to the parents of eligible students so that there is sufficient time to allow them to select providers.

This notice must --

- Identify each approved service provider within the LEA, in its general geographic location, or accessible through technology such as distance learning.
- Describe the services, qualifications and evidence of effectiveness for each provider.
- Describe the procedures and timelines that parents must follow in selecting a provider to serve their child (see D-3).
- Be easily understandable; in a uniform format, including alternate formats, upon request; and, to the extent practicable, in a language the parents can understand.

If the LEA anticipates that it will not have sufficient funds to serve all students eligible to receive services, it should also include, in the notice, information on how it will set priorities in order to determine which eligible students do receive services (see E-3).

LEAs may provide additional information, as appropriate. However, any additional information in a notice should be balanced and should not attempt to dissuade parents from exercising their option to obtain supplemental educational services for their child. LEAs may want to consider multiple avenues for providing *general* information about supplemental educational services, including newspapers, Internet, or notices mailed or sent to the home. In providing this information, the LEA must take precautions that it does not disclose, to the public, the identity of any student eligible for supplemental educational services without the written permission of the student's parents.

D-3. May an LEA set a deadline by which parents must request supplemental educational services?

Yes, an LEA may establish a reasonable deadline by which parents must request services. In establishing this timeframe, the LEA must ensure that the parents have sufficient time, information, and opportunity to make informed decisions about requesting supplemental educational services and selecting a provider. For example, a two-week period, late in the summer, is unlikely to provide sufficient time for parents to make those decisions.

An LEA may allow an open or continuous enrollment for services, taking care that eligible students are served and priorities are respected. A rolling enrollment process would accommodate students who are newly enrolled at the beginning of or during the school year. Whatever procedures the LEA uses, it should make supplemental educational services available throughout the school year, and terminate the ability of parents to seek services for their children only when available resources or the demand for services are exhausted, or when necessary to ensure that remaining funds can be used effectively for other purposes. In any case, the LEA should allow a minimum of 30 calendar days for parents to choose to take advantage of SES.

E. IDENTIFYING ELIGIBLE STUDENTS

E-1. Who is eligible to receive supplemental educational services?

Eligible students are all students from low-income families who attend Title I campuses that are in stage 2 of school improvement, in corrective action, or in restructuring. Eligibility is not dependent on whether a student is a member of a subgroup that caused the campus to not make AYP, or whether the student is in a grade that takes the statewide assessments as required by Section 1111 of ESEA.

E-2. How is eligibility determined in schoolwide programs and targeted assistance programs?

In both a schoolwide program and a targeted assistance program, all economically disadvantaged students are eligible. In other words, in a targeted assistance campus, eligibility does not depend on whether the student is receiving Title I services.

E-3. Which children may receive supplemental educational services if the demand for services exceeds the level that funds can support?

If sufficient funds are not available to serve all eligible children, an LEA must give priority to the lowest-achieving eligible students *[Section 1116(b)(10)(C)]*. As noted in A-5, the LEA should use fair and equitable criteria in determining which students are the lowest achieving, and should use professional judgment in applying those criteria. For example, as noted in A-5, an LEA might decide to focus services on students who are lowest-achieving in the subject or subjects that caused the campus to be identified as not meeting AYP. Or it might decide that supplemental educational services will be most effective if they are concentrated on the lowest-performing students in particular grades.

If an LEA anticipates that it will not have sufficient funds to serve all students eligible to receive supplemental educational services, it should notify parents (in its original notice) that it will set priorities or criteria in order to determine which of the eligible students may receive these services. Then, based on a review of the information available about the performance of eligible students, the LEA should apply those priorities or criteria carefully, fairly, and objectively. One possible approach would be for the LEA to establish a cut-off score (on the State assessment under section 1111, or another assessment), either on a campus-by-campus basis or for all campuses within the LEA, and make supplemental educational services available to students whose scores fall below the cut-off score level.

E-4. What data must be used to identify low-income students?

For the purposes of determining eligibility for supplemental educational services, an LEA must determine family income on the same basis that the LEA uses to make allocations to campuses under Title I.

E-5. May educators use information from the National School Lunch Program in determining student eligibility for supplemental educational services?

The law specifically requires LEAs to use the same data to determine eligibility for supplemental services that they use for making within-district Title I allocations; generally, most LEAs use school lunch data for that purpose. However, determining student eligibility for supplemental services (unlike determining Title I allocations) requires identifying individual students as coming from low-income families. This has led to questions about whether LEAs may use school lunch data to determine student eligibility for supplemental educational services while abiding by the student privacy provisions of the School Lunch Program.

Section 9 of the Richard B. Russell National School Lunch Act (NSLA) establishes requirements and limitations regarding the release of information about children certified for free and reduced price meals provided under the National School Lunch Program. The NSLA allows school officials responsible for determining free and reduced price meal eligibility to disclose aggregate information about children certified for free and reduced-price school meals. Additionally, the statute permits determining officials to disclose the names of individual children certified for free and reduced-price school meals and the child's eligibility status (whether certified for free meals or reduced-price meals) to persons directly connected with the administration or enforcement of a Federal or State education program.

Because Title I is a *Federal education program*, determining officials may disclose a child's eligibility status to persons directly connected with, and who have a need to know, a child's free and reduced-price meal eligibility status in order to administer the new Title I supplemental educational services requirements. The statute, however, does not allow the disclosure of any other information obtained from the free and reduced-price school meal application or obtained through direct certification. Campus officials must keep in mind that the intent of the confidentiality provisions in the NSLA is to limit the disclosure of a

child's eligibility status to those who have a "need to know" for proper administration and enforcement of a Federal education program. As such, campuses should establish procedures that limit access to a child's eligibility status to as few individuals as possible.

Campus officials, prior to their disclosing individual information on the School Lunch Program eligibility of individual students, should enter into a memorandum of understanding or other agreement to which all involved parties (including both school lunch administrators and educational officials) would adhere. This agreement would specify the individuals who would have access to the information, how the information would be used in implementing Title I requirements, and how the information would be protected from unauthorized uses and third-party disclosures, as well as including a statement of the penalties for misuse or improper disclosure of the information.

E-6. How may LEAs that operate school lunch programs under Provisions 2 and 3 of the National School Lunch Act determine which students are eligible for supplemental educational services?

"Provision 2" and "Provision 3" allow schools that offer students lunches at no charge, regardless of the students' economic status, to certify students as eligible for free or reduced-price lunches once every four years and longer, under certain conditions. National School Lunch Program regulations prohibit schools that make use of these alternatives from collecting eligibility data and certifying students on an annual basis for other purposes.

For the purpose of identifying students as eligible for supplemental educational services, campus officials may deem all students in Provision 2 and Provision 3 schools as "low-income." However, as set forth in E-3, LEAs must give priority to serving the lowest-achieving eligible students, if the level of demand for supplemental educational services exceeds the level that available funds can support.

E-7. How does an LEA determine the eligibility of homeless students for supplemental educational services?

Homeless students, like other students, are eligible to receive supplemental educational services if they are from low-income families (which will most likely be the case for every homeless child) and are enrolled in a campus in stage 2 of improvement or undergoing corrective action or restructuring. The place of residence of a student (or the lack of a permanent residence) is not an issue in determining eligibility for any child.

E-8. May an LEA turn over a list of eligible students to a potential supplemental educational service provider so that the potential provider can contact parents regarding its services?

No. An LEA may not disclose a list of students eligible to receive supplemental educational services to possible providers without the prior written consent of the students' parents. LEAs must comply with the prior written consent requirements of the Family Educational Rights and Privacy Act (FERPA) when disclosing information on students

under the supplemental educational services program. (For more information please see 34 CFR § 99.30, available at <http://www.ed.gov/offices/OII/fpco/ferpa/ferparegs.html#9930>.)

In addition, a supplemental educational service provider is prohibited from disclosing to the public the identity of any student who is eligible for, or receiving, supplemental educational services without the permission of the student's parents [Section 1116(e)(3)(E)].

However, there are several ways in which an LEA may make sure that information on potential program providers is made available to parents of eligible students. Here are some suggestions:

1. Ask providers to give the LEA stamped envelopes containing information about the program to be mailed by the LEA to the parents of the eligible students. The LEA could let the provider know how *many* students are eligible, but not the names.
2. Provide providers with "directory information" on all students in the school district (whose parents have not opted out of "directory information") and allow providers to send a mailing to all parents of students in the district.
3. Hold an "open house" and invite parents to come meet with providers about their supplemental programs.
4. Provide information about providers to parents in campus newsletters.

E-9. Once a parent has chosen a provider from the approved list, may the LEA disclose information from the student's educational records to the chosen provider?

Yes, so long as the parent has provided the LEA with prior written consent to make the disclosure. The consent – which may be built into the agreement or contract with the provider – must be signed and dated and must specify the records that may be disclosed by either the LEA or the provider; state the purpose of the disclosure; and identify the party or class of parties to whom the disclosure may be made.

The provider may not disclose personally identifiable information about the student without the consent of the parent. Further, the provider is prohibited from disclosing to the public, without the written consent of the student's parent, the identity of any student who is eligible for or receiving supplemental educational services. (See E-8.)

E-10. May an LEA ban or limit approved service providers from promoting their programs and the general availability of supplemental educational services?

No. Although (as set forth in E-9) an LEA cannot provide providers with the names of eligible students, providers are allowed to market their services to members of the community or to provide general information to the public about the availability of supplemental educational services. LEAs may not restrict them from doing so. LEAs should provide logistical and program information to providers in order to ensure that advertising includes correct information on such issues as the procedures parents must

follow in obtaining supplemental educational services for their children. Such coordination should ensure that providers have ample time to market their services and that parents are able to make informed choices of supplemental educational service providers.

F. ARRANGING FOR SUPPLEMENTAL EDUCATIONAL SERVICES

F-1. May parents select any provider that appears on the State-approved list?

Yes, parents may select any provider from the State-approved list, so long as that provider is able to provide services in or near the area served by the LEA, which may include approved providers that use e-learning, online, or distance learning technology to provide supplemental educational services.

If requested by parents, LEAs must assist parents in the selection of a provider. However, parents are not required to accept the LEA's recommendation for a supplemental educational service provider.

F-2. What must be included in the agreement with a provider?

Once parents select a provider for their child, the LEA must enter into an agreement with the provider that includes the following:

1. Specific achievement goals for the student, which must be developed in consultation with the student's parents *[Section 1116(e)(3)(A)]*;
2. A description of how the student's progress will be measured and how the student's parents and teachers will be regularly informed of that progress *[Section 1116(e)(3)(A) and (B)]*;
3. A timetable for improving the student's achievement;
4. A provision for termination of the agreement if the provider fails to meet student progress goals and timetables *[Section 1116(e)(3)(C)]*;
5. Provisions governing payment for the services, which may include provisions addressing missed sessions *[Section 1116(e)(3)(D)]*;
6. A provision prohibiting the provider from disclosing to the public the identity of any student eligible for or receiving supplemental educational services without the written permission of the student's parents *[Section 1116(e)(3)(E)]*; and
7. An assurance that supplemental educational services will be provided consistent with applicable health, safety, and civil rights laws (see C-3 through C-5).

In the case of a student with a disability, the achievement goals, measurement and reporting of progress, and timetable described in items 1 through 3 above must be consistent with the student's individualized education program (IEP) under Section 614(d) of the IDEA. In the case of a student covered by Section 504, they must be consistent with the student's individualized services under Section 504. However, these services are in

addition to, and not a substitute for, the instruction and services required under the IDEA and Section 504, and should not be written into individualized education programs under IDEA or into any Section 504 plans.

LEAs are encouraged to use cost-effective methods in designing this agreement and fulfilling this obligation. For instance, a district may want to design a generic agreement that can be tailored to a particular student and provider. Also, the district would not need to create new assessments to measure student progress.

F-3. How long must services be provided?

A provider must continue to provide supplemental educational services to eligible students who are receiving such services until the end of the school year in which such services were first received [Section 1116(e)(8)]. However, the sufficiency of funds and the intensity of services selected (i.e. the number of sessions per week) may limit the availability of services to a shorter period of time. In such case, the parent should be made aware of the anticipated duration of services and agree to it.

F-4. What actions must an LEA take if the demand for supplemental educational services from a particular provider is greater than the provider can meet?

An approved provider might not have enough spaces to serve all the students who select that provider. In anticipation of such a situation, the LEA should establish fair and equitable procedures for selecting students to receive services [Section 1116(e)(2)(C)]. Furthermore, the LEA is encouraged to allocate those spaces consistent with the requirement to give priority to serve the lowest-achieving eligible children.

F-5. What happens if there are no approved providers that offer services in an LEA?

The State's list of providers currently includes many "statewide" providers. However, if none of these "statewide" providers were to be available, an LEA may request an exemption from the state for all or part of the supplemental educational services requirement. An exemption can only be granted if two conditions are met: (1) the state determines that none of the approved providers can make their services available in the LEA, within the general geographic location of the LEA or via distance learning; and (2) the LEA provides evidence that it cannot provide these services [Section 1116(e)(10)(A)].

The state must notify the LEA of approval or disapproval of its exemption request within 30 days of receiving the request [Section 1116(e)(10)(B)]. Where services seem limited, the state would seek to include providers who deliver services using e-learning, online, or distance learning technologies. Prior to approving an exemption, the state would require the LEA to explain why it is unable to use distance-learning technologies to make supplemental educational services available to eligible students.

F-6. How long is an LEA exemption in effect?

States are required to update at least annually the list of approved supplemental educational service providers. TEA currently updates the list at least twice per year. Because of this provision, an exemption may not extend beyond the next timeframe for updating the list. With each updated list of providers, the LEA must request an exemption from the supplemental educational services requirements.

F-7. If an LEA is one of the approved providers, what is its responsibility with respect to an agreement?

An LEA that is a provider must prepare an agreement that contains the required information listed in G-2. Although the LEA is not formally entering into an agreement with itself as the provider, the information is necessary so that parents of a student receiving services from the LEA know, for example, the achievement goals for the student, how progress will be measured, and the timetable for improving the student's achievement.

If an LEA fails to meet the student's progress goals, the parent should be able to request services from another provider, if one is available, or should contact the state. In such a case, the state may monitor more carefully the LEA's provision of supplemental educational services or, if warranted, rescind the LEA's approval to be a provider.

F-8. If an LEA cannot provide school choice to students in a campus in stage 1 of school improvement (because there are no eligible campuses to which students could transfer) and the LEA voluntarily decides to offer supplemental educational services a year early, do the supplemental services requirements in section 1116 apply?

No. Because an LEA is not required to offer supplemental educational services to eligible students enrolled in a campus in its first stage of school improvement, the requirements of section 1116(e) do not apply. In other words, such an LEA would not need to provide supplemental educational services only to low-income students, to contract only with State-approved providers, or to fund supplemental educational services at the per-pupil amount set forth in that subsection.

However, because the LEA will be required to offer supplemental educational services (that meet all the statutory requirements) to students in that campus the next year if the campus remains in improvement status, it would help avoid confusion and administrative complexity if the LEA, in that first stage, abides by the requirements of section 1116(e) as much as possible. In addition, if the LEA uses Title I funds to provide supplemental educational services, it must meet all the requirements governing the use of those funds in schoolwide and targeted assistance programs.

- F-9. May an LEA offer supplemental educational services to students who are at risk of failing to meet the State’s academic achievement standards but who are not low-income?

Yes. However, an LEA may not “count” funds spent for non-low-income students toward meeting its 20 percent amount. Moreover, if the LEA uses Title I funds to provide supplemental educational services to students not covered under the requirements in section 1116(e), those services must meet all other Title I requirements. In addition to Title I funds, the LEA could use other appropriate Federal, State, or local funds to provide supplemental educational services to students who are not from low-income families.

- F-10. May an LEA require providers on the State-approved list to meet additional criteria or go through an additional approval process before providing services within the LEA?

No. Once a provider is on the State-approved list, an LEA cannot require an additional approval or impose additional requirements, except the requirement to abide by applicable local health, safety, and civil rights laws.

- F-11. Should an LEA make available to the public, including parents, and to State-approved providers, information on such issues as the LEA’s per-pupil allocation for supplemental educational services; how the LEA is determining student eligibility for services; when parents will be notified that their children are eligible for services; and the process that parents will be required to follow in order to obtain services for their children?

Yes. Provision of this information will ensure that parents have the information they need to make informed decisions about supplemental educational services and so that approved providers fully understand the LEA’s procedures.

G. THE ROLE OF PARENTS

- G-1. How do parents select a supplemental educational service provider?

Parents of eligible students choose a provider from the State-approved list. Parents may request assistance from their LEA in selecting a provider, including in identifying providers that can serve children with disabilities and with limited English proficiency. In such cases, LEAs that also serve as providers must be careful to offer unbiased assistance focused on the specific academic needs of the student and the preferences of the parent. LEAs are not permitted merely to assign those students whose parents request assistance to a district- or campus-administered program.

- G-2. What is the role of parents in supplemental educational services?

Parents are to be active participants in the supplemental educational services program.

At the *local level*, parents must be able to choose among all supplemental educational service providers identified by the State for the area served by the LEA or within a reasonable distance of that area. In addition, the LEA must assist parents in selecting a provider, if such help is requested [Section 1116(e)(2)(B)]. Parents should also have an option to change or terminate services, if they are not satisfied.

At the *provider level*, parents, the LEA, and the provider chosen by the parents must develop and identify specific academic achievement goals for the student, measures of student progress, and a timetable for improving achievement [Section 1116(e)(3)(A). All parents whose children receive supplemental educational services must be regularly informed of their child's progress [Section 1116(e)(3)(B)].].

In the case of a student with disabilities, or a student covered under Section 504, the provisions of a supplemental educational services agreement regarding specific academic achievement goals for the student, the measures of student progress, and the timetable for improving achievement must be consistent with the student's individualized educational program (IEP) under IDEA or the student's specialized services under Section 504. However, supplemental educational services are in addition to, and not a substitute for, the instruction and services required under IDEA and Section 504 and should not themselves be part of IEPs or Section 504 plans.

- G-3. What is the parents' role in supporting student attendance at supplemental service sessions? If the student does not attend the SES sessions, may the LEA terminate the services?**

Parents should ensure that their children attend the supplemental services sessions in which they are enrolled. However, parents should be notified if their child is not attending regularly. The LEA should include this type of provision in their contract with the SES provider (See H-2 and H-3).

H. MONITORING SERVICES

- H-1. How often should parents and teachers receive information about student progress?**

As part of the agreement described in F-2, the LEA and provider, after consultation with the parents, must agree to a schedule for informing parents and the child's teacher(s) about the child's progress. The intent of this requirement is to ensure that students are improving their academic achievement and that instructional goals are being met.

- H-2. If parents are not satisfied with the supplemental educational services their child is receiving, or with the child's academic progress, may they request and receive a new provider?**

Although neither the law nor the regulations require LEAs to allow students to move from one service provider to another provider during the course of a school year, LEAs may want to allow for such moves. Paying providers on a regular basis, as reimbursement for

services provided, may make it easier to arrange for students to change providers than would be the case if providers are paid up-front for an entire semester or year.

H-3. May an LEA terminate the services a provider is providing to individual students?

Yes. An LEA may terminate the supplemental services a provider is providing to a student if the provider is unable to meet the student's specific achievement goals and the timetable set out in the agreement between the LEA and provider. The agreement between the LEA and the provider must specify the terms and process for terminating services.

I. PROVIDING SUPPLEMENTAL EDUCATIONAL SERVICES

I-1. What is required of supplemental educational service providers?

A provider is responsible for meeting the terms of its agreement with the LEA (see item F-2), including:

1. Enabling the student to attain his or her specific achievement goals (as established by the LEA, in consultation with the student's parents and the provider)[Section 1116(e)(3)(A)];
2. Measuring the student's progress, and regularly informing the student's parents and teachers of that progress [Section 1116(e)(3)(A) and (B)];
3. Adhering to the timetable for improving the student's achievement that is developed by the LEA in consultation with the student's parents and the provider [Section 1116(e)(3)(A)];
4. Ensuring that it does not disclose to the public the identity of any student eligible for or receiving supplemental educational services without the written permission of the student's parents [Section 1116(e)(3)(E)];
5. Providing supplemental educational services consistent with applicable health, safety, and civil rights laws (see items C-3 through C-5); and
6. Providing supplemental educational services that are secular, neutral, and nonideological.

In the case of a student with a disability, the achievement goals, measurement and reporting of progress, and timetable described in items 1 through 3 above must be consistent with (although not included in) the student's individualized education program under Section 614(d) of the IDEA. In the case of a student covered by Section 504, they must be consistent with (although not included in) the student's individualized services under Section 504.

I-2. May a supplemental educational service provider offer services in the summer?

Yes. In most cases it will be preferable to provide services that take place over the course of the school year and that augment and enhance the instruction a child receives through

the regular school program. Summer programs, however, can also augment school-year instruction and can help reduce “summer learning loss,” which is frequently an issue for educationally disadvantaged children. For this reason, TEA approves both programs that provide services during the school year and those that provide them in the summer, as providers whose services extend from the school year into the summer.

J. FUNDING ISSUES

J-1. How may an LEA pay for supplemental educational services?

LEAs may use Title I, Part A funds as well as other Federal, State, local, and private resources to pay for supplemental educational services required as part of the school improvement process.

Payment terms must be specified in the agreement between the LEA and the provider as described in F-2. An LEA may arrange for paying a provider for services in a number of ways. An LEA may pay the provider directly for such services. Alternatively, an LEA may issue certificates or coupons to parents of an eligible student for them to “purchase” services from an approved provider. For example, a certificate may entitle parents to obtain, from a provider of their choice on the States’ approved list, a certain number of hours of services or sessions for their student. As the student receives the services, the parent would redeem the certificate, which the provider would then submit to the LEA for payment.

J-2. How much must an LEA pay for supplemental educational services?

The law establishes a joint funding mechanism for choice-related transportation and supplemental educational services. Unless a lesser amount is needed to meet demand for choice-related transportation and to satisfy all requests for supplemental educational services, an LEA must spend up to an amount equal to 20 percent of its Title I, Part A allocation, before any reservations, on:

- (1) Choice-related transportation;
- (2) Supplemental educational services; or
- (3) A combination of (1) and (2).

This means that the amount of funding that an LEA must devote to supplemental educational services depends in part on how much it spends on choice-related transportation.

However, if the cost of satisfying all requests for supplemental educational services exceeds an amount equal to 5 percent of an LEA’s Title I, Part A allocation, the LEA may not spend less than that amount on those services.

An LEA may spend an amount exceeding 20 percent of its Title I, Part A allocation if additional funds are needed to meet all demands for choice-related transportation and supplemental educational services.

- J-3. If an LEA does not incur any choice-related transportation costs, must it use the full 20-percent amount to pay for supplemental educational services?

Yes, if there is sufficient demand for such services to require the expenditure of the full amount equal to 20-percent of its Title I allocation.

- J-4. May an LEA determine the amount that it will spend for supplemental educational services prior to determining the demand for services?

An LEA must follow the procedures set forth in K-2, that is, spend the equivalent of between 5 and 15 percent of its Title I allocation (or as much as 20 percent, if it does not have any demand for choice-related transportation) on supplemental educational services, with precise amount dependent on the relative demand for choice-related transportation and for supplemental educational services.

An LEA may find that the amount it can spend for supplemental services is limited because of the demand for choice-related transportation in the district. For instance, an LEA might have to spend 10 percent of its Title I allocation to transport students who exercise the option to transfer in the previous year and are still enrolled in their new campuses; this would leave a total of 10 percent for supplemental services and provision of transportation to any additional students who wish to change campuses in the current year. Whatever the situation, an LEA should provide full opportunity for students to change campuses (and receive transportation) and to receive supplemental educational services before determining that a lesser amount of funding (that is, less than 20 percent of its allocation) for these two activities is needed.

- J-5. Must an LEA reserve a portion of its Title I allocation to pay for supplemental educational services?

No. The statutory phrase “an amount equal to” means that the funds required to pay the costs of choice-related transportation and supplemental educational services need not come from Title I allocations, but may be provided from other Federal, State, local, and private sources. In other words, an LEA may use other, non-Title I sources of funding to meet the requirement to spend an amount equal to 20 percent of its Title I, Part A allocation, when such amounts are needed for choice-related transportation or supplemental educational services.

- J-6. May an LEA use School Improvement Program funds to pay for supplemental educational services?

Yes. Supplemental educational services are an authorized activity under Section 1116, and an LEA may use SIP funds to provide those services.

J-7. What other Federal program dollars may be used to pay for supplemental educational services?

LEAs may use their Title V, Part A—Local Innovative Education Program funds to pay for supplemental educational services. LEAs also may use funds transferred to Title I from other Federal education programs under Section 6123(b)—Funding Transferability to pay such costs.

J-8. Does funding made available for Part A of Title I through the transferability provisions authorized under Section 6123 change the base that must be used to calculate required spending on choice-related transportation and supplemental educational services?

Yes. An LEA must include funds transferred to Title I under Section 6123(b) in the base used in calculating the “amount equal to 20 percent” of its Title I allocation that it must use for choice-related transportation and supplemental educational services. In other words, funds that an LEA transfers into Title I, under the transferability authorization, become part of the base against which all Title I set-asides (including the set-aside for supplemental educational services and choice-related transportation) are calculated.

J-9. How should an LEA reserve Title I funds to help pay the costs of choice-related transportation and supplemental educational services?

An LEA that is required to provide or pay for choice-related transportation and supplemental educational services (and that elects to use Title I, Part A funds to do so) may (1) reserve any Title I, Part A funds needed for this purpose “off the top” prior to making allocations to campuses, or (2) adjust allocations to campuses to make available the required funds.

If an LEA chooses the second method – adjusting allocations to campuses – it may reserve funds from all Title I campuses or only from campuses identified for improvement, corrective action, or restructuring (subject to the limitation described under J-8).

J-10. In reserving Title I, Part A funds for choice-related transportation and supplemental educational services, LEAs are not permitted to reduce Title I, Part A allocations to campuses identified for corrective action or restructuring by more than 15 percent. How should LEAs calculate this 15 percent limit?

LEAs may satisfy this requirement through one of two methods. First, an LEA may simply set a floor of 85 percent of its prior-year allocation for any campus identified for corrective action or restructuring. Under this approach, an LEA reserving Title I, Part A funds for choice-related transportation and supplemental educational services would not be permitted to reduce its allocation to an affected campus below this 85-percent floor.

Under the second method, in making allocations to campuses for a given year, an LEA would calculate two allocations. For the first allocation, the LEA would determine a “pre-reservation” allocation to campuses before setting aside funds for choice-related

transportation and supplemental educational services (but after any other reservations, such as those made for administrative costs and district-wide activities like professional development and parental involvement). Then, for campuses identified for corrective action or restructuring, the LEA would calculate what 85 percent of those campuses' "pre-reservation" allocation would be. The LEA would determine a second allocation for all campuses after reserving funds for choice-related transportation and supplemental educational services. For campuses in corrective action and restructuring, the LEA would then compare this allocation with 85 percent of their "pre-reservation" allocation and allocate the higher of the two to those campuses.

- J-11. Are private school children receiving Title I services entitled to receive an equitable proportion of any Title I funds reserved by an LEA for supplemental educational services?

No. Only children from low-income families attending public schools identified for improvement, corrective action, and restructuring – not all children participating in Title I – are eligible to receive supplemental educational services.

- J-12. Must an LEA pay for or provide transportation to service providers?

No. An LEA may provide transportation to service providers, but is not required to do so under the law. In addition, the costs of such transportation may not be used to satisfy the 5 percent minimum expenditure requirement for supplemental educational services. Also, the costs of transportation may not be counted toward satisfying an LEA's obligation to spend up to an amount equal to 20 percent of its Title I, Part A allocation on choice-related transportation and supplemental educational services, as described in J-2.

- J-13. May an LEA count administrative costs incurred in providing choice-related transportation or supplemental educational services toward the 20-percent requirement?

No. Such costs, to the extent they are reasonable and necessary, are an allowable use of Title I, Part A funds, but only direct expenditures for choice-related transportation and supplemental educational services may be used to satisfy the 20-percent requirement.

- J-14. If an LEA provides supplemental educational services to students enrolled in campuses in their first stage of improvement (as discussed in F-8), does the cost of those services count toward the 20-percent requirement?

Yes, the LEA may count the cost of those services toward the 20 percent requirement, so long as the services meet all the requirements of section 1116(e) and so long as it is meeting the full demand for supplemental services from students enrolled in campuses in stage 2 of improvement or subject to corrective action or restructuring.

- J-15. How much must an LEA spend for each student receiving supplemental educational services?

The LEA shall make available for supplemental educational services an amount that is the lesser of—

- the LEA's Title I, Part A entitlement divided by the number of children in the LEA aged 5-17, inclusive, below the poverty level based on Census date; or
- the actual costs of the supplemental educational services.

Note that this cap applies to the cost of instructional services only. LEAs may incur additional per-child costs related to the administration of supplemental educational services, transportation of students to a provider, or appropriate accommodations for students with disabilities.

- J-16. May an LEA provide a lower per-pupil amount for supplemental educational services?

No. The amount set forth in the statute – that is, the LEA's Title I, Part A per-pupil allocation or the actual cost of services, whichever is less -- is the amount that must be spent, per student, for supplemental educational services, not a maximum amount. LEAs must adjust this amount annually to reflect changes in their Title I per-pupil allocations. In addition, they may not provide a lower amount to students participating in truncated programs (for instance, in summer programs) except as needed to reflect the actual cost of those programs.

- J-17. How must an LEA calculate the per-pupil funding cap on the cost of supplemental educational services?

An LEA must calculate the per-pupil cap on supplemental educational services costs by dividing its Title I, Part A allocation by the number of children residing within the LEA aged 5-17 who are from families below the poverty level, as determined by the most recent census estimates from the Department of Commerce. The U.S. Department of Education uses these poverty estimates to make allocations to LEAs, and provides the estimates to States as part of the allocation notification process. LEAs should contact the Division of NCLB Program Coordination at 512-463-9374 for current Census data.

- J-18. May an LEA pay a provider an amount that exceeds the per-child limitation on funding for supplemental educational services?

Yes, in some LEAs the per-child "tuition" charged by certain providers that have been approved by the State and are available to serve students in the LEA may exceed the per-child amount the LEA can spend (pursuant to the calculation made in K-13). In this situation the LEA may, using funds from Title I, Part A or other sources, supplement the amount available to a child in order to allow that child to receive supplemental educational services from the provider selected by his or her parents. However, the LEA may not count any amount provided to a child in excess of the per-pupil cap against the 20 percent of its Title I, Part A funding that must be spent for supplemental educational services and

choice-related transportation. In other words, if the cost of enrolling a child with a provider is \$1,500 and the LEA's per-child cap (calculated as described in K-13) is only \$1,000, the LEA may make available to the child the full \$1,500 but it may count only the first \$1,000 toward meeting the 20 percent requirement.

- J-19. If revised cost estimates indicate that an LEA has reserved more Title I funds than are needed to pay for choice-related transportation and supplemental educational services, may the LEA reallocate those excess funds to campuses or for other purposes?**

Yes, if the demand for choice-related transportation and supplemental educational services, or the costs of those activities, is lower than estimated at the time of the reservation, an LEA may reallocate any unused funds to other allowable activities. If such funds were made available by reducing allocations to specific campuses, as described under J-7, then the LEA must reallocate the unused funds to those campuses.

Before making the decision that funds can be reallocated from choice-related transportation and supplemental educational services, LEAs should ensure that eligible students and their families have had adequate time to avail themselves of the opportunity to transfer campuses or to receive supplemental educational services. In addition, please note that any reallocation of funds is subject to the equitable participation requirements of Title I, Section 1120 and Section 200.64 of the Title I regulations (34 C.F.R. 200.64).

- J-20. How do the carryover rules described in Section 1127 affect any Title I funds reserved for choice-related transportation and supplemental educational services?**

The law allows LEAs to carry over no more than 15 percent of unused funds from one fiscal year to the next. This 15 percent cap applies to the LEA's entire Title I, Part A allocation, and therefore covers any funds reserved, but not spent due to lack of demand, for supplemental educational services. If the combination of unused funds reserved in Title I, Part A for supplemental educational services and other unspent Title I, Part A funds exceeds 15 percent of an LEA's total allocation, the excess funds must be returned to the State for redistribution to other LEAs, unless the state grants the LEA a waiver. Funds carried over from one fiscal year to the next do not affect the base used for calculating the required expenditure of funds for choice-related transportation and supplemental educational services in the following year.

Provided that the LEA has met all demand from parents and students for choice-related transportation and supplemental educational services, any unused portion of Title I, Part A funds reserved for this purpose may be reallocated to other purposes either during the year in which the reservation was made or, subject to the 15 percent limit, in the following year, subject to the equitable participation requirements of Title I, Section 1120 and Section 200.64 of the Title I regulations (34 C.F.R. 200.64).

- J-21. If only one campus in an LEA has been identified as needing improvement, must the LEA spend the full 20 percent amount on choice-related transportation and/or supplemental educational services?

Yes, unless a lesser amount is needed.

- J-22. May the State approve a provider whose provision of supplemental educational services will require LEAs to pay for equipment or instruction or to meet other costs?

Some potential providers may offer programs through which, for instance, the provider offers distance learning programs but an LEA will have to buy the computers that students will use to obtain the instruction. Although this type of arrangement may result in the provision of high-quality services, the LEA might not have available the equipment, personnel, or other resources required by providers. In addition, LEAs may charge providers for equipment, facilities, personnel, or other resources that they make available to those providers .

- J-23. For which fiscal year may the costs of supplemental services be counted?

Because spending requirements for choice-related transportation and supplemental educational services are calculated on the basis of an LEA's annual Title I, Part A allocation, actual costs must be linked to the fiscal year of the allocation used for this calculation.

- J-24. An existing after-school program has been approved by the State as a supplemental educational service provider. Can an LEA count any funds that it is already paying that provider toward the 20 percent supplemental educational services and choice amount?

An LEA in this situation may count, toward the 20 percent, money that it is paying a provider for eligible "supplemental educational services" received by children who are eligible to receive those services (children from low-income families enrolled in eligible campuses). However, it may not count the cost of providing services to other children or the costs of providing other types of services. Moreover, the provider will need to keep appropriate records and use appropriate safeguards to ensure that supplemental educational services funds are used only for eligible activities.

Note, in addition, that selection of a supplemental educational service provider is always up to the parent. An LEA may not merely have its existing after-school program provide supplemental educational services without giving parents the opportunity to select another provider and the services most appropriate for their children.

An existing provider that qualifies to be a supplemental educational service provider should also be aware of a potential supplanting issue. It does not violate the Title I supplement-not-supplant requirement for an LEA to count, towards the 20-percent requirement, State or local funds used to provide supplemental educational services to eligible students.

However, it could cause supplanting if the LEA were to use Title I funds to replace State or local funds it had spent previously to provide services to eligible Title I students. In addition, an LEA may not exclude eligible Title I students from the services it is providing with State or local funds merely because those students are eligible for supplemental educational services under section 1116.