

No Child Left Behind Act of 2001

Colorado Consolidated Federal Grants

Reference Manual

Covered Programs

The FY 2009 *NCLB* Consolidated Federal Programs Grant includes the following programs:

- Title I, Part A: Improving Basic Programs Operated by Local Education Agencies
- Title I, Part D: Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk
- Title II, Part A: Teacher and Principal Training and Recruiting Fund
- Title II, Part D: Enhancing Education Through Technology
- Title III, Part A: Language Instruction for Limited English Proficient and Immigrant Students
- Title IV, Part A: Safe and Drug-Free Schools and Communities Act
- Title V, Part A: Innovative Programs
- Title VI Part A, Subpart 2, Transferability
- Title VI, Part B: Subpart 1: Small, Rural Schools – Alternate Use
- Title VI, Part B: Subpart 2: Rural and Low-Income School Program



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Table of Contents

Section I: Introduction

Introduction	1
NCLB Overview	1
Acronyms/Abbreviations	3

Section II: Consolidated Application Process

Overview	4
Timelines	4
Laying the Foundation	4
Needs Assessment	5
Schools in Need of Improvement	6
NCLB Plan Development	6
Professional Development	7
Parental Involvement	7
Board Approval	7
Equitable Access	7
Coordination Requirements	7
Collaboration	8
Nonpublic School Collaboration	8
Application Submission	9
Late Submission	9
Amendments	9
Carry-Over Requirements	10
Set Asides	10
Application Review and Approval Process	11
Allocation Refusal	12
Approvals, Disapprovals, and Procedures for Appeal	12
Maintenance of Records	12

Section III: Federal and State Regulations and Priorities

Federal Statutes and Regulations	13
NCLB Complaint Process	13
Monitoring	13
Scientifically Based Research Programs	14
Parental Notification	14
Highly Qualified Instructors	16
Funding Sources for Instructional Staff Training	16

Section IV: Fiscal Regulations and Responsibilities

Accounting Procedures	18
Commingling Funds	18
Cash Management for Grants in Excess of \$50,000	19
Period of Obligation	19
Pre-Award Costs	20
Maintenance of Effort	21
Supplement, Not Supplant	21

Allowable Costs	22
Capital Expenses	23
Unallowable Costs	23
Administrative Costs	24
Third-Party Contractors	25
Equipment	25
Indirect Costs	26
Transferability of Funds	27
Small, Rural School Achievement – Alternate Uses of Funds Authority	28
Nonpublic Schools	28
Public Control of Funds and Property	28
Financial Accountability/OMB A-133 Compliance Supplement	29
Cost Principles – Circular A-87	29

Section V: Nonpublic Schools

Introduction	30
Consultation	30
Title I Requirements for Services for Children in Nonpublic Schools	32
Determining Title I Funding for Nonpublic Schools	33
Methods to Collect Poverty Data on Children in Nonpublic Schools	34
Third-Party Contractors	34
Title II, Part A	34
Title III, Part A	35
Title IV, Part A	35
Title V, Part A	35
Transferability of Funds	36
Public Control of Funds and Property	36
Complaint Process	36

Section VI: Title I, Part A

Key Elements	37
Distribution of Funds to LEAs	37
Determining the Title I Eligibility of School Attendance Areas	38
Poverty Criteria	38
Methods for Qualifying Attendance Area	39
Determining Per Pupil Expenditure and Adjusted Per-Pupil – Expenditures for LEAs with Less than 35% Poverty	39
Eligible Schools	40
Attendance Area Allocation	40
Reserve Funds	41
Parental Involvement	42
Parental Notification	42
Highly Qualified Teachers and Paraprofessionals	43
Funding Sources for Instructional Staff Training	43
Paraprofessionals	44
Professional Development	45
District Program/Activity Plan Development	45
Needs Assessment	46
Program/Activity Plan Elements	46

Title I Schools in Need of Improvement	47
Schools in Need of Improvement Required Components	48
Public School Choice	51
Supplemental Educational Services	54
Corrective Action	55
Planning for Restructuring	55
Restructuring	56
LEAs in Need of Improvement	56
Supplement, Not Supplant	57
Salaries	58
Allowable Costs	58
Authorized Activities for Schools in Need of Improvement	60
Schoolwide Programs	60
Targeted Assistance Schools	62

Section VII: Title II, Part A

Key Elements	64
Allowable Activities	64
Distribution of Funds	64
Sanctions	65
Nonpublic Schools	65
Program Plan Development	66
Professional Development	67
Parental Involvement	67

Section VIII: Title II, Part D

Key Elements	68
State Waivers	68
Data Collection	68
Internet Safety	68
Services for Children in Nonpublic Schools	69
Professional Development	69
Allowable Costs	69

Section IX: Title III, Part A

Key Elements	70
Allowable Costs	70
Distribution of Funds to LEAs	70
Immigrant Funds	71
Program Plan Development	72
Title III Improvement Plans	72
Data Collection	72
Waiver Process	73
Nonpublic Schools	73
Parental Notification Requirement	73
Collaboration	74

Section X: Title IV, Part A	
Purpose	75
Principles of Effectiveness	75
Waiver – Scientifically-based Researched Programs	76
Scientifically-based Research	76
Use of Funds	76
Authorized Activities	77
Limitations (Spending Caps)	79
Annual Performance Report	79
General Provisions	79
Definitions	80

Section XI: Title V, Part A	
Key Elements	82
Data Collection	82
Allowable Costs	82
Unallowable Costs	83
Nonpublic Schools	83
Public Control of Funds and Property	84
Program Plan Development	84

Section XII: Title VI, Part B	
Flexibility Provision – Transferability	85
Rural, Low-Income School Program (Title VI, Part B, Subpart 2)	85
Alternative Uses Provision (Title VI, Part B, Subpart 1)	86
Additional Funds Allocated from U.S. Department of Education	87

Section XIII: Title IX	
General Provisions	88
Constitutionally Protected School Prayer	88
Equal Access to Public School Facilities	88
General Prohibition of Use of Funds	88
Armed Forces Recruiter Access	88
Unsafe School choice Option	89

Section I: Introduction

Introduction

This document contains guidelines that describe policies and establish procedures for the use of funds awarded under the *No Child Left Behind Act of 2001 (NCLB)*. Governing requirements for these awards and further background information on *NCLB* are also included in this Reference Manual.

The Colorado Department of Education (CDE), which administers funds under *NCLB*, continues to offer the consolidated grant application process to Local Education Agencies (LEAs), which apply for funding allocations covered by the *NCLB* Consolidated Federal Programs plan. Section II of this manual includes information on the application content and process. The *NCLB* application and reference manual are available on the CDE web site at <http://www.cde.state.co.us/FedPrograms/consapp/index.asp>

NCLB Overview

Purpose

The *No Child Left Behind Act of 2001 (NCLB)*, a reauthorization of the *Elementary and Secondary Education Act (ESEA)/Improving America's Schools Act (IASA)*, was signed by President Bush on January 8, 2002. *NCLB* continues many of the goals set forth in *IASA* and incorporates additional principles and strategies for strengthening the pre-K-12 academic environment. The measures included in *NCLB* require the following: 1) increased accountability for all responsible authorities—states, school districts, and schools; 2) greater school choice for parents whose children are attending low-performing schools; 3) more flexibility for states and LEAs in their use of federal education funds; and 4) a focus of resources on proven educational methods, particularly relating to early reading programs.

These new principles and strategies, as outlined below, are designed to produce fundamental reforms in classrooms throughout the United States. The act provides officials and educators at the school, school district, and state levels substantial flexibility to plan and implement school programs that will help close the achievement gap between disadvantaged students and their peers. At the same time, *NCLB* holds school officials accountable to parents, students, and the public for achieving results. These and other major changes to the *ESEA* redefine the federal role in pre-K-12 education to better focus on improving the academic performance of all students. The full text of this law may be found at <https://www.ed.gov/policy/elsec/leg/edpicks.jhtml?src=ln>

NCLB recognizes that all children can achieve to the same high standards when taught by highly qualified teachers using proven methods in an appropriate learning environment. All students must be given the educational opportunity to reach those standards. Successful student academic performance is built on the following four (4) *NCLB* pillars of reform:

- 1 **Accountability:** Schools are held accountable for their progress in performance and achievement for all students and subgroups of students. Districts and schools must set clear, high standards, regularly assess children on their performance, and communicate the results to the public.
- 2 **Choice:** Schools must provide a learning environment that is safe and drug-free, and conducive to learning, and parents have the option, when this environment is not present, to move their child to another school within the district or seek supplemental educational services.
- 3 **Flexibility:** Communities have more options to determine how to best serve their students.
- 4 **Methodology:** Instruction must be provided to all students that, based on the findings of established research, will lead to gains in achievement and ensure that no child is left behind.

The four (4) pillars guide the requirements for the *NCLB* application and data reporting. The *NCLB* application integrates these principles using the five (5) *ESEA* performance goals and performance indicators listed below.

The following are a brief description of each of the Title programs included in the Colorado's Consolidated Federal Programs application

Title I, Part A supports the programs and resources for disadvantaged students to meet this intent. It requires states and LEAs to close the achievement gap by placing a highly qualified teacher in every classroom, improve the qualifications of paraprofessionals who work with disadvantaged students, and use instructional practices that have proven to be effective.

Title II, Part A provides the resources for improving teacher and principal quality and increasing the number of highly qualified teachers and principals in classrooms and schools, thereby raising student achievement in the academic subjects. It focuses on preparing, training, and recruiting high-quality teachers and principals and requires states to develop plans with annual measurable objectives that will ensure all teachers teaching in core academic subjects are highly qualified by the end of the 2006-2007 school year.

Title II, Part D facilitates comprehensive and integrated educational technology strategies that target the specific needs of individual schools. It improves student academic achievement through the use of technology in elementary and secondary schools, while addressing the digital divide so that every student is technologically literate by the end of eighth grade. Effective integration of technology resources and systems with teacher training and curriculum development are encouraged in order to identify and showcase best practices in educational technology.

Title III, Part A focuses on the teaching of English to limited English proficient (LEP) children, including immigrant children and youth.

Title IV, Part A provides resources for fostering a safe and drug-free learning environment that supports academic achievement.

Title V, Part A provides a flexible source of funding to assist LEAs in the development and implementation of various innovative reform initiatives.

Title VI, Part B addresses the unique needs of rural school districts.

Title IX covers the general provisions applicable to some/all of the programs including the equitable participation of nonpublic school students and teachers in *NCLB* programs.

Acronyms/Abbreviations

AMAO	Annual Measurable Achievement Objectives
ARAC	Acceptance, Relinquishments, Assignments and Certifications Form
AYP	Adequate Yearly Progress
CDE	Colorado Department of Education
CSAP	Colorado Student Assessment Program
EDGAR	Education Department General Administrative Regulations
ESEA	Elementary and Secondary Education Act
HQT	Highly Qualified Teacher
IASA	Improving America's Schools Act
LEA	Local Educational Agency
NCLB	No Child Left Behind Act of 2001
SEA	State Educational Agency
SES	Supplemental Educational Services
SW	Schoolwide Program
TA	Targeted Assistance Program
USDE	United States Department of Education

Section II: Consolidated Application Process

Overview

Eligible LEAs must submit applications for funds under *NCLB* that describe the performance targets and program activities. The process is defined by requirements set forth in federal regulations presented in Section III of the manual. Guidance is provided here on the process for requesting, controlling, and reporting the applicable program activities, funds, and data collection. Although this manual does not include all the regulatory requirements to which the subgrantees must adhere, applicants must comply with all provisions of the regulations for each individual program included in *NCLB*. Under the supervision of the CDE, the provisions of this manual apply to all LEAs that participate and receive funding. Although every effort has been made to present the information accurately, we recommend accessing the complete text of the Act, located on the U.S. Department of Education (USDE) *NCLB* page (www.ed.gov).

Timelines

The FY 2009 *NCLB* application is due to CDE on June 30, 2008. LEAs can access the online system at <http://www.cde.state.co.us/FedPrograms/consapp/index.asp>. The FY 2009 *NCLB* grant encompasses the project period from **July 1, 2008 to June 30, 2009**.

FY 2009 Distribution of Allocation Notices	Mid-April 2008
FY 2009 <i>Submit ARAC Form</i> (needed in order to access application)	Mid-April 2008
FY 2009 Consolidation Application Extension Request	June 1, 2008
FY 2009 <i>NCLB</i> Applications due	June 30, 2008
FY 2009 <i>NCLB</i> Amendment Applications (final date accepted)	

Note: Applications that are submitted late and are received after **August 1, 2008** will not be considered for FY 2009 funding.

Laying the Foundation

Prior to completing the *NCLB* application, all LEAs must complete a comprehensive needs assessment for the LEA as a whole and for its individual schools annually. This assessment lays the foundation for the LEA's program plan. The program plan must address the areas of academic and other deficiencies to help all students attain the state's proficiency standards and achieve the performance measures under each program area. The program plans are based on the LEAs/school(s)' needs assessments. The plan includes performance indicators, research-based activities, and a plan to evaluate the progress toward meeting the program plan's goals.

LEAs are required to assess their needs annually and refine, improve, strengthen, discontinue or replace programs and strategies. During the FY 2009 *NCLB* application process, LEAs/schools are required to report on the actual achievement of the performance targets identified in the FY 2008 *NCLB* application. The following is a list of steps to consider during the planning process:

- Identify participants and convene the LEA application development committee;
- Assess the accomplishments relative to the measurable objectives established in the prior year's *NCLB* application;

- Assemble data and related information to conduct the LEAs/school(s)' needs assessments;
- Conduct the needs assessment, which includes a thorough analysis of the objective data and other information to identify priority problems;
- Identify the professional development needs of staff;
- Consult with nonpublic school representatives;
- Set LEAs/school(s)' performance targets, focusing on student achievements that are measurable;
- Utilize the Title IV principles of effectiveness;
- Identify research-based strategies and activities that can be utilized to address the LEAs/school(s)' priority problems;
- Ensure compliance with the requirements of the covered programs; and
- Prepare the *NCLB* application and budget.

Needs Assessment

As stage one of the planning process, LEAs are required to begin with a comprehensive needs assessment. It should include a thorough review of school-level improvement plans and an assessment of students' progress in meeting academic achievement and behavior performance standards, a review of district and school progress in closing the achievement gap, and the determination of district progress in ensuring that all teachers are highly qualified. This includes professional development, technical assistance and hiring needs as they apply to the district's plans. Professional development needs should identify barriers that hinder teachers from being able to teach the standards, retaining the teachers in the district and ensuring that all teachers meet the Highly Qualified definition. LEAs should assess the level of teacher and parental involvement and identify areas for increased opportunities.

Once district and school needs have been identified and prioritized, grant resources should be targeted, as appropriate, to meet these needs and priorities.

For Title II-D, LEAs should conduct a needs assessment by identifying the Education Technology Information Literacy (ET-IL) program needs within the larger context of organizational needs and goals. It is recommended to evaluate the progress of the previous ET-IL plan. There are many forms of needs assessments and districts should choose a method that meets local needs, be it a survey process involving students and staff or a more formalized process.

For Title IV, LEAs identify the needs of its schools and students and must target services and activities to schools and students with the greatest need. The needs assessment must include nonpublic school students and teachers served through the funding sources included in this application. Each LEA participating in a consortium should conduct an assessment of its needs, the results of which are incorporated into the planning process of the consortium applicant.

As a part of the planning process, LEAs coordinate federal, state, and local programs, funds, and services with the goal of improving instruction and student achievement and supporting educational reform. The *NCLB* program activity plans should be developed/updated annually based on annual needs assessments and to determine the effectiveness of the implemented activities under each program and should have measurable two-year targets. Evaluations must

provide data to guide in the updates for performance targets, activities, etc. New grant funds should target the needs identified in the district's NCLB needs assessment and/or school improvement plan(s), and be budgeted for applicable activities, based on the reevaluation process.

Schools in Need of Improvement

A comprehensive assessment of the schools that have been classified as in need of NCLB Improvement must be conducted. Following this assessment, which includes a thorough data analysis and needs assessment, the school must develop an NCLB Improvement plan. A school may also include the requirements of this plan into an existing plan.

http://www.cde.state.co.us/FedPrograms/NCLB/tia_sipsw.asp

The results of the needs assessment must be provided to school staff and parents, as well as the data analysis process used, how the results were determined, and how staff can continue the process of data analysis as they continue the school improvement process.

The analysis should answer the following questions:

- 1) What contributes to the disparity in the belief of staff, administrators, and support staff that all children can achieve the state standards and actual student performance?
- 2) What needs to be changed for the teaching approach to be cohesive, focused, and linked to school improvement strategies and student attainment of the state standards? Are current strategies based on scientific research? What scientifically based strategies will match the school's identified needs?
- 3) What needs to be included for professional development to be linked to improving student's learning and attainment of the standards?
- 4) What needs to occur for the parents and the community to work together to assist in improving student outcomes that are in line with the improvement objectives?

To answer these questions, three years of data (both qualitative and quantitative) should be reviewed and may include the following:

- State and local assessment results
- A review of curriculum alignment
- Classroom observations
- Parent, and, where appropriate, student surveys and interviews
- School demographics by gender, race, language groups, and special education;
- Other descriptive data
- Enrollment, attendance and graduation rates, school climate, and dropout data
- Reports on incidents of violence and vandalism, drug and alcohol use, and other risk behaviors. The disaggregation of data by grade, race, and socio-economic background, disabled, and LEP should address patterns and areas in need of improvement that will be addressed in a plan with clear goals and benchmarks for improvement

NCLB Plan Development

NCLB plans are required for each NCLB title. These plans for *NCLB* are a logical subset of the LEA's overall district and/or school(s) plan. Specifically, the *NCLB* aspects of the plan must

cover the areas outlined below. For Title I schools operating approved schoolwide programs (SW), schools newly applying for schoolwide status, Schools on Improvement, and/or Districts on Program Improvement or Corrective action, these activities reflect the Consolidated Federal Programs application. For Title I schools operating targeted assistance programs (TA), the application must include the multiple, objective criteria to be used for identifying eligible students. For the requirements of each Title read the appropriate section of each Title.

Professional Development

Professional development activities are allowable expenses for many programs, and required elements for some. For the requirements of each Title read the Title I, Part A, Title II, Part A, Title II, Part D and Title III, Part A sections.

Parental Involvement

All parental involvement activities must be supported in the comprehensive needs assessment and selected as a priority to be addressed using federal funds. The parental activities must be listed in the program plan with baseline data and annual performance targets identified in the context of student achievement outcomes. Funded programs and activities must be scientifically based. For the requirements of each Title read the Title I, Part A, Title II, Part A, Title III, Part A, and Title IV, Part A sections.

Board Approval

Prior to submitting the NCLB application to the CDE, the LEA must obtain approval from their Board of Education. Board approval of the application comes from an authorized signature on the form.

Equitable Access

In accordance with Section 427 of the *General Education Provisions Act (GEPA)*, each LEA must include in its application a description of the steps the LEA proposes to take to ensure equitable access to, and participation in, its federally assisted programs by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome the identified barriers to equitable participation. The statute highlights six types of barriers that can impede equitable access or participation that may be addressed: gender, race, national origin, color, disability, or age. The LEA makes the determination as to whether these or other barriers may prevent students, teachers, or others from such access to, or participation in, federally funded projects or activities. Further information may be found at <http://www.ed.gov/fund/grant/apply/appforms/gepa427.pdf>

Coordination Requirements

In accordance with *NCLB* §11112, each LEA plan submitted under the *NCLB*-covered programs must be integrated with each other and coordinated with other programs funded under *NCLB*, including other educational programs such as Title I Schoolwide Programs, Comprehensive School Reform, Even Start, Migrant Education, Homeless Education, Limited English Proficient, and Neglected and Delinquent. Coordination requirements are clearly defined under each title including the following:

Title I serves all students, including LEP students and students with disabilities, assuring that they will meet the 100 percent proficiency goal. To meet this goal, services under Title I must be coordinated with other programs.

Title II, Part A requires the coordination of professional development activities supported by this grant with professional development activities provided through other federal, state, and local programs.

Title IV requires LEAs to use Title IV, Part A funds to develop, implement, and evaluate comprehensive programs and activities in coordination with other school and community-based services and programs [§4115(b)].

Collaboration

During both the development of the *NCLB* application and the implementation of programs, annual consultation with a wide range of interested constituents is essential and required by statute. Collaboration and consultation must be ongoing throughout the entire project period.

All Titles require consultation with teachers (including vocational teachers), pupil services personnel, parents of children in schools served, administrators, officials from nonpublic schools, and other groups involved in the implementation of these programs (e.g., librarians) as may be considered appropriate by the LEA. Since the programs are being combined into a single application, LEAs may create a single advisory council or establish another method of consulting with these groups regarding the application in its entirety. The LEA must schedule annual meetings and invite all interested constituents. Additionally, the public must be afforded a reasonable opportunity to provide comment.

Title I, Part A schools in need of improvement must establish a school improvement committee of stakeholder groups to collaborate on the development of the Title I Improvement Plan.

Title II, Part A requires a description in the application of how the LEA, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of Title II, Part A-funded activities and in the preparation of the application.

Note: *A hold harmless clause identifies minimum funds required for nonpublic school professional development.*

Title V requires consultation with parents, teachers, administrative personnel, and with other groups such as librarians, school counselors, and pupil services personnel. Consultation is required during planning, design, and implementation of Title V programs.

Nonpublic School Collaboration

NCLB requires for all titles that LEAs consult with nonpublic school representatives during the design and development of the application and prior to making decisions regarding nonpublic school participation. Further, the services provided to nonpublic school children and teachers must be equitable in comparison to the services provided to public school teachers and children. Expenditures must also be equitable.

A hold harmless clause requires LEAs to allocate a minimum amount of Title II, Part A funding for nonpublic school professional development, based on FY 2002 professional development expenditures. For the requirements of each Title read the Title I, Part A, Title II, Part A, Title II, Part D, Title III, Part A, Title IV, Part A, Title V, Part A and Title VI, Part B sections.

Note: *If eligible nonpublic schools refuse funds for Title I or Title II, Part A, the LEA may use these funds.*

Application Submission

The FY 2009 *NCLB* consolidated application consists entirely of an online application and the electronic *NCLB* budget. Completed applications must be submitted no later than **June 30, 2008**.

Prior to submission of the district's online application, the LEA must submit its Acceptance, Relinquishments, Assignments and Certifications Form. At the time of submission of the CDE application, the LEA must submit evidence of meaningful consultation. This information can be faxed to Tina Tamayo at 303-866-6637 or mailed to the following address:

Tina Tamayo
Consolidated Federal Programs
1560 Broadway, Suite 1450
Denver, CO 80202

Late Submission

Districts with approved extensions must be received no later than **August 1, 2008**. Applications will **not** be considered for FY 2009 funding after this date.

Amendments

If substantive changes to the program plan or grant expenditures are anticipated after the *NCLB* application has received final approval by CDE, the LEA is required to submit an FY 2009 Post Award Revision to CDE for approval. LEA board approval is required prior to submitting the amendment application.

Criteria that require submission of an amendment application are as follows:

- Changes between Expenditure Categories (measured cumulatively throughout the fiscal year) in excess of ten percent (10%) of the total award, by title, or \$50,000 (original application budget or approved carry-over budget), whichever is less. LEAs are responsible for monitoring the cumulative ten percent level of fiscal change;
- Moving funds into a budget category for which no funds were previously budgeted or approved; and
- Changes in the scope of activities being implemented. All newly funded activities must be supported in the program plan even if funds are being used in existing budget categories.

Carry-Over Requirements

In general, carry-over funds may be reallocated to budget categories other than those specified on the original application, providing the funds are expended on approved activities in accordance with program guidelines in effect during the carry-over period. However, there are restrictions on the amount that can be carried over for certain titles.

Title I, Part A

Not more than 15 percent (15%) of a district's Title I, Part A allocation may be carried over to the next fiscal year. This percentage may be waived and a larger percent allowed once every three (3) years if the state determines the request is reasonable and necessary or supplemental appropriations become available. The fifteen percent (15%) limit applies to districts that receive \$50,000 or more in Title I, Part A funds. All funds that a district cannot carry over revert back to the state to be reallocated.

In general, districts should obligate and liquidate their Title I funds during the allocation year. If funds must be carried over, districts can reallocate some of these funds (see reserve restrictions below) to other expenditure categories. The reallocation should be based on the comprehensive needs assessment for the subsequent year.

For nonpublic services the LEA must consult with the nonpublic schools and exhaust all possibilities for using the funds during the current school year. If unexpended funds are carried over to the subsequent year, the LEA has discretion as to the way in which Carry-Over funds are spent, including, but not limited to, the following:

- Add Carry-Over funds to the LEA's subsequent year's allocation and distribute the monies to participating areas and schools in accordance with allocation procedures that ensure equitable participation of nonpublic school students.
- Designate Carry-Over funds for particular activities that could best benefit from additional funding, such as parental involvement activities or schools with the highest concentrations of poverty.

Title IV, Part A

Not more than twenty-five percent (25%) of the Title IV funds allocated to the LEA for FY 2008 may remain available for obligation in FY 2009, unless the CDE approves, in advance, a request in accordance with *NCLB* §4114.

Set Asides

Reserved Title I funds are also subject to the fifteen percent (15%) cap for Carry-Over. The way in which carried over reserves are treated depends on the statutory provisions.

- **School Choice/SES:** Provided that the district has met all demand from parents and students for choice-related transportation and supplemental educational services, any unused portion of Title I funds reserved for this purpose may be reallocated to other purposes either during the year in which the reservation was made (by filing an amendment) or, subject to the fifteen percent (15%) limit, in the following year.

- **Highly Qualified:** Districts may also carry over funds not expended under the five percent (5%) LEA professional development set aside for ensuring teachers meet the definition of Highly Qualified. This reserve, which is intended to help teachers and paraprofessionals meet the highly qualified requirements, may not be fully expended if all teachers and paraprofessionals have met the criteria for highly qualified. When this is the case, the LEA may use the remainder of the reserve for other professional development activities during the project period (subject to amendment approval, if applicable) or carry it over for other Title I services.

Set Aside Restrictions

Certain reserves are dedicated and may only be used for their intended purpose. If the total dedicated reserves are not used during the project period, they must be carried over in the same reserve categories, up to the required amounts. Flexibility may *not* be exercised for the following reserves:

- **Program Improvement Professional Development:** The Program Improvement set aside for ten percent (10%) of the district's Title I, Part A allocation for professional development must be used for its intended purpose. It may not be diverted for other purposes, even in the Carry-Over year. Any Carry-Over amount is in addition to the subsequent grant's requirement for a ten percent (10%) reserve if the district remains in improvement status.
- **School Improvement Professional Development:** A school in need of improvement is required to set aside ten percent (10%) of the school's allocation for professional development at the school level. This reserve must be used for its intended purpose. If any of the reserve is carried over to the next project period, it would be in addition to the subsequent year's reservation for professional development if the school continues to receive Title I, Part A and is still in improvement status.
- **Parental Involvement:** The one percent (1%) parental involvement reserve must also retain its original intent if the district does not meet its spending target and carries some of this funding over to the next project period. This would be in addition to the subsequent year's reservation for parental involvement.

Application Review and Approval Process

There are many steps in the review and approval process for federal grants. The CDE must ensure compliance with the federal guidelines for *NCLB* and other related federal and state regulations as described in Section III of this manual. The various steps, listed below in chronological order will help to clarify the CDE review and approval process.

- 1) The Acceptance, Relinquishments, Assignments and Certifications (ARAC) Form is submitted to CDE (see p. 9). The form is used to pre-populate the online application. Thus the district/BOCES cannot begin completing the application before the ARAC form is submitted.
- 2) When submitting the ARAC form, the LEA must submit evidence of meaningful consultation opportunities for charter and private schools (see p. 9).
- 3) The FY 2009 NCLB application is submitted by the LEA to the CDE by June 30, 2008.
 - The FY2009 NCLB Consolidated Application is submitted through the online system.
 - Email FY2009 Electronic Budget to electronic_budget@cde.state.co.us by June 30, 2008.

- 4) Substantial approval (permitting an LEA to encumber funds) is given to applications when the following considerations have been met:
 - Services and activities described are authorized and supported using program funds;
 - Expenditures support the programs described;
 - The budget complies with all constraints and all costs are allowable; and
 - The application is complete, including signatures, assurances, certifications and nonpublic school participation.
- 5) If revisions are needed, the LEA is notified electronically that revisions are requested. The LEA must submit the revisions or a response within thirty (30) working days. If the LEA does not respond by the deadline, a certified letter may be sent to the LEA advising that the application funds are in jeopardy and the application may be disapproved. If revisions are not received or the LEA does not respond within the next fifteen (15) working days, the LEA may receive a certified letter advising that the application is deemed disapproved.
- 6) Final approval indicates that the LEA's application has been accepted and that funds may be released.
- 7) The LEA is notified by an e-mail from the online system for substantial approval. The district is notified of final approval through a signed letter.

Allocation Refusal

The LEA or nonpublic school may choose not to apply for its allocation under one or more of the programs by completing the ARAC form.

Approvals, Disapprovals, and Procedures for Appeal

The CDE approves applications that meet the statutory requirements. The CDE may disapprove requests failing to meet any statutory requirements, but in all such cases, CDE will give reasonable written notice to the applicant and provide an opportunity for an appeal to the applicant before disapproving a request for funds.

Maintenance of Records

The applicant LEA is responsible for the use of all funds awarded and for the maintenance of project records for three (3) years following the completion of the activity for which the funds were used [*GEPA* §434 and *EDGAR* §80.42(b)]. In addition, the applicant is responsible for submitting, in a timely manner, all amendments and reports required by the CDE.

Section III: Federal and State Regulations and Priorities

The parameters within this NCLB reference manual were established under the authority of the laws and regulations cited in this section.

Federal Statutes and Regulations

- Elementary and Secondary Education Act of 1965, as reauthorized by the No Child Left Behind Act of 2001, Public Law 107-110
- Education Department General Administrative Regulations –November 2003 (EDGAR)-34 CFR Parts 76, 77, 79, 80, 81, 82, 85, 86, 97, 98, 99
- www.ed.gov/policy/fund/reg/edgarReg/edgar.html
- Department of Defense Appropriations Act, Stevens Amendment (§8136 of Public Law 100-463)
- General Education Provisions Act (GEPA)
- OMB A-133 Compliance Supplement
- OMB A-87 Cost Principles for State, Local and Indian Tribal Governments (Updated 5/10/2004)

NCLB Complaint Process

Any individual or organization may file a written complaint or electronic complaint that: (1) a school, school district, other agency authorized by a school district or the Colorado Department of Education (CDE), and/or (2) The CDE violated the administration of education programs required by the *Elementary and Secondary Education Act (ESEA)* as amended by the *No Child Left Behind Act of 2001 (NCLB)*.

Pursuant to *NCLB*, a State Educational Agency (SEA) shall adopt written procedures that offer parents, public agencies, other individuals or organizations a method for receipt and resolution of complaints alleging violations in the administration of the *NCLB* grant programs. Detailed information regarding the Colorado Department of Education *NCLB* Complaint Policy and Procedures is available through the following CDE Web site at:
<http://www.cde.state.co.us/FedPrograms/NCLB/fdcomplaint.asp>

Monitoring

Monitoring is an ongoing assessment of the LEA's status of compliance with federal and state requirements. Several methods are used to review the LEA's compliance with requirements directing the use of federal funds. The CDE staff reviews applications for compliance with regulatory requirements. Final reports are reviewed to determine completion of expenditures consistent with the approved application. Additionally, district audit reports are reviewed and areas of noncompliance are identified for correction.

More detail on the monitoring and audit process is available at
<http://www.cde.state.co.us/FedPrograms/nclb/monitoring.asp>

Scientifically Based Research Programs

All NCLB Titles in the consolidated application require the use of scientifically based programs. Title II, Part D requires that programs be based on “relevant research.” Any program implemented with *NCLB* funds must be shown to achieve success. LEAs must demonstrate results with students achieving performance targets. The term scientifically based research means research that involves the application of rigorous, systematic, objective procedures to obtain reliable and valid knowledge relevant to education activities and programs with the object of improving student academic achievement. This type of research is represented by criteria which:

- Employ systematic, empirical methods that draw on observation or experimentation;
- Involve rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
- Rely on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
- Are evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
- Ensure that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
- Have been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparable rigorous, objective, and scientific review.

Parental Notification

There are certain requirements in NCLB for notifying parents of the status of the Title I schools their children attend.

Schools in Need of Improvement:

LEAs must notify parents of all students enrolled in a Title I school identified for school improvement, corrective action, and/or restructuring. The notification must be in an understandable and uniform format and, to the extent practicable, in a language or other mode of communication the parents can understand. The notification must include the following:

- Explanation of what the identification means and how academic achievement in the school compares to other schools served by the LEA;
- Reasons for the identification;
- Explanation of what the identified school is doing to address the problem of low academic achievement;
- Explanation of what the LEA is doing to help the school address the low academic achievement;

- Explanation of how parents can become involved in addressing the academic issues that caused the identification of the school; and
- Explanation of the choice option or the availability of supplemental education services.

Please refer to the sample letters found at:

http://www.cde.state.co.us/FedPrograms/improvement/schimp_res.asp

Public School Choice:

Parents must be notified prior to the start of a school year if the Title I school their child attends is classified as in need of improvement. The parents must be informed of their right to request that their child be transferred to a high performing school within the LEA. Please refer to the sample letters found at:

http://www.cde.state.co.us/FedPrograms/improvement/tia_psc.asp

Supplemental Educational Services:

Required in the second year of improvement status, SES must be offered to eligible children if school choice is not an option. Parents have the right to select the provider from the list of state approved providers. Please refer to the sample letters found at:

<http://www.cde.state.co.us/FedPrograms/improvement/SuppServices.asp>

Dangerous Schools:

Parents must be notified if their child attends a school designated as “persistently dangerous” or if their child is a victim of a violent criminal offense (as determined by state law) while on school grounds, that they can request their child attend a safe public school within the district.

Instructor Qualifications:

Under Title I, parents must be notified at the start of each school year of their right to request information about the professional qualifications of their children’s teachers. Information the LEA must provide includes: 1) the certification and/or licensing status of the teacher; 2) degrees held by the teacher; 3) emergency or provisional status of the teacher, if applicable; and 4) qualifications of any paraprofessionals serving the child. Parents must also be notified if a teacher who is not “highly qualified” is instructing their child for four or more weeks.

Limited English Proficient:

Parents must be notified within 30 days of the start of the school year that their child has been identified as limited English proficient and in need of instructional services. Notification must be in a language that parents will understand (more detail is provided in Section X under “Parental Notification Requirement”).

In addition, parents of English Language Learners that participate in Title III programs must also be notified if the School District, Consortium, or BOCES failed to meet AMAOs. This notification must occur not later than 30 days of public notice.

Highly Qualified Teacher

In accordance with Sec. 1119 of *NCLB*, Colorado defines “Highly Qualified” Teachers as teachers that hold at least a Bachelor’s degree, are fully licensed (except for general education teachers in charter schools that have been waived from licensing by the State Board of Education), and are able to demonstrate subject matter competency in all core academic areas in which they are assigned.

Subject Matter Competency Elementary (Grades K-6)

Subject matter competency must be shown through at least one of the following:

- Passing a Colorado elementary content test (e.g., PLACE, PRAXIS II),
- Passing an approved elementary content test in another state,
- Earning National Board Certification in elementary, or
- Passing the elementary HOUSSE provision for veteran teachers (if eligible).

Subject Matter Competency Secondary (Grades 6-12)

Subject matter competency must be shown through at least one of the following:

- Earning an endorsement in assigned field,
- Holding a degree in assigned field,
- Passing a Colorado content test in assigned field (e.g., PLACE, PRAXIS II),
- Earning 24-semester hours in assigned field,
- Earning National Board Certification in assigned field, or
- Passing a secondary multi-subject HOUSSE provision (if eligible).

Colorado HOUSSE Provisions

HOUSSE stands for High Objective Uniform State Standard of Evaluation. *NCLB* requires teachers to be Highly Qualified by possessing a teaching license and demonstrating subject matter competency in the core academic areas in which he or she teaches. States have been allowed to create High Objective Uniform State Standards of Evaluation (HOUSSE) as an alternative way to demonstrate subject matter competency for certain categories of teachers. Currently, Colorado has created (1) an Elementary HOUSSE for Veteran Teachers, (2) a Secondary HOUSSE for Multi- Subject Special Education Teachers, and (3) a Secondary HOUSSE for Multi-Subject Rural Teachers. Additional information on Colorado HOUSSE Provisions is available at http://www.cde.state.co.us/FedPrograms/NCLB/tiia_genres.asp.

Funding Sources for Instructional Staff Training

There are several options available for funding teacher and paraprofessional training:

- As required by Title I, Part A, LEAs must use a minimum of five percent (5%) of their Title I allocation for professional development activities to ensure teachers and paraprofessionals meet the qualification requirements;
- General Title I, Part A funds may be used to support ongoing training for teachers and paraprofessionals;
- Additional Title I, Part A funds must be reserved for professional development activities for schools designated as in need of improvement;
- Title II, Part A funds may be used to provide professional development to improve teachers’ and paraprofessionals’ knowledge and instructional skills in the core academic subjects that they teach;

- Title II, Part D may be used for Internet Safety training;
- Title III, Part A funds may be used for professional development of teachers and other instructional personnel that is designed to enhance the instruction of LEP students;
- Title IV, Part A funds may be used for professional development and training in alcohol, tobacco, and other drug use and violence prevention, education, early identification and intervention;
- Title V, Part A funds may be used for training instructional personnel; and
- Title VI, Part B funds may be used for teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers.

Section IV: Fiscal Regulations and Responsibilities

Accounting Procedures

CRS 22-44-105(4) called for the creation of a new chart of accounts. In response, all Colorado school districts, including charter schools and Boards of Cooperative Educational Services (BOCES) must use the Chart of Accounts for financial accounting beginning July 1, 1997. This “Red Book” is updated annually by CDE.

The budget pages in the *NCLB* application and reporting forms reflect the coding of accounts consistent with those in Generally Accepted Accounting Principles (GAAP). The handbook describes the coding of accounts in Colorado school financial operations. The coding system, with its multidimensional structure, creates a common language of use in recording, reporting, and controlling the financial activities of school districts.

The application’s “Budget Summary” aggregates amounts for each expenditure category in the project budget. The “Budget Detail” pages delineate and clarify budgets for the purpose of reviewing and monitoring the projects’ activities. Budgets must be completed in conjunction with the LEA’s business office to ensure consistent categorizing of expenditures.

Commingling Funds

LEAs may not commingle *NCLB* funds with other federal, state, or local funds and no commingling of funds is permitted among titles included in the *NCLB* Application. The basic requirement is to maintain the fiscal identity of each title award. This requirement is satisfied by the use of separate accounts that include an “audit trail” of the expenditures for each project awarded.

There is one exception to commingling

Program funds may be combined in an approved schoolwide program under *NCLB* §1114. A schoolwide program school may combine funds and resources from other federal, state and local education programs (except Reading First) in addition to its Title I, Part A funds to upgrade the entire educational program in the school. Schoolwide programs are optional and intended to provide flexibility for serving students in eligible school buildings by combining certain federal, state, and local revenues. Schoolwide program schools have great latitude in determining how to spend their Title I, Part A funds, and such flexibility is tied to increased academic achievement of all children, not just individual, targeted student groups. LEAs implementing schoolwide programs do not have to conform to the specific statutory and regulatory requirements of the programs combined, as long as the school can demonstrate that its schoolwide program meets the intent and purposes of included programs (as well as certain requirements relating to critical areas such as civil rights, health and safety, maintenance of effort and supplement/not supplant).

Funds combined in a schoolwide program lose their specific program identify and may be used for any costs of the approved schoolwide program. LEAs are not required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds. LEAs must only be able to show the amount of funds from each federal, state, and local education program allocated to a schoolwide program and maintain records

demonstrating that the schoolwide program, as a whole, addresses the intent and purposes of each of the federal education programs included. LEAs must also be able to demonstrate that the federal funds were expended pursuant to the schoolwide program to satisfy federal reporting requirements and cash management and availability of funds requirements.

LEAs may use any reasonable method to demonstrate how the funds in a school program have been expended.

Such methods may include combining funds into one revenue account (revenue source code 92 has been provided to LEAs for recording of schoolwide programs under this approach) and then distributing expenditures at year end from the schoolwide program based on the percentage of revenues originally allocated to the schoolwide program. Another method may include coding/charging each schoolwide salary and benefits in the same proportions as budgeted revenues within the schoolwide program and similarly allocating non-salary costs to each combined fund source proportionally across these fund sources. A third method could charge the titles sequentially by charging all salary and non-salary schoolwide costs 100 percent to Title 1, Part A until those funds are spent in their entirety and then use the same method sequentially for each of the other combined fund sources during the remainder of the fiscal year. If local and state funds were combined in the sequential approach, they should be charged first.

Refer to the February 2008 Non-Regulatory Guidance at www.ed.gov/programs/titleiparta/fiscalguid.doc for the most recent federal guidance on schoolwide programs and satisfying the intent and purposes of the programs incorporated. Refer to OMB Circular A-87 on the specific requirements for submitting time sheets for schoolwide program employees.

Cash Management for Grants in Excess of \$50,000

Pursuant to *EDGAR 34 CFR*, Part 80.20 (b) (7) Cash Management, the CDE is required to monitor grantees' cash on hand each fiscal year. The CDE has established procedures to ensure the receipt of reports of cash balances and cash disbursement in order to prepare and complete accurate cash transactions to the USDE.

Period of Obligation

In accordance with *EDGAR*, 34 CFR Part 76.708 & 80.23, LEAs may begin to obligate funds on the later of the following dates:

- The beginning of the project period (July 1, 2008) or
- The date that the application is received by the CDE in "substantially approvable form."

LEAs must begin to operate their programs at the beginning of the project period subject to the above conditions. Upon receipt of the grant approval and funding, and if funds have already been expended, the LEA makes the appropriate charge-backs. Reimbursement for obligations is subject to final approval of the application. If the LEA expends funds on unallowable costs prior to application approval, the LEA is responsible for covering those costs from other funds. The CDE may, on occasion, approve pre-award costs in accordance with federal cost principles.

The project period for the FY 2009 Consolidated Federal Programs Application is July 1, 2008, to June 30, 2009. All funds must be obligated by August 31, 2009, and liquidated by November 30, 2009. To carry over funds, additional pages of the Final Report must be completed and submitted for approval by the CDE. Carry-Over funds not obligated by the LEA at the end of the project period for which funds were allocated or approved for carry over by the CDE must be returned to the CDE with the final report.

Pre-Award Costs

Pre-award costs are those incurred prior to the effective date of the federal subgrant award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to fulfill the required service to comply with the proposed delivery schedule or period of performance. These costs may not be incurred prior to July 1 and are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the CDE. All requests to incur pre-award costs must be made in writing to the Office of Grants Management and must specify the requested costs as well as a rationale for these costs.

Purchases are deemed obligated as the following chart shows:

<i>If an obligation is for . . .</i>	<i>then the obligation is made. . .</i>
acquisition of "real or personal property"	on the date the district makes a "binding written commitment" to acquire the property
personal services by a district employee	on the date the services are performed
personal services by a contractor who is not a district employee	on the date the district makes a "binding written commitment" to obtain the services
performance of work other than personal services	on the date the district makes a "binding written commitment" to obtain the work
public utility services	on the date the district receives the services
travel	on the date the travel is taken
rental of real or personal property	on the date the district uses the property
a pre-agreement cost that was properly approved by the state under applicable cost principles	on the first day of the subgrant period

Maintenance of Effort

Maintenance of effort computations must be done annually. Each LEA may receive its full allocation if either its combined fiscal effort per pupil or aggregate expenditures of state and local funds for free public education in the preceding fiscal year (2007) were not less than ninety percent (90%) of the expenditures for the second preceding fiscal year (2006). If the LEA fails to meet the ninety percent (90%) level, the CDE must reduce the LEA's allocation by the exact percentage of each "titled program" for which the LEA failed to meet the 90 percent level.

Covered Programs Include:

- Title I, Part A
- Title I, Part B, subpart 3 (Even Start Family Literacy Program)
- Title I, Part C (Migrant Education Program)
- Title I, Part D
- Title I, Part F (Comprehensive School Reform Program)
- Title II, Part A
- Title II, Part D
- Title IV, Part A
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part A
- Title VI, Part B, subpart 2 (Rural and Low –Income School Program)

The USDE has the authority to waive this requirement for one year if the USDE determines that the waiver would be equitable because the failure to comply was caused by exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the LEA.

The ninety percent (90%) level of expenditures can include funds used for administration, instruction, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures covering deficits for food services and student activities. They cannot include expenditures for capital outlay, debt service, or expenditures made from federal funds.

Supplement, Not Supplant

For all programs, federal funds can be used only to supplement and, to the extent practical, increase the level of funds that would, in the absence of federal funds, be made available from nonfederal sources [NCLB §1120A (b); 2123(b); 3115(g); 4114(d) 4; 6232]. In no case may the LEA use federal program funds to supplant funds from nonfederal sources. Additionally, Title II, Part D includes an assurance that financial resources provided under the Ed Tech program will supplement and not supplant state and local funds. For Title V, Part A, as affirmed by the US Supreme Court, services for nonpublic school students must supplement, and, in no case supplant, the level of services that would be available to participating nonpublic school students in the absence of Title V services.

Generally, the LEA is presumed to fund state-mandated programs with local and/or state funds. The use of federal funds for these programs would be considered supplanting. In certain instances, however, the LEA may overcome this supplanting presumption. The LEA would have to demonstrate through written documentation (e.g., state or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the program or activity and that the program or activity would not be carried out in the absence of federal funds. This rule also applies to Title V, Part A. The LEA may not, however, decrease state or local funds for particular activities because federal funds are available.

The following question may help determine if funds are supplemental: *“If these funds had not been available, what would the LEA have done instead?”* Although most programs are covered by the supplement, not supplant requirements, there are additional criteria and guidance for several programs.

- Language Instruction Programs under Title I, Part A: LEAs may exclude funds used for language instruction programs and may also exclude the excess costs of providing services to children with disabilities.
- Schoolwide Programs and Targeted Assistance Schools operating Schoolwide Programs under Title I (Parts A and C): LEAs do not have to show that federal funds used in the school are being used to pay for services that would otherwise not be provided, show that these funds are being used only for targeted populations, or track federal program funds separately at the school level. The school is, however, required to use federal funds combined from Title I and other federal programs to supplement nonfederal funding sources for the school. LEAs can exclude supplemental state or local funds spent in these schools from determinations of compliance with supplement, not supplant, requirements.
- Bilingual Programs Funds: LEAs can use federal bilingual program funds to carry out a federal or state court order detailing services for limited English proficient children or for a plan approved by the Secretary of Education to comply with the *Civil Rights Act of 1964*.

The OMB Circular A-133 Compliance Supplement elaborates on instances when it is presumed that supplanting has occurred:

- If the SEA or LEA uses federal funds to provide services that the SEA or LEA was required to make available under other federal, state, or local laws;
- If the SEA or LEA uses federal funds to provide services that the SEA or LEA provided with nonfederal funds in the prior year; and
- If the SEA used Title I, Part A funds to provide services for participating children that the SEA or LEA provided with nonfederal funds for nonparticipating children.

Allowable Costs

The following list was developed to highlight allowable costs or costs that have prompted questions in the past. It is not an exhaustive list of allowable costs. Additional fundable activities are described in the individual title sections elsewhere in this document. Refer also to OMB Circular A-87, Attachment B (as modified May 10, 2005, effective June 9, 2005) for more details on costs and their treatment.

All Titles

Split-funding of salaries and equipment among grant programs is allowed if the following parameters are met:

- The portion of time allocated to each grant for funded personnel and the amount on the respective budget detail section are clearly indicated;
- Documentation is maintained that demonstrates and verifies that the activities were implemented.; and
- The portion of time and the dollars allotted to each grant are substantiated.

Refer to OMB A-87, Attachment B, Section 11(h) "Support for Salaries and Wages" for time sheet requirements.

Capital Expenses

Funds have not been specifically appropriated for capital expenses (non-instructional costs). Despite the lack of funds for capital expenses, Title I funds may be used to pay for capital expense items if these costs are reasonable and necessary. Be sure to refer to OMB Circular A-87, Attachment B (as amended May 10, 2005, effective June 9, 2005) for capitalization of certain expenses.

Unallowable Costs

All Titles

Distributing materials or operating programs that promote or encourage sexual activity; distributing legally obscene materials to minors on school grounds; providing sex education or HIV prevention education unless such instruction is age-appropriate and includes the health benefits of abstinence; or operating a program of contraceptive distribution in schools are unallowable costs.

LEAs may not turn funds over to a nonpublic school and allow the nonpublic school to oversee their use. The LEA must administer funds, retain control over the funds, and retain equipment, materials, and property that are purchased with federal funds [*NCLB* §9501(d)]. The services and personnel or agencies providing services to nonpublic school children must be under the control and supervision of the LEA. Personnel employed by or under contract with the LEA must provide services to nonpublic school children. The services must be provided independent of the nonpublic school and of any religious organization. These funds must not be commingled with nonfederal funds

Title IV, Part A

Medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, a crime, or who illegally use drugs are unallowable costs. Per *NCLB* §4115(b) (2) (E) (xiv), "Consistent with the Fourth Amendment to the Constitution of the United States, the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at

the request of or with the consent of a parent or legal guardian of the student, if the LEA elects to test or inspect” is permitted. The prohibitions set forth above are consistent with items 13 and 16 of the Title IV, Part A section of the Assurances and Certification of the *NCLB* application.

Title V, Part A

The LEA may not use Title V, Part A funds to contract with a for-profit agency, organization, or institution to operate programs or conduct programmatic activities. However, this does not preclude the LEA from contracting with an individual or a for-profit corporation or other organization to purchase specific goods or services (e.g., equipment and materials, computer hardware and software, audit services, evaluation services, professional development services) to assist in carrying out a program.

Administrative Costs

Administrative costs are permitted, with the following restrictions:

- A maximum of ten percent (10% both direct and indirect combined) of Title I -A may be used for administrative costs;
- For Titles III, III SAI, and IV the maximum is two percent (2%).

Administrative costs include expenditures for activities concerned with overall administrative responsibility for a grant program, such as the following:

- Supervising the application of funds;
- Assigning duties to staff members;
- Supervising and maintaining records pertaining to the grant program;
- Coordinating activities with other locally, federally, and state-funded activities, including the work of clerical staff in support of teaching and administrative duties;
- Full-time department chairpersons' expenditures; and
- The prorated expenditures of part-time department chairpersons.

Administrative costs may include the salaries of program directors, salaries of secretarial and clerical assistants, the pro rata share of fringe benefits for salaries included in the preceding categories, purchased professional services—excluding services for professional development activities, purchased technical services, rentals of noninstructional equipment, travel for administrative staff, administrative supplies and materials, and indirect costs. Administrative costs do not include expenditures for supervisors of instruction, in-service teacher training, or other professional development activities. Each expenditure should be evaluated individually as to its function (i.e., instructional vs. administrative), with each budgeted item clearly linked to an identifiable activity reflecting the nature of the expenditure. The cost of the activities must be supported in the program plan.

Nonpublic school funds may be used for administrative purposes, up to their equitable share, providing the nonpublic school has been consulted and is in agreement.

Note: *If an employee splits time among the “covered programs” and other local, state, or federal programs, time and activity records showing the actual time spent on each program or activity must be maintained. (See OMB Circular A-87, Attachment B, Section 11(h) (4) for time reporting requirements).*

Third-Party Contractors

LEAs are responsible for providing Title I equitable services to eligible nonpublic school students. The USDE guidance regarding nonpublic school services is available at: www.ed.gov/programs/titleiparta/psguidance.doc.

The first step of this process is consultation which includes a discussion of service delivery mechanisms the LEA will use to provide these services. This discussion includes thorough consideration and analysis of the views of the nonpublic school officials on whether the LEA should contract with a third-party provider. If the LEA disagrees with the views of the nonpublic school officials on this issue, the LEA must provide in writing to those officials the reasons why the LEA has chosen not to use a third-party contractor.

If it is determined that third-party provider services will be contracted, the LEA is responsible for contracting with the provider on behalf of the nonpublic school students. These providers must be independent of the nonpublic school and of any religious organization in the provision of those services.

During the contracting process, if a third-party provider requests, and the LEA concurs, to charge administrative fees, these costs must be specified in the bid, contract, and invoices. These administrative costs cannot be charged to the nonpublic school student's per-pupil amount that is calculated during the Title I eligibility process in EWEG. Administrative costs charged by a third-party provider must be reflected in the Title I reserve table under "Administrative Services" and included in the LEA's allowable 5 percent administrative threshold. **Note:** All reserves are taken from the LEA's total Title I allocation. The per-pupil amount is calculated after reserves are subtracted.

LEA's should retain copies of all third-party contracts, invoices, and documents in which the contractor was advised to provide services in accordance with the Title I requirements.

Equipment

All equipment purchased with Federal funds (notwithstanding the District's own capitalization policy) is required to be physically inventoried annually and the results reconciled with property records.

The CDE allows up to a \$5,000 capitalization threshold, this level must be reported with the District's independent audit.

Some federal, state, and local laws and regulations, usually in the form of funding programs, may present conflicting criteria for distinguishing between supplies and equipment. The criteria below are based on a combination of the most practical guidelines from these laws and regulations. Unless otherwise bound by federal, state, or local law, LEAs should use these criteria in their supply/equipment classification decisions.

An equipment item is any instrument, machine, furniture, apparatus, or set of articles that meets all of the following criteria:

- It retains its original shape, appearance, and character with use;
- It does not lose its identity through fabrication or incorporation into a different or more complex unit or substance;
- It is nonexpendable—that is, if the item is damaged or some of its parts are lost or worn out, it is more feasible to repair the item than to replace it with an entirely new unit;
- Under normal conditions of use, including reasonable care and maintenance, it can be expected to serve its principal purpose for at least one year; and
- The item *costs more than \$1,000*.

An item should be classified as a supply if it does not meet *all* of the equipment criteria listed above.

Title I Fiscal Responsibilities for Equipment

LEAs that purchase equipment with Title I funds must maintain a master inventory listing; including but not limited to: a description, serial number, source of property, cost, acquisition date, percentage of Federal participation, location, use and condition, and any ultimate disposal data including the date and sale price. The following are other issues to keep in mind:

- Label all equipment properly;
- Maintain inventory records for a minimum of five years after disposition of equipment; and
- Maintain at the school level a subsidiary listing of Title I equipment.

Indirect Costs

Indirect costs may be charged to the programs, if the LEA uses an Indirect Cost Rate identified by the CDE. The cost to be charged to each program is calculated by applying an *approved* Indirect Cost Rate, restricted rate only.

Transferability of Funds

The *NCLB* flexibility provisions (*NCLB* §6123, 6212, and 6221) allow LEAs to transfer a portion of the funds they receive under certain federal programs to other programs that most effectively address their unique needs and to allocations for certain activities under Title I.

The LEA (unless identified for improvement or subject to corrective action) may transfer not more than fifty percent (50%) of its eligible allocated funds to other eligible programs per *NCLB* §6123 (see chart below).

Programs	Transfer Funds From	Transfer Funds To
Title I, Part A		X
Title II, Part A	X	X
Title II, Part D	X	X
Title IV, Part A	X	X
Title V, Part A	X	X

Note: No Title I, Part A funds can be transferred.

LEAs identified for Improvement may transfer not more than thirty percent (30%) of eligible funds to other eligible programs, providing the transferred funds are used only for schools in need of improvement. The LEA identified for Corrective Action may not transfer funds under this authority.

Transferred funds are subject to the rules and requirements of the programs to which they are transferred. The LEA must conduct consultations with students, teachers, or other educational personnel from nonpublic schools if such funds are transferred from a program that provides for nonpublic school participation.

LEAs may use different internal accounting methods to transfer funds. Examples are:

- Move funds from the account(s) of the program(s) from which the funds are being transferred into the account(s) of the program(s) to which the funds are being transferred;
- Establish a new, separate account for transferred funds; and
- Keep the "transferred funds" in their original account(s), but maintain documentation that shows how "transferred funds" in the original account(s) have been reclassified. In other words, in transferring funds, a LEA does not actually have to move funds from one account to another, providing it maintains adequate documentation to account for the transfer.

Regardless of the method the LEA uses to transfer funds, the LEA must maintain records demonstrating how a program's overall funds (including the transferred funds) were spent. However, the LEA does not have to account separately for the expenditure of the funds that were transferred into a program and the allocation to which the transferred funds were added.

Small, Rural School Achievement - Alternate Uses of Funds Authority (Rural Education Achievement Program/REAP)

LEAs eligible for the Small, Rural School Achievement Program are eligible to use the Alternate Uses of Funds Authority [NCLB §6212]. This authority allows eligible LEAs to use funds from certain NCLB programs for other programs. Eligible LEAs may use the application to apply.

Programs	Use Funds Authorized By:	For Programs Authorized By:
Title I, Part A		X
Title II, Part A	X	X
Title II, Part D	X	X
Title III		X
Title IV, Part A (&B)	X	X
Title V, Part A	X	X

Nonpublic Schools

In general, if the LEA provided equitable services for nonpublic school students in FY 2008, any carry-over funds for services to nonpublic school students may be used for both public and nonpublic school students on an equitable basis in the carry-over project period. If, however, the LEA did not provide equitable services for nonpublic school students in a timely manner in FY 2008 and, as a result, there are funds remaining that should have been expended for services to nonpublic school students, the carry-over funds must be used for those nonpublic schools students during the carry-over project period.

Public Control of Funds and Property

The LEA must administer funds, retain control over the funds, and retain equipment, materials, and property that are purchased with federal funds [NCLB §9501(d); EDGAR 34 CFR §76.661]. The services and personnel or agencies providing services to nonpublic school children will be under the control and supervision of the LEA. Services to nonpublic school children must be provided by personnel employed by or under contract with the LEA. LEAs may *not* turn funds over to the nonpublic schools and allow the nonpublic school to oversee their use.

On June 28, 2000, the United States Supreme Court issued its decision in *Mitchell v. Helms*. It ruled that Title VI (now Title V) services, materials, and equipment provided for nonpublic school students must be secular, neutral, and nonideological.

Title to real property and nonexpendable personal property (tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit) purchased by LEAs partly or wholly with federal funds will be vested in the LEA until the assets are no longer available for use in the federally sponsored program, or used for purposes not authorized by the state grantor agency. At that time, federal and state equitable interest will be refunded to the state in the same proportion as the federal and state participation in its costs of acquisition [EDGAR 34 CFR §80.32].

Financial Accountability/OMB A-133 Compliance Supplement

All applicants must be in compliance with federal audit requirements. The OMB A-133 Compliance Supplement contains compliance requirements that apply to Department of Education programs authorized under the *Elementary and Secondary Education Act* (ESEA) and/or subject to the *General Education Provisions Act* (GEPA).

NCLB applicants must be familiar with the requirements listed in this circular before completing the application to incorporate activities allowed, such as Consolidation of Administration Funds, Coordinated Services Projects, and Schoolwide Programs. The LEA's annual audit must meet the criteria listed in A-133.

OMB A-133

Compliance Supplement is provided at <http://www.whitehouse.gov/omb/circulars/>.

Cost Principles – Circular A-87

OMB Circular A-87 “Cost Principles for State, Local and Indian Tribal Governments,” establishes principles and standards for determining costs for federal awards carried out through grants, cost reimbursement contracts, and other agreements with state and local governments. This circular establishes principles and standards to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the federal government. The principles are for determining allowable costs only. OMB A-87, Attachment B, “Selected Items of Cost,” in particular, provides definitions for allowable and unallowable costs.

OMB A-87 is provided at www.whitehouse.gov/omb/circulars/a087/a087-all.html.

Section V: Nonpublic Schools

Introduction

NCLB provides benefits to nonpublic school students, teachers and other educational personnel. These services are considered to be of assistance to students and teachers and not to the nonpublic school.

The statutory requirements pertaining to the equitable participation of nonpublic school students are addressed in *NCLB* §1120 (Title I), §5142 (Title V) and §9501-9504 (Title IX, General Provisions which covers Titles II-A, II-D, III, and IV) as well as in *Education Department General Administrative Regulations (EDGAR) 34 CFR* Parts 76.650-662. Additional information may be obtained at the USDE Office of Nonpublic Education Web site at <http://www.ed.gov/about/offices/list/oii/nonpublic/index.html>.

Educational services and other benefits must be equitable in comparison to those provided to public schools. Expenditures must also be equitable. Services may be provided directly or through contracts with public and nonpublic agencies, organizations, and institutions to students, teachers, and other educational personnel and must be secular, neutral, and nonideological.

Students in nonprofit nonpublic schools are eligible to receive services through these programs, if the LEA in which the nonpublic school is located is eligible and has submitted an approvable application. The LEA is responsible for applying for federal funds through the *NCLB* application, and the nonpublic school is responsible for submitting an appropriate plan on which the allocation information is based. For Title I, Part A, nonpublic schools are required to report poverty-level data directly to the LEA. This data is used in the calculation of eligible school attendance areas.

Except for Title V, if the LEA chooses not to participate in the program, the law does not provide a vehicle for affording services to teachers and children in nonpublic schools located in the LEA. The program statute does not authorize the CDE to reallocate funds to another LEA for purposes of allowing participation of teachers and children attending a nonpublic school located in a nonparticipating LEA. For Title V, the nonpublic school may notify the CDE that it wishes to receive Title V services, per *NCLB* §5142(a) (2). For Title I or Title II-A only, if eligible nonpublic schools refuse funds, the LEA may use these funds for public school use.

Consultation

LEAs are required to conduct timely and meaningful consultation with nonpublic school officials regarding the development of the *NCLB* application before any decision is made that could affect the ability of the nonpublic school students, teachers and other educational personnel to receive benefits under *NCLB* and to provide equitable services to teachers and children in nonpublic schools choosing to participate in these programs. The LEA is responsible for contacting in writing all nonpublic schools listed on the LEA's allocation notice to invite them to a consultation meeting. It is suggested that the written invitation be sent return receipt requested. Consultation must continue throughout the implementation and assessment of activities.

Consultation requires meetings between the LEA and nonpublic school officials and must include discussions on such issues as:

- How the needs of the students and teachers will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- A thorough analysis of third-party providers;
- How the services will be assessed and how the evaluation of results will be used to improve services;
- The amount of funds available for services;
- The size and scope of the services to be provided; and
- How and when decisions about the delivery of services will be made.

In addition, a thorough consideration of the views of the nonpublic school officials on the provision of contract services through potential third-party providers must take place. If the LEA disagrees with the views of the nonpublic school officials on the provision of services through a contract, the LEA must provide written explanation of why the LEA has decided not to use a contractor.

LEAs are required to maintain appropriate records and documentation, including a written affirmation attesting that the LEA conducted the consultation process in the required manner. The Private/Charter Schools Verification of Consultation form must include the signature of the nonpublic school official or appropriate representative. If the nonpublic school officials do not submit the affirmation in a reasonable period of time or fail to respond to the request for consultation, the LEA must provide the CDE with documentation that the consultation did occur or an attempt was made to consult with the nonpublic school.

The services or benefits provided are under the control and supervision of the LEA and must be secular, neutral, and nonideological. The LEA application should incorporate services provided to nonpublic school students and teachers in all aspects of the application, including the program plan and budget.

The nonpublic school officials have a responsibility to actively participate in the development of the program plan, its objectives, activities, and evaluation methods. Nonpublic school officials are also responsible for providing input to the LEA in the development of the budget for the funds allocated to benefit the nonpublic school students and teachers. The LEA administers funds. These funds may be spent only on allowable activities for each title. At the end of the project period, nonpublic schools that have received services must report an evaluation of the activities to the LEA which will allow the LEA to include this information in the subsequent year's planning. At the end of the grant period, except for Title I, any unexpended funds that were designated for services to the nonpublic school students and teachers may be carried over and utilized in the following fiscal year.

For Title I, the LEA must consult with the nonpublic schools and exhaust all possibilities for using the funds during the current school year. If unexpended funds are carried over to the subsequent year, the LEA has discretion as to how the carry-over funds are spent, including, but not limited to, the following:

- Add carry-over funds to the district's subsequent year's allocation and distribute them to participating areas and schools in accordance with allocation procedures that ensure equitable participation of nonpublic school children.
- Designate carry-over funds for particular activities that could best benefit from additional funding, such as parental involvement activities or schools with the highest concentrations of poverty.

Charter Schools are exempt from the nonpublic school consultation requirement because the LEA is responsible for the nonpublic students that reside in its jurisdiction.

Title I Requirements for Services for Children in Nonpublic Schools

Eligible LEAs receiving Title I funds are responsible for providing services to *all* eligible nonpublic school students residing in the eligible school attendance area. Title I funds for nonpublic school children are included in the total allocation to LEAs. The LEA determines the amount of funding for nonpublic school children based on the number of poverty-level nonpublic school children who reside in eligible public school attendance areas.

The LEA must offer Title I services to eligible children enrolled in nonpublic elementary and secondary schools on an annual basis and may provide educational and other services directly or through contracts with public and nonpublic agencies, organizations, and institutions. The educational services and other benefits for such nonpublic school children will be equitable in comparison to services and other benefits for participating public school children. In the provision of Title I services to nonpublic school students, the LEA's responsibilities are to:

- Provide timely, meaningful, and on-going consultation that includes the input of appropriate nonpublic school officials during the design and development of the LEA's Title I program for participating nonpublic school students;
- Provide timely, equitable special education services or other programs and services to eligible Title I nonpublic school students;
- Ensure equitable participation of the teachers and families of participating nonpublic school students;
- Ensure that the expenditure of funds for total eligible nonpublic students is equal to the amount of funding as determined by the number of low-income nonpublic school students;
- Provide programs and services to nonpublic school students that are equitable in comparison to the programs and services the LEA provides to public school students participating in Title I programs;
- Ensure that the teachers and families of nonpublic school students participate in professional development and parent involvement activities on a basis equitable to the participation of teachers and families of public school students;
- Consult with nonpublic school officials to conduct professional development and parent involvement activities for the teachers and families of nonpublic school students and to determine an appropriate method of delivery;

- Provide services that supplement, not supplant, services that would be available to nonpublic school students without the use of Title I funds;
- Use Title I funds to meet the needs of participating special education students in nonpublic schools; and
- Maintain the title and administrative control of property, supplies and equipment that the LEA purchases with Title I funds to benefit eligible nonpublic school students.

The LEA is responsible for contacting, in writing, all nonpublic schools that students who reside in the LEA attend, as well as consulting with the nonpublic school officials before the LEA makes any decision that affects the opportunities of eligible nonpublic school children to participate in Title I programs. *It is suggested that the written invitation to consult be sent return receipt requested.* The LEA is required to maintain documentation of the consultation with nonpublic school officials. The response to the invitational letter by each nonpublic school must be maintained in the district to document such consultation each year.

In addition to the issues listed above under “Consultation,” the consultation must also include:

- The extent of the Title I services the LEA will provide to eligible nonpublic school students;
- The proportion of funds the LEA will allocate for services to nonpublic school students including the proportion of funds from the funds set aside for district-wide instructional programs, LEA professional development and LEA parent involvement;
- The data method or sources used to determine the number of eligible nonpublic school students residing in the participating public school attendance area. If the LEA uses a survey, it must indicate whether data will be extrapolated; and
- The equitable services the LEA will provide to the teachers and families of participating nonpublic students.

Determining Title I Funding for Nonpublic School Students

Once the participating public school attendance areas have been established, under §1113(c) of Title I, the LEA calculates reserves, then calculates the per-pupil expenditure (PPE) for each participating public school attendance area. Based on the total number of children from low-income families residing in each attendance area attending either public or nonpublic schools, the LEA calculates the total amount of funds for each area being served with Title I funds. From this amount, the LEA allocates an amount of funds for the nonpublic school children (equal to the PPE multiplied by the number of low-income nonpublic school students in the area) to provide equitable services to low-performing nonpublic school students who reside in the eligible attendance area. Low income students from eligible attendance areas draw funds to the nonpublic school. Any student from the Title I attendance area may be served with Title I, A.

Thus, the LEA, in consultation with nonpublic school officials, must obtain the best available poverty data on nonpublic school children residing in participating public school attendance areas. Because nonpublic school officials may have access to poverty information not easily accessible to public school officials, it is important that public and nonpublic school officials consult and cooperate in this effort.

The expenditures for educational services and other benefits to eligible nonpublic school children will be equal to the proportion of funds allocated to participating school attendance areas, based on the number of children from low-income families who attend nonpublic schools.

Methods to Collect Poverty Data on Children in Nonpublic Schools

LEAs must obtain poverty counts from nonpublic schools that serve students who reside in the district. The following information, taken from the United States Department of Education (USDE) *Title I Services to Eligible Private School Children Non-Regulatory Guidance*, explains how LEAs must collect the poverty data. The data must then be reported to the LEA for use in the completion of Title I eligibility calculations.

Third-Party Contractors

LEAs are responsible for the provision of Title I equitable services to eligible nonpublic school students. The USDE guidance regarding nonpublic school services is available at: www.ed.gov/programs/titleiparta/psguidance.doc.

The first step of this process is consultation which includes a discussion of service delivery mechanisms the LEA will use to provide these services. This discussion includes thorough consideration and analysis of the views of the nonpublic school officials on whether the LEA should contract with a third-party provider. If the LEA disagrees with the views of the nonpublic school officials on this issue, the LEA must provide in writing to those officials the reasons why the LEA has chosen not to use a third-party contractor.

If it is determined that third-party provider services will be contracted, the LEA is responsible for contracting with the provider on behalf of the nonpublic school students. These providers must be independent of the nonpublic school and of any religious organization in the provision of those services.

During the contracting process, if a third-party provider requests, and the LEA concurs, to charge administrative fees, these costs must be specified in the bid, contract and invoices. These administrative costs cannot be charged to the nonpublic school student's per-pupil amount that is calculated during the Title I eligibility process in EWEG. Administrative costs charged by a third-party provider must be reflected in the Title I reserve table under "Administrative Services" and included in the LEA's allowable 10 percent (10%) administrative threshold. **Note:** All reserves are taken from the LEA's total Title I allocation. The per-pupil amount is calculated after reserves are subtracted.

LEA's should retain copies of all third-party contracts, invoices, and documents in which the contractor was advised to provide services in accordance with Title I requirements.

Title II, Part A

Professional development services to teachers must be offered to nonpublic nonprofit schools. If the LEA uses funds for professional development activities, nonpublic schools must have an opportunity to participate equitably in such activities. For the purposes of determining the amount of program funds for services to private school teachers, the law "imputes" a minimum amount of program funds devoted to professional development as the total amount spent in fiscal year 2001 for professional development under the predecessor Eisenhower Professional Development Program and the Class Size Reduction Program. This Hold Harmless amount ensures the nonpublic school's participation in professional development activities.

Funds may be used to pay stipends to nonpublic school teachers participating in professional development activities and must be paid directly to the nonpublic school teachers for their own use and not to the nonpublic school. Funds may not be used to pay for substitute teachers for nonpublic school teachers who attend professional development activities.

Title III, Part A

Title III allocates funds for limited English proficient students (LEP) and immigrant students enrolled in nonpublic schools. Allocations are based on the reported numbers of LEP students enrolled in the nonpublic schools based on the Nonpublic School Enrollment Form. Title III also provides supplemental funds for immigrant students. In order to be eligible for services, nonpublic schools must report their number of enrolled immigrant students to the LEA. Only LEAs that have experienced a significant increase in the number of immigrant students, as compared to the average of the two (2) preceding years, are eligible to receive supplemental immigrant funds. Title III Immigrant Set – Aside funding is approximately 10% of the total State Title III allocation.

Title IV, Part A

Nonpublic schools must receive programs, services and activities under the LEA's program plan for the use of Title IV-A funds. The LEA's allocation is based, in part, on the relative enrollment in public and nonpublic nonprofit elementary and secondary schools within the boundaries of the LEA. LEAs must consult nonpublic schools and other representatives and organizations in the development of its application for Title IVA funds. Additionally, the LEA must consult with nonpublic schools and other representatives and organizations on how to best coordinate the LEA's funded activities with other related strategies, programs and activities being conducted in the community.

Title V, Part A

Equitable participation provisions of Title V, Part A require the LEA to spend equal per-pupil amounts for services to public and nonpublic school students. The funds must benefit the specific needs of nonpublic school students, not the nonpublic school or general needs of students enrolled in the nonpublic schools. LEAs may not use funds for class-size reduction purposes in a nonpublic school; however, they may use funds to provide professional development for nonpublic school teachers.

According to *NCLB* §5142(a)(2), if the LEA refuses to participate, the nonpublic school should notify the CDE Office of Consolidated Federal Programs that it wishes to participate. The CDE will make arrangements for the provision of services and materials through contracts with nonprofit agencies or organizations to the same extent as would have occurred if the LEA had participated.

Transferability of Funds

The Flexibility and Accountability authorities of Title VI provide options for LEAs to transfer a portion of their funds from a designated program to other specified programs that better address their needs. Each of the programs covered by the transferability authority is subject to the equitable participation requirements.

LEAs must consult with nonpublic school officials prior to making any decision regarding the transfer of funds that could affect the ability of nonpublic school students and teachers from benefiting from programs for which they are eligible. The LEA must also provide equitable services to nonpublic school students and teachers from the overall funds available for a program, including the transferred funds.

The LEA may not transfer funds to a particular program solely to provide services for nonpublic school students and teachers.

In general, if the LEA provided equitable services for nonpublic school students in FY 2007, any carry-over funds for services to nonpublic school students may be used for both public and nonpublic school students on an equitable basis in the carry-over project period. If, however, the LEA did not provide equitable services for nonpublic school students in a timely manner in FY 2008 and, as a result, there are funds remaining that should have been expended for services to nonpublic school students, the carry-over funds must be used for those nonpublic schools students during the carry-over project period.

Public Control of Funds and Property

LEAs may not turn funds over to the nonpublic school and allow the nonpublic school to oversee their use. The LEA must administer funds, retain control over the funds, and retain equipment, materials, and property that are purchased with federal funds. The services and personnel or agencies providing services to nonpublic school children must be under the control and supervision of the LEA. Personnel employed by or under contract with the LEA must provide services to nonpublic school children. The services must be provided independent of the nonpublic school and of any religious organization. These funds must not be commingled with nonfederal funds.

Title to real property and nonexpendable personal property (tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit) purchased by LEAs partly or wholly with federal funds will be vested in the LEA until the assets are no longer available for use in the federally sponsored program, or used for purposes not authorized by the state grantor agency. At that time, federal and state equitable interest will be refunded to the state in the same proportion as the federal and state participation in its costs of acquisition [EDGAR 34 CFR §80.32].

Complaint Process

Parents, teachers, nonpublic school officials or other individuals and organizations may file a complaint concerning violations of the *NCLB* equitable participation requirements to their county office of education.

Section VI: Title I, Part A

Key Elements

Title I, Part A funds assist low-performing students in eligible schools. Funding allocations to LEAs are determined by the US Census methodologies. Title I funds are supplemental to the regular classroom instruction, intended to provide additional services, such as tutoring, to eligible students to help them achieve academic proficiency, and meet the Core Curriculum Content Standards. In targeted assistance programs, specific low-performing students must receive Title I supplemental services. In schoolwide programs, the LEA may use Title I funds for any activities that are part of the schoolwide program plan; however, the key elements listed below still apply. Title I includes the following key elements:

- Instructional programs must be scientifically based;
- Newly hired teachers must meet the definition of highly qualified;
- New paraprofessionals “working in a program supported with” Title I funds and hired after January 8, 2002, must meet new requirements;
- Instructional paraprofessionals currently employed and paid through Title I must meet new requirements by the end of the 2005-2006 school year;
- Disaggregation of assessment data by subgroups;
- Expansion of the adequate yearly progress (AYP) definition for schools to reach 100 percent proficiency by 2014;
- Application of sanctions for schools and districts designated as in need of improvement;
- Public school choice and supplemental educational services required for Title I schools designated as in need of Improvement;
- Additional requirements for providing information to parents including the Parents’ Right-to-Know and parental involvement policy;
- Professional development required for teachers and other staff to address academic content and instructional strategies;
- Schoolwide programs for schools with at least forty percent (40%) poverty must contain required components; and
- Participation in the biennial National Assessment of Education Progress assessments of grades 4 and 8 in reading and math, if selected for the sample.

Distribution of Funds to LEAs

Basic, Concentration, Targeted, and Education Finance Incentive Grant funds are allocated by the federal government using U.S. Census Bureau data [NCLB §1124, 1124A, 1125, 1125A]. The allocations reflect the numbers of formula children (for each LEA) using poverty estimates.

Generally, Title I eligibility and Title I allocations are based on the count of economically disadvantaged children who *reside* in the school attendance zone of a given school. Therefore, the LEA would include in its school count any students who are exercising the choice option and transferring from a school identified as in need of improvement. Title I funds and services do not follow a child who transfers from a Title I school identified for improvement to a non-Title I school. Once funds are allocated to the LEA, it must reallocate funds to the school level, based on poverty rates. Only schools identified as eligible may receive Title I services.

Funds for the neglected are allocated to LEAs where institutions for the neglected are located for prevention or intervention programs for children and youth who are delinquent or at risk of dropping out of school [NCLB §1124].

Determining the Title I Eligibility of School Attendance Areas

NCLB §1113 contains requirements for identifying eligible school attendance areas, selecting eligible attendance areas, and allocating Title I funds to these attendance areas. A school attendance area is the geographic area in which the children who are normally served by a particular school reside.

The LEA must list all its schools in rank order by poverty, from poorest to least poor. Every public school in the LEA except pre-K, must be listed regardless of school eligibility.

The same measure of poverty must be used for the following:

- Identifying eligible school attendance areas;
- Determining rank order; and
- Determining the allocation to eligible school attendance areas.

The following criteria must be met as eligible schools are selected:

- Student counts are based upon ages 5-17;
- Students exercising public school choice are counted in the school of residence;
- Eligible attendance areas are determined based on percentages of poverty;
- Any school, including middle and high schools, with a poverty rate above seventy-five percent (75%) must be served and allocated a higher per-pupil amount;
- The next rank-ordered school attendance areas may be served using the following:
 - 1) Districtwide ranking, compared to the same poverty average for the district; or
 - 2) Grade-span groupings, using the districtwide grade span poverty averages for the relevant grade span grouping. This method is not allowed if there is a school with a poverty rate of more than seventy-five (75%) percent.
- LEAs with no school attendance areas above seventy-five percent (75%) may use either option, above;
- The definition of grade-span grouping is defined by the organization or structure of the LEA. For example, the LEA serving all grades in elementary, middle, and high schools would have grade-span groupings of K-5, 6-8, and 9-12. To the extent the LEA has schools that overlap grade spans (K-5, K-8, 6-8), the LEA must list a school in each appropriate grade span as a result the school may be listed twice;
- The LEA with an enrollment of less than 1,000 students or with only one grade per grade span is not required to rank its school attendance areas of eligibility; and
- All schools must be listed.

Poverty Criteria

The poverty data used to select the eligible attendance area must be documented and kept on file in the LEA. LEAs must select a poverty measure from the following for both public and nonpublic school students:

- Free lunch under the *National Free School Lunch Act*;
- Reduced lunch under the *National Free School Lunch Act*;

- Census data approved by the Secretary of Education;
- Temporary Assistance for Needy Families (TANF);
- Medicaid;

Methods for Qualifying Attendance Area

A school attendance area can be served if it meets one of the following criteria:

1. *At or above LEA poverty level:* All eligible schools are at or above the district level of poverty. Funds may run out before serving all attendance areas.

OR

At or above LEA poverty level and some schools are at or above thirty-five (35%) percent poverty: All eligible schools are at or above the district level of poverty; however, the school district may also select schools at or above thirty-five (35%) percent poverty. Funds may run out before serving all attendance areas.

2. *A single attendance area—one school per grade span (e.g., K-5, 6-8, 9-12) or a one school district:* Each school in the district has a specific grade span which does not overlap any other school's grade span in the district. LEAs may serve any school.

OR

A single attendance area—enrollment of less than 1,000: The entire school district has an enrollment of less than 1000 students. LEAs may serve any school.

3. *A desegregation waiver:* The district has a desegregation waiver that permits using Title I funds in the affected school(s). This option may only be used in combination with the two (2) criteria described above in item #1.

Determining Per-Pupil Expenditure and Adjusted Per-Pupil Expenditure for LEAs with Less Than Thirty-Five Percent (35%) Poverty

Per-Pupil Expenditure (PPE)

The total Title I allocation, excluding Title I statutory set asides is used as the basis for determining the per-pupil expenditure.

- If LEAs are using the Flexibility Provisions to transfer funds to Title I, the total Title I allocation must include the transferred funds. This becomes the base amount.
- The base amount is used for all calculations including reserves for professional development, parental involvement, public school choice, and supplemental educational services.

The total Title I allocation is divided by the total number of low-income pupils. The resulting figure is the PPE.

If the LEA is below thirty-five percent (35%) poverty, a one-hundred twenty-five percent (125%) calculation is used for the APPE.

Eligible Schools

A school is eligible for funding based upon the following priorities. LEAs may use discretion in selecting school attendance areas; however, a school *must* be served if it exceeds seventy-five percent (75%) poverty.

- Serve a school if, either rank-ordered by grade level or within the entire LEA, the school's poverty level is at least as high as the percentage of poverty in the LEA as a whole.
- Designate as eligible any school attendance area in which at least thirty-five percent (35%) of the children are from low-income families.
- Use Title I funds in a school that is in an ineligible school attendance area if the percentage of children on roll in the public school from low-income families is equal to or greater than the LEA's average percentage of poverty.
- Designate and serve a school attendance area that is ineligible, but was eligible and was served in the preceding year. This school may be served during the upcoming year, but only for one additional year.
- The LEA is a single attendance area.
- Elect not to serve an eligible school attendance area that has a higher percentage of children from low-income families, provided the poverty rate of that school is less than seventy-five percent (75%) if it meets the following requirements:
- The school is receiving supplemental funds from other state or local sources that meet the intent and requirements of *NCLB* § 1114 or 1115;
- The funds expended from such other sources equal or exceed the amount that would be provided under Title I, Part A; and
- The school meets Title I Comparability requirements.

Attendance Area Allocation

- **Public School:** Multiply the number of low-income public school students by the PPE to determine the allocation for each school.
- **Nonpublic School:** Calculations must be done for nonpublic school students in all eligible school attendance areas, including all schools in single attendance areas. If the LEA chooses to "skip" an eligible school attendance area, funds for the nonpublic school students must be calculated and services provided. If additional school attendance areas are added as a result of "skipping," the nonpublic school students residing in those areas are not eligible for Title I services. In all cases, nonpublic school students are ineligible for supplemental educational services.

The number of low-income nonpublic school students is multiplied by the PPE to derive the amount of funded support that the nonpublic school will receive to support only those nonpublic school students who reside in an eligible public school attendance area. A nonpublic school, therefore, may receive funded support services as a result of the cumulative calculations of multiple school attendance areas. In addition, the nonpublic school may receive funded support services from multiple school districts for their respective students.

Reserve Funds

Funds *must* be reserved for the following students or activities:

- **Neglected and Delinquent Students** as a result of the **Title I, Part D, Subgrant 2** allocation;
- **Homeless Students** to support supplemental services for these disadvantaged students;
- **LEA Professional Development** at a minimum of five percent (5%) of the LEA's Title I allocation, which is required to assist teachers and paraprofessionals to become "highly qualified," unless a lesser amount is needed;
- **Parent Involvement in LEAs receiving a Title I Allocation of more than \$500,000.** LEAs with Title I allocations over \$500,000 must reserve at least one percent (1%) of funds of which ninety-five (95%) must be used for school level activities and five percent (5%) allowed for district level activities;
- **Schools in Need of Improvement – Professional Development**, as required, must reserve ten percent of the school's allocation; and
- **Schools in Need of Improvement**, if identified, must set aside a minimum of 10% of the total allocation for the purposes and in the proportions described below:
 - 1) **Public School Choice:** For schools in need of improvement, a minimum of five percent (5%) of the LEA's total allocation, but not more than twenty percent (20%) in combination with supplemental educational services (SES), must be set aside for implementing the Public School Choice requirement.
 - 2) **Supplemental Educational Services:** For schools in need of improvement, a minimum of five percent of the LEA's total allocation, but not more than twenty percent (20%) in combination with Public School Choice, must be set aside for SES; and
- **Districts in Need of Improvement** must reserve at least ten percent (10%) for professional development. The professional development reserve for schools in need of improvement may be applied toward this ten percent (10%) requirement.
- **Districts in Corrective Action** may set aside up to 10% of its total allocation for professional development.

Funds may be reserved for the following:

- **Limited English Proficient** to support both supplemental academics, as well as English language support services;
- **Indirect Cost** as approved by the CDE;
- **Administrative Services (including nonpublic school Capital Expenses, if applicable):** There is a maximum amount of five percent (5%) that may be used for administrative costs;
- **Preschool Programs;**
- **Districtwide Instructional Programs** such as summer school; and
- **Teacher Incentives and Rewards** for schools in need of improvement may be funded at a maximum of five percent (5%).

Parental Involvement

To encourage parent involvement, LEAs must implement programs, activities, and procedures after consultation with parents. The LEA must distribute a written parent involvement policy that describes the parental involvement efforts, including plan development and school activities [NCLB §11118(a) & (e)]. Parent involvement activities *must* do the following:

- Provide assistance to help parents understand the state's academic standards, state and local assessments, and how to monitor their children's progress;
- Provide materials and training, such as literacy and technology training, to help parents work with their children;
- Educate school personnel in techniques for communicating and working with parents;
- Integrate parent involvement with preschool programs; and
- Ensure information sent to parents is understandable.

Activities *may* include:

- Involving parents in development of training of educators;
- Providing literacy training;
- Providing associated expenses such as transportation and child care;
- Training parents to enhance involvement of other parents;
- Conducting in-home parent-teacher conferences;
- Establishing a districtwide parent advisory council;
- Developing roles for community-based organizations;
- Implementing model approaches to improving parent involvement; and
- Providing other reasonable support as parents may request.

Note: *If the LEA receives a Title I, Part A grant allocation of more than \$500,000, at least one percent (minimum of \$5,000) is required to be used for parental involvement. Ninety-five percent (95%) of the reserve must be used for school level activities; five percent (5%) may be used for district level activities. Districts should implement a way to track these costs by event. The parental involvement reserve is dedicated for this purpose. If any of these funds are carried over to the next project period, they must be used for parental involvement.*

Parental Notification

There are certain requirements in NCLB for notifying parents of the status of the schools their children attend and their parental options.

- **Instructor Qualifications:** Under Title I, parents must be notified at the start of each school year of their right to request information about the professional qualifications of their children's teachers (Parents' Right-to-Know). Information the LEA must provide, if requested, includes: 1) the certification and/or licensing status of the teacher; 2) degrees held by the teacher; 3) emergency or provisional status of the teacher, if applicable; and 4) qualifications of any paraprofessionals serving the child. Parents must also be notified if a teacher who is not "highly qualified" is instructing their child for four (4) or more weeks.

- **Limited English Proficient:** Parents must be notified within thirty (30) days of the start of the school year if their child has been identified as limited English proficient and in need of English language instructional services. Notification must be in a language that parents will understand.
- **Program Information:** Schools must provide parents of students selected for Title I services with information on the following: 1) Title I programs; 2) the school's curriculum; 3) assessment measures; and 4) their children's proficiency level. The school must develop jointly with the parents a written school-parent compact defining how the parents and the school will work to improve the student's academic achievement.
- **Parental Involvement Policy:** The district and school parental involvement policy must be distributed to parents of participating Title I children, in an understandable and uniform format and, to the extent practicable, in a language the parents understand.
- **Schools in Need of Improvement:** Schools in need of improvement are required to notify parents of the school's improvement status, the availability of school choice, and the opportunity to enroll eligible students in supplemental educational services and the opportunity to participate in the development and implementation of the school improvement plan.

Highly Qualified Teachers and Paraprofessionals

NCLB imposes the most significant and wide-ranging requirements ever enacted by the federal government on LEA employment and hiring practices. The new regulations affect the qualifications for teachers of core academic subjects and instructional paraprofessionals who are paid in whole or part with Title I, Part A funds. While this requirement does not guarantee an effective teacher in every classroom, it does set a common expectation for teacher knowledge. All teachers of core academic content areas should have met the highly qualified teacher requirement by the end of the 2006-2007 school year.

Funding Sources for Instructional Staff Training

Several options are available for funding teacher and paraprofessional training

- As required by Title I, Part A, LEAs must use a minimum of five percent (5%) of their Title I allocation for professional development activities to ensure their teachers and paraprofessionals meet the qualification requirements;
- General Title I funds may be used to support ongoing training for teachers and paraprofessionals;
- Additional Title I funds must be reserved for professional development activities for schools designated as in need of improvement;
- Title II, Part A funds may be used to provide professional development to improve teachers' and paraprofessionals' knowledge and instructional skills in the core academic subjects that they teach; and
- Title III, Part A funds may be used for professional development of teachers and other instructional personnel designed to enhance the instruction of LEP students.

Paraprofessionals

NCLB requirements apply to instructional paraprofessionals who are paid in whole or part with Title I, Part A funds. An instructional paraprofessional is an individual who provides instruction and support for classroom teachers. Aides, assistants or tutors who engage in instructional support are considered to be instructional paraprofessionals as defined by NCLB. Individuals who work solely in non-instructional roles, such as food service, cafeteria or playground supervision, personal care services and non-instructional computer assistance are not considered to be paraprofessionals under Title I.

All paraprofessionals working in a program supported with Title I funds, without exception, must have a high school diploma or equivalent.

Responsibilities of Instructional Paraprofessionals

Section 1119 (g) of ESEA specifies that instructional paraprofessionals may engage in the following activities:

- Provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher
- Assist with classroom management, such as organizing instructional and other materials
- Provide assistance in a computer laboratory
- Provide instructional support in a library or media center
- Provide instructional services to students under the direct supervision of a teacher

Teacher Supervision for Paraprofessionals

Paraprofessionals providing instructional support must work under the direct supervision of, and in close and frequent proximity with, a highly qualified teacher. This means the teacher prepares the lessons, plans the instructional support activities the paraprofessional performs, and evaluates the achievement of the students the paraprofessional instructs. This applies to paraprofessionals providing Title I-funded services to nonpublic school students. These paraprofessionals must meet all the paraprofessional requirements and be under the direct supervision of a *public* school teacher during the Title I activities.

Required Qualifications, Skills, and Knowledge

Instructional paraprofessionals must possess specific skills and knowledge in reading, writing, mathematics and instruction to be considered qualified to assist in instruction. NCLB outlines requirements that instructional paraprofessionals must:

1. Possess a high school diploma or its equivalent (e.g., the GED); AND
2. Demonstrate subject matter competency by:
 - a. Earning an Associate's (or higher) degree; OR
 - b. Completing at least two years (48 credit hours) of study at an institution of higher education; OR
 - c. Passing a formal state or local assessment measuring one's knowledge of and ability to assist classroom teachers in reading, writing and mathematics. (Additional information is available at http://www.cde.state.co.us/FedPrograms/NCLB/tia_hqpasgd.asp)

These requirements apply to all instructional paraprofessionals (including those who work with students with disabilities as tutors or aides) carrying out instructional duties in a school-wide

program, regardless of whether the positions are funded with federal, state or local funds. In a school-wide program, Title I funds support all teachers and instructional paraprofessionals, by definition.

In a targeted assistance program, however, only instructional paraprofessionals who are paid with Title I funds must meet the requirements listed above. Again, this applies to paraprofessionals who work with students with disabilities if their positions are wholly or partially funded by Title I.

The following two categories of paraprofessionals need only to possess a high school diploma or equivalent and are not required to meet the additional requirements listed in above:

- Paraprofessionals in Title I programs who serve primarily as translators (as long as these paraprofessionals are proficient in English and a language other than English); and
- Paraprofessionals working solely on parental involvement activities.

Professional Development

Sufficient funds should be expended to ensure high-quality and ongoing professional development for teachers, principals, and paraprofessionals and, if appropriate, pupil services personnel, parents, and other staff to enable all children in the school to meet the state's student academic achievement standards [NCLB §1114]. Districts and schools must use the annual needs assessment to determine the priority problems and schedule professional development to support solutions to these problems.

A minimum of 5% of the district's Title I allocation must be reserved for professional development unless a lesser amount is needed. (Schools and or districts in need of improvement have additional professional development reserves).

District Program/Activity Plan Development

All students are expected to reach proficiency on state assessments. Schools must close all achievement gaps across subgroups of students, assuring that each group meets the same benchmarks as they move toward meeting the federal Title I goal of one hundred percent (100%) proficiency. To meet this federal goal, schools and districts must assure that they: 1) use scientifically based programs; 2) employ highly qualified teachers and paraprofessionals; 3) assure parent involvement; and 4) focus on high student achievement. Therefore, a district activity plan should include the instructional process and services by which all children will achieve proficiency including the following groups: racial/ethnic, LEP, disabled, and economically disadvantaged. Schools implementing targeted assistance programs must develop plans to address the academic achievement needs of identified students. Schoolwide program plans must address all of the required Title I Schoolwide components, which are incorporated into the Title I Plan.

Needs Assessment

Districts must conduct an annual needs assessment to determine the priority problems that will be addressed in the program plan for the *NCLB* Consolidated Application. Special attention should be paid to the needs of disaggregated student subgroups that are measured in the state assessments. The following sources of information will help districts conduct the needs assessment:

- State and local assessment results;
- A review of curriculum alignment;
- Classroom observations;
- Parent, and where appropriate, student surveys and interviews;
- Highly qualified teacher and para data;
- School demographics by gender, race, language groups, and special education;
- Other descriptive data;
- Enrollment, attendance and graduation rates, school climate, and drop-out data; and
- Reports on incidents of violence and vandalism, drug and alcohol use, and other risk behaviors.

Program/Activity Plan Elements

In general the LEA plan must include the following:

- A description of high-quality student academic assessments, if any, that are given in addition to the state assessments. These assessment tools can predict likely performance on the state assessments; assist in diagnosing academic deficiencies to direct teaching and learning; determine what revisions are needed to current programs so that Title I children meet the state academic achievement standards; and effectively identify students who may be at risk for academic failure;
- Academic achievement targets and measured results;
- A description of research-based programs and activities to provide additional educational assistance to low-performing students;
- The strategy the LEA uses to coordinate Title I programs with other federal programs to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;
- A description of the strategy to implement effective parental involvement;
- A description of extended day and year programs; and
- Professional development plans to strengthen instructional strategies and content knowledge.

Title I Schools in Need of Improvement

In compliance with the Title I requirements under *NCLB* §1116, Colorado has established a comprehensive accountability system, which includes identifying schools in need of improvement. Criteria to identify schools are based on the current state assessment program. To enable Colorado to best meet the intent of the federal accountability requirements, schools that do not meet state standards for two (2) consecutive years in the same content area are identified as in need of improvement.

Improvement Continuum

Upon identification, schools in need of improvement must implement certain requirements outlined in the *NCLB* legislation.

Year	Status	Interventions for Title I Schools
Miss 2 years	First year of school in need of improvement status. Did not make AYP for two consecutive years in the same content area.	Parent notification, public school choice, school improvement plan, technical assistance from district.
Miss 3 years	Second year of school in need of improvement status. Did not make AYP for three consecutive years in the same content area.	Parent notification, public school choice, supplemental educational services, school improvement plan, technical assistance from district.
Miss 4 years	Third year of school in need of improvement status – corrective action . Did not make AYP for four consecutive years in the same content area.	Parent notification, public school choice, supplemental educational services, school improvement plan, technical assistance from district and state, corrective action, participation in CAPA.
Miss 5 years	Fourth year of school in need of improvement status – school restructuring plan . Did not make AYP for five consecutive years in the same content area.	Parent notification, public school choice, supplemental educational services, school improvement plan, technical assistance from district and state, development of restructuring plan (governance).
Miss 6 years	Fifth year of school in need of improvement status – implementation of restructuring plan . Did not make AYP for six consecutive years in the same content area.	Parent notification, public school choice, supplemental educational services, school improvement plan, technical assistance from district and state, implementation of restructuring plan.

Schools in Need of Improvement Required Components

Schools identified for improvement must respond to certain sanctions, which include developing a school improvement plan incorporated into the Title I Plan, offering school choice and supplemental educational services (SES), and notifying parents of the school's status and the options available for their children.

Needs Assessment

A comprehensive needs assessment must be completed annually for each school in need of improvement to identify priority problems. Following this assessment, which includes a thorough data analysis and needs assessment, the school must develop an improvement plan. If an outside vendor is hired, the vendor must have expertise in educational research specific to school improvement and reform and have a proven record of successfully conducting critical research.

The results of the needs assessment must be provided to school staff and parents, including the data analysis process used, how the results were determined, and how staff can continue the process of data analysis in the school improvement process.

The analysis should answer the following questions:

- What contributes to the disparity in the belief of staff, administrators, and support staff that all children can achieve the state standards and the actual student performance results?
- What needs to be changed for the teaching approach to be cohesive, focused, and linked to school improvement strategies and student attainment of the state standards? Are current strategies based on scientific research? What scientifically based strategies will match the school's identified needs?
- What needs to be included for professional development to be linked to improving students' learning and attainment of the standards?
- What needs to occur for the parents and the community to work together to assist in improving student outcomes that are in line with the improvement objectives?

The disaggregation of data by grade, race, and socioeconomic background, disabled, and LEP should be used to identify performance patterns and areas in need of improvement that will be addressed in a plan with clear goals and benchmarks for improvement.

Title I Plan

Within three (3) months of being identified for improvement, a school must develop a plan showing what programs and strategies will be adopted to improve teaching and learning. The school must consult with a school improvement plan committee, which includes parents, school staff, district representatives, and outside experts. After the plan is written, it must be reviewed by a team of peers, who provide input on ways to strengthen the plan. The improvement plan is then approved by the district.

Improvement Plan Elements

The school improvement plan is incorporated into the Title I district's plan and must address the problems identified in the needs assessment, contain measurable goals, and address the essential elements listed below.

- Core academic subjects and the strategies used to teach them – the plan must reflect activities and strategies grounded in scientifically based research to address deficiencies in teaching and learning in core academic subjects areas. For example, activities used to enhance early literacy should embrace the five scientifically based research strategies of: 1) phonemic awareness, 2) phonics, 3) vocabulary development, 4) reading fluency, and 5) reading comprehension. Schools in need of improvement may also consider the adoption of a comprehensive school reform model to facilitate the implementation of scientifically based research strategies. While the model alone cannot address every identified need of the school or substitute for a well-developed improvement plan to effect systemic change, the model can provide the external structure and support needed for some schools.
- Professional Development – professional development must be provided to help school staff improve their skills. Activities must be high-quality, meaning sustained and classroom-focused. Professional development activities in the plan should directly address those areas of academic concern that placed the school in improvement status and incorporate the alignment of teaching and learning strategies with academic content standards and assessment. Training should address data analysis skills and scientifically based instructional strategies.

The delivery of professional development strategies must allow for increased teacher participation and include teacher mentoring activities and programs. The teacher mentoring component is added to support the statutory requirement of recruiting and retaining highly qualified teachers. Ten percent (10%) of a school in need of improvement's Title I allocation must be obligated to support these professional development activities.

- Parental Involvement – the school improvement plan must address parental involvement on two (2) levels. First, the plan must describe how the school will comply with the requirement to notify parents of the school's status. Second, the plan must specify the strategies that the school will use to promote effective parental involvement.
- Technical Assistance – the LEA is required to provide technical assistance to its schools in need of improvement and submit a plan that details its support. LEA efforts must focus on strengthening and improving teaching and learning and address those issues that prevented the school from making AYP. Technical assistance must include scientifically based research approaches on:
 - 1) Data analysis;
 - 2) Identification and implementation of instructional strategies; and
 - 3) Budget analysis.

The LEA assistance should be aligned to the improvement plan of each school and consider the unique challenges faced by each school in need of improvement.

NCLB Consolidated Application Program/Activity Plan

Each school in need of improvement that is funded with Title I money must complete a program/activity plan to identify how the funds will be expended. Programs and activities must address the areas identified in the needs assessment as priority problems and complement the Title I Plan. The activities must be described on the *NCLB Consolidated Application* and meet the following criteria:

- Scientifically Based Research: Incorporate scientifically based strategies that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified as needing improvement;
- Student Proficiency: Address the school's core academic subjects that have the greatest likelihood of ensuring that all subgroups of students enrolled in the school will meet the state's proficiency level of achievement on the state's academic assessments by 2014;
- Measurable Objectives: Establish specific annual, measurable objectives for continuous and substantial progress by each subgroup of students to ensure they will meet the state's proficiency level of achievement on the state's academic assessments by 2014;
- Professional Development: Provide professional development using at least ten percent (10%) of the funds made available to the school under *NCLB* §1113 for each fiscal year that the school is in school improvement status;
- Parental Options: Account for funds reserved to implement school choice and SES; and
- Parent Involvement: Describe the use of reserved funds to implement parent involvement activities that strengthen eligible students' academic achievement.

Parental Notification Requirements

Parents of students enrolled in schools designated as in need of improvement must be notified, well before the beginning of the school year, of the school's improvement status, the school choice options, and the availability of supplemental educational services. This notification must be in an easy-to-read format, and, to the extent practicable, in a language the parents can understand. At a minimum, the notification must include the following:

- LEAs must notify parents of all students enrolled in a school identified for school improvement, corrective action, and/or restructuring. The notification must be in an understandable and uniform format and, to the extent practicable, in a language or other mode of communication the parents can understand. The notification must include the following:
 - Explanation of what the identification means and how the school compares in terms of academic achievement to other schools served by the LEA;
 - Reasons for the identification;
 - Explanation of what the identified school is doing to address the problem of low academic achievement;
 - Explanation of what the LEA is doing to help the school address the achievement problem;
 - Explanation of how parents can become involved in addressing the academic issues that caused the identification of the school; and
 - Explanation of the choice option or the availability of supplemental educational services.

School Choice: Parents must be notified prior to the start of a school year if the school their child attends is classified as in need of improvement for two (2) consecutive years. The parents must be informed of their right to school choice, so they can request their child be transferred to another school within the LEA that is not in need of improvement or persistently dangerous. The notification must meet the following criteria:

- Inform parents that their child is eligible to attend another public school due to the less-than-adequate performance of their current school;
- Identify each public school, including charter schools, which the parent may select;

- Explain why the choices made available to them may have been limited or unavailable; and
- Describe the performance and quality of those schools of choice.

Note: *All services must be in place by the beginning of the school year.*

Additional information can be offered, such as a description of special academic programs or facilities, availability of extended-day programs, professional qualifications of teachers, and other information of interest. Choice schools may not include other schools identified as in need of improvement or those identified by the state as persistently dangerous.

Parents must be given sufficient time to respond to their notification and allowed to communicate in a variety of ways, including standard mail, e-mail, or fax. The LEA should confirm receipt of the choice request from the parent. All services must be made available at the beginning of the school year. **Note:** *If capacity is an issue and the district cannot offer choice, supplemental educational services (SES) must be offered to eligible students.*

Supplemental Educational Services: For schools in need of improvement that have not met AYP for three (3) consecutive years, the LEA must offer supplemental educational services (SES) to eligible students. The LEA must notify parents of eligible students that they have the option to request supplemental educational services for their children. Parents must be provided with the list of state-approved providers and the district should identify those that serve the area. Parents must be given a reasonable time to respond to the letter and request SES.

Public School Choice

The LEA must offer school choice to all parents whose children attend a school in need of improvement. This gives parents the opportunity to transfer the student to another school within the district that is not designated as a school in need of improvement or as a persistently dangerous school. The school choice provision extends to parents of students in charter schools, as well. A charter school designated in need of improvement must offer parents the choice of sending their children to another school (public or charter school) within the LEA that is not designated as in need of improvement. If all public schools within the LEA are on Improvement, the charter school must, to the extent practicable, establish a cooperative agreement with other LEAs. Public schools in need of improvement cannot designate a charter school in need of improvement as a choice option for parents. The following are choice option designs:

Limited Choice Opportunities

For districts able to offer choice on only a limited basis, this option may apply. Generally, schools first enroll children from the local surrounding neighborhood, and then have a limited number of class spaces available for children from other neighborhoods. When choices are limited, procedures must be followed for offering choice in a fair, non discriminatory fashion.

When choice is limited, LEAs must give priority to the lowest performers from low-income families when providing students the option to transfer. LEAs can prioritize by offering these students their first choice of schools and provide transportation first, if such funds are limited. Students may *not* be rank-ordered by parent income. The lowest performance (overall or in a specific content area) is the chief indicator for prioritizing the list.

The LEA must continue to offer school choice until the school is no longer identified for improvement, that is, the school makes AYP for two (2) consecutive years. If, however, a student opts for choice, the LEA must permit the student to remain in the choice school until the student completes the highest grade in that school. If the school of origin comes out of school improvement status during the student's tenure at a choice school, the LEA will no longer be obligated to provide transportation.

A quality school choice plan should incorporate the following elements:

- Choice is viewed as an important opportunity for parents;
- Choice is an important component of the overall district educational improvement plan;
- An overriding goal is to provide students with access to quality instruction;
- Communication with parents is timely and thorough;
- Information is provided in a format that is easy to understand;
- All eligible students in a school designated as in need of improvement have access to the program;
- Title I resources are used to provide the transportation for choice when needed;
- The schools provide individual student assessment results, including an interpretation of such results, to parents of participating children;
- The plan is developed with the involvement of the community to be served and individuals who will carry it out, including teachers, principals and other staff; and if the plan relates to one or more secondary schools, students from the school(s) will be involved;
- The plan is made available to parents and the public;
- The choice requirement option does not include students in schools that do not receive Title I funds;
- The program uses Title I funds only to pay for school choice transportation costs. Regular transportation costs are not allowable; and
- The LEA complies with other Title I requirements.

Districts may not use lack of capacity to deny students the option to transfer.

Every student enrolled in a Title I school in need of improvement who wishes to transfer to a school that is not in need of improvement *must* have that opportunity. If sufficient capacity is not available, the district must create additional capacity or provide choices of other schools. If other schools within the district are not available, the LEA should make every attempt to secure space outside the district, within reason. The following conditions apply:

- Accommodations must provide a healthy and safe learning environment;
- LEAs may be selective when transferring students with disabilities to ensure the student attends a school with appropriate accommodations (location change does not require IDEA "change of placement" procedures);

- LEAs with a desegregation plan, whether court-ordered or not, are not exempt from offering the choice option, even if it requires court intervention to amend the plan. If court intervention is required, the LEA should notify CDE and the USDE. Court costs may be allowable expenditures under Title I;
- Title I law supersedes local laws and policies; and
- The only type of state law that can limit or prevent school choice is a law that prohibits public school choice through restrictions on public school assignments or the transfer of students from one public school to another public school. 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.

Further information may be obtained by viewing the CDE policy letter, which is located at <http://www.cde.state.co.us/FedPrograms/improvement/schimp.asp>

Transportation Costs

LEAs must provide appropriate transportation for choice students using up to twenty percent of their Title I allocation. This twenty percent (20%) reserve applies to a combination of choice transportation and supplemental educational services, if used, with five percent (5%) minimum for transportation. *(The reserve may not be used for administrative costs or supplemental services transportation in targeted assistance schools).*

Districts can also use other allowable federal, state, local, and private resources to pay for choice-related transportation. They *may* exceed the twenty percent (20%) Title I reserve using these other sources or their school improvement allocation. However, it is not required. If available funds are insufficient to provide transportation to each student requesting a choice transfer, the district must give priority to the lowest-achieving eligible students from low-income families. Districts can also be resourceful. For example, an existing transportation program might be able to serve choice students. Any additional costs can be counted toward the twenty percent (20%) requirement. Title V funds can be used for choice-related transportation. Additional funds transferred into Title I or Title V under the *NCLB* flexibility provision can also be used. Funds transferred into Title I are incorporated into the base used to calculate the twenty percent (20%) requirement.

Districts that do not already provide transportation for students per state allowance may use alternatives, such as reimbursing parents for the cost of transportation or using public transportation if the student's choice school is outside the state's allowable distance.

The "supplement, not supplant" requirement applies to transportation funds. That is, if state or local law mandates transportation for an existing choice plan, Title I funds cannot be substituted for these mandated services.

Supplemental Educational Services

When choice is not an option or when a school does not make AYP for three (3) consecutive years, the district must offer the eligible students of that school the opportunity for supplemental educational services (SES). Parents of eligible students select from a list of state-approved SES providers. The district contracts with the selected provider to provide SES using Title I funds up to a calculated per-pupil amount or the cost of the services, whichever is less. Districts must reserve twenty percent (20%) of their Title I allocation to cover school choice and SES. At least five percent (5%) of this reserve must be used for SES. LEAs must ensure that some SES providers can serve students with limited English proficiency and disabilities (a list of the approved supplemental services vendors is posted on the CDE Web site at <http://www.cde.state.co.us/FedPrograms/improvement/SuppServices.asp>).

The USDE defines supplemental educational services as additional academic assistance for low-income students who attend Title I schools that have failed to make AYP for two (2) or more consecutive years. This additional academic assistance is designed to ensure that students increase their levels of academic achievement, particularly in reading, language arts, and mathematics.

The USDE has taken the stance that schools that do not improve or meet state standards must use their federal funds to get children additional help, which means paying for supplemental services including tutoring or remedial services, after school, on weekends or during summers. This instruction must take place outside the regular school day.

Districts must arrange for the provision of supplemental educational services to eligible children from a provider on the state-approved list. This provider is to be selected by the parents of the eligible child in consultation with the school district [Section 1116(e) (1)]. Additionally, qualifying school districts are required to:

- Notify parents annually (in a clear and uniform format, and, to the extent practicable, in a language the parents can understand) of the following:
- The availability of supplemental services;
- The approved providers whose services are available within the school district or whose services are reasonably available in neighboring school districts; and
- A brief description of the services, qualifications, and demonstrated effectiveness of each approved provider to assist the parent in selecting a provider.
- Contact providers selected by the parents and enter into a contractual agreement on behalf of the student;
- Monitor the responsibilities of the approved provider; and
- Monitor the progress of students receiving supplemental services.

Although LEAs can reallocate unused SES reserved funds, enrollment should be kept open sufficiently to allow eligible students to enroll. LEAs may offer SES several times throughout the school year or keep an open enrollment.

Eligibility

To determine which students are eligible for SES, districts should use the same criteria used on the NCLB Consolidated Application for determining Title I eligibility. If free and reduced lunch are the criteria used, certain confidentiality rules apply as stated in the Richard B. Russell National School Lunch Act. These rules are included in the appendices section of this manual along with information about Provisions 2 and 3 of the Act.

NOTE: LEAs must keep on file a copy of the letter sent to parents, the provider attachment, enrollment form, and list of recipients. These documents may be requested during a site review conducted by the CDE.

Corrective Action

For schools in need of improvement that have not met AYP for four (4) consecutive years in the same content area, the CDE and LEA identify the school for corrective action. This identification signifies that the LEA must employ significant interventions to address the school's continued inability to make AYP.

While a school is in corrective action, the LEA must continue to directly provide technical assistance, or provide for technical assistance from institutions of higher education, educational service agencies or private organizations. Schools in corrective action receive further support from School Support Teams.

Additionally, the LEA must take one of the following corrective actions:

- Provide for all relevant staff appropriate scientifically based research professional development that is more likely to improve academic achievement of low-performing students;
- Institute a new curriculum grounded in scientifically based research and provide appropriate professional development to support its implementation;
- Extend the length of the school year or school day;
- Replace the school staff who are deemed relevant to the school's not making adequate progress;
- Decrease management authority at the school significantly;
- Restructure the internal organization of the school; or
- Appoint one or more outside experts to advise the school: (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 school's continued inability to make AYP.

Planning for Restructuring

When schools do not make AYP for five (5) consecutive years, they must take more systemic action to change the structure of the school. The school has one year to develop its restructuring plan that will be implemented no later than the beginning of the next school year.

The LEA must continue to provide technical assistance that emphasizes: 1) the importance of improving instruction by using research-based strategies to achieve proficiency in language arts literacy and mathematics; and 2) the importance of using data to inform decision-making. If the school succeeds in making AYP in the next two (2) consecutive years, it will no longer be designated as needing improvement.

Restructuring

If a school does not make AYP for its sixth consecutive year, it must implement the restructuring plan, which could include replacing staff, operating as a charter school, or some other major restructuring of the school's governance. Additional information on restructuring plan template is available at http://www.cde.state.co.us/FedPrograms/improvement/schimp_r.asp

LEAs in Need of Improvement

LEA Annual Review

Annually, the CDE must review the progress of each LEA in the state that receives Title I, Part A funds to determine if the LEA's schools are making adequate yearly progress. This process includes a review of schools' academic achievement data, as well as drop-out/graduation rate data for high schools and attendance rate data for elementary and secondary schools. If the review findings indicate significant deficiencies across the district, the CDE must then identify the LEA for improvement.

LEA Improvement

If the LEA does not make adequate progress for two (2) consecutive years, it is designated as "in need of improvement."

LEA Requirements in Years One and Two

Once identified for improvement, the LEA must develop or revise an improvement plan, no later than three (3) months after being identified as "in need of improvement." The plan development must occur in consultation with parents, school staff, and other stakeholders.

The purpose of the plan is to address those areas of deficiency in the LEA that directly impact students' ability to help the school make AYP. The plan must also focus on and analyze deficiencies in the areas of school leadership, governance, curriculum and instruction, and fiscal practices. Through the process of developing the plan, the LEA should determine why its previous efforts were not successful and provide a detailed action plan to implement the strategies in the plan. Specifically, the plan must include the following:

- Address the fundamental teaching and learning needs of the schools 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, extended-day and extended-year student learning activities;
- Provide for high-quality professional development for instructional staff that focuses primarily on improved instruction;

- Include strategies to promote effective parental involvement in LEA schools;
- Include a determination of why the LEA's previous plan/efforts did not result in increased student achievement;
- Specify the LEA's fiscal responsibilities; and
- Detail the required technical assistance that the CDE will provide.

If the LEA makes adequate progress for two (2) consecutive years, the CDE no longer identifies the LEA for improvement.

LEA Corrective Action in Year Three

The CDE must take corrective action if the LEA does not make adequate progress after two years of being identified for improvement. However, if the CDE determines that the current functioning of the LEA is detrimental to the academic success of its schools and students, the CDE may identify the LEA for corrective action at any time during the improvement process. Under corrective action, the CDE employs strategies that directly respond to serious instructional, managerial, and organizational problems in the LEA that decrease students' ability to achieve proficiency in language arts and mathematics.

CDE Responsibilities

Once the LEA is identified for corrective action, the CDE must promptly notify the parents of each student in the LEA that the LEA is in corrective action. The notification must explain the reasons for being in corrective action, how parents can participate in efforts to improve the LEA, and the corrective actions the CDE will take to improve the LEA. The CDE must also continue to ensure that the LEA receives technical assistance and takes 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 based research and professional development for all relevant staff;
- Replace the LEA personnel who are relevant to the inability of the LEA to make adequate progress;
- Remove individual schools 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
- Abolish or restructure the LEA.

The LEA may exit from corrective action when it makes adequate progress for two (2) consecutive years following its identification for corrective action.

Title I Supplement Not Supplant

The federal supplement not supplant provision requires that federal funds be used to augment the regular educational program. They must not be used to substitute for funds or services that would otherwise be provided during the time period in question. The statute requires that state and local educational agencies (SEAs and LEAs) use federal funds received under Title I only to

supplement the amount of funds available from nonfederal sources for the education of students participating in Title I services. The SEA and LEA cannot use these federal funds to supplant funds that would, in the absence of Title I funds, have been spent on Title I students [Title I, Part A, Section 1120A(b)].

Generally, the LEA is presumed to fund state-mandated programs with local and/or state funds. The use of federal funds for these programs would be considered supplanting. In certain instances, however, the LEA may overcome this supplanting presumption. The LEA would have to demonstrate through written documentation (e.g., state or local legislative action, budget information or other materials) that it does not have the funds necessary to implement the program or activity and that the program or activity would not be carried out in the absence of federal funds. The LEA may not, however, decrease state or local funds for particular activities because federal funds are available.

OMB Circular A-133 Compliance Supplement elaborates instances in which it is presumed that supplanting has occurred:

- If the SEA or LEA uses federal funds to provide services that the SEA or LEA was required to make available under other federal, state, or local laws;
- If the SEA or LEA uses federal funds to provide services that the SEA or LEA provided with nonfederal funds in the prior year; or
- If the SEA used Title I, Part A funds to provide services for participating children that the SEA or LEA provided with nonfederal funds for nonparticipating children.

The bottom line question for supplanting is: For the time period at issue, what would have occurred in the absence of federal funds?

Salaries

Purchase orders for items funded by Title I should reflect the following:

- The account number to be charged;
- The program (Title I) that is funding the purchase;
- Easily identifiable Title I amounts if purchase order is split between programs; and
- Final invoices should tie to the purchase order and/or reconcile to the amount posted to Title I funds. The amounts should be easily identifiable and reconcilable.

Allowable Costs

Title I funds may only be used to pay for authorized activities to meet the special needs of educationally deprived children in participating schools. These funds should be used as follows: 1) to enable schools to provide opportunities for children to acquire the knowledge and skills to meet the challenging state performance standards developed for all children; and 2) to provide children with an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time.

If Title I funds are used for a targeted assistance program, funded activities should use effective instructional strategies that: 1) give primary consideration to providing extended learning time such as an extended school year, before- and after-school programs, and summer programs and opportunities; 2) help provide an accelerated, high-quality curriculum, including applied learning; and 3) minimize removing children from the regular classroom during regular school hours for Title I instruction.

Authorized items and activities that support the goals and objectives above include the following:

- Acquisition of equipment and materials directly related to instruction. The LEA must determine that the equipment is needed to effectively operate its existing program; existing equipment it already has will not be sufficient; and the costs are reasonable;
- Preschool programs for children, particularly children participating in a Head Start or Even Start program;
- Acquisition of books and school library resources;
- Employment of special instructional personnel, school counselors, and other pupil services personnel;
- Employment and training of paraprofessionals;
- Training and professional development of teachers, paraprofessionals, librarians, other instructional and pupil services personnel, and, as appropriate, early childhood education professionals. The cost of training personnel not paid with Title I funds is an allowable charge if the training is specifically related to the Title I program and is not designed to meet the general needs of the LEA, an entire school, or children in a school or class;
- Construction, if necessary, of school facilities. The LEA must demonstrate that the proposed construction is essential to the success of the Title I project, that it has made every effort to consider other funds to pay for the construction, and that there is no alternative space that meets the needs of the project;
- Parental involvement activities, including:
 - 1) Planning for and evaluation of Title I projects;
 - 2) Involving parents in development of training of educators;
 - 3) Providing literacy training;
 - 4) Providing associated expenses such as transportation and child care;
 - 5) Training parents to enhance involvement of other parents;
 - 6) Conducting in-home parent-teacher conferences;
 - 7) Establishing a districtwide parent advisory council;
 - 8) Developing roles for community-based organizations;
 - 9) Implementing model approaches to improving parent involvement;
 - 10) Providing other reasonable support as parents may request.
- Other allowable activities that would promote statewide reform and ensure access of children from the earliest grades to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences.

The law prohibits the use of Title I funds versus general aid to benefit an entire school district or, except in schoolwide programs, all children in a school, grade, or class. In schoolwide programs, Title I funds may be used to upgrade the entire educational program of the school. In targeted assistance schools, an LEA may use Title I funds only for projects that are designed

and implemented to meet the special educational needs of children who are properly identified and selected for participation in the program, and that are included in the LEA's application as approved by the CDE.

Authorized Activities for Schools in Need of Improvement

Title I funds directed at schools in need of improvement must be expended to support the priority problems identified in the school's needs assessment and address the elements of the school improvement plan. They may include the following:

- High-Quality professional development activities for teachers, principal, paraprofessionals and other support staff that address the academic achievement area that caused the school to be identified for school improvement. Professional development must be sustained and classroom-focused and include scientifically research based instructional strategies;
- Activities based on scientific research that address and enrich the core academic areas and ensure that students achieve the state's proficiency target;
- Establishment of a mentoring program for teachers;
- Activities provided before school, after school, during the summer, on weekends and during any extension of the school year;
- Parental involvement initiatives; and
- Technical assistance to help schools analyze data from the assessments; identify and address solutions; implement professional development, instructional strategies, and scientifically based methods of instruction; and revise the school's budget and allocate resources more effectively.

Schoolwide Programs

A schoolwide program is one in which Title I, Part A and other federal education program funds and resources are used to upgrade the entire educational program of a school. The purpose is to increase the academic achievement for all students in the school by allowing schools to integrate their programs, strategies, and resources. The school must receive Title I, Part A funds, and at least forty percent (40%) of the children enrolled in the school or residing in the school attendance area must be from low-income families [*NCLB* §1114].

Schoolwide programs may combine Title I, Part A funds with other federal funds in support of the schoolwide program. When federal program funds are combined in a schoolwide program to upgrade the entire educational program in a school, they lose their federal identity. A school that is approved to exercise this authority is exempt from many statutory and regulatory provisions of the programs whose funds and resources it combines, as long as it meets the intent and purposes of those programs. However, all teachers and instructional paraprofessionals in a Title I school operating an approved schoolwide program are subject to Title I requirements and must be highly qualified under the definition in *NCLB*.

Accountability

Schoolwide programs are subject to the school improvement provisions of *NCLB* §1116. A school using funds from other programs is not relieved of requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to nonpublic school children, maintenance of effort, comparability of services, supplement, not supplant rules, or the distribution of funds to state or local agencies that apply for the receipt of funds from such programs.

Programmatically, schoolwide programs must meet the “intent and purposes” of the program funds included in the school. These funds have to be used for schoolwide reform strategies that increase the amount and quality of learning time and help provide an enriched and accelerated curriculum for all children, according to a comprehensive plan to meet the state’s high standards. Furthermore, the program must include services designed to boost the performance of low-achieving students.

Plans must meet certain criteria and be approved by the CDE. Title I, Part A funds may be blended with other schoolwide funds, subject to federal and state requirements.

Schoolwide Plan

An eligible school that desires to establish a schoolwide program must develop, in consultation with the CDE, the LEA and its school support team or other technical assistance providers, a *comprehensive plan* for reforming the overall instructional program in the school. This plan must include certain elements, which have been incorporated into the Title I Unified Plan. **The Title I Plan now serves as the schoolwide plan.** More information about the details that should be included in the text of the plan can be found at:

http://www.cde.state.co.us/FedPrograms/nclb/tia_sipsw.asp.

Charter School Applicability for Schoolwide Programs

A Title I schoolwide program in a charter school must be developed after a *year* of planning and must include the integration of schoolwide reform strategies that are scientifically based. To apply for schoolwide status, charter schools must first implement a year of the instructional program that was identified in their original charter. Since schoolwide status will incorporate a change in the overall structure and operation of an *existing* school program, a program must first be established. The school should also be mindful that the comprehensive changes that it proposes may alter its charter and, therefore, may require charter school plan amendments and approvals. If, after the first year of operation, a charter school can demonstrate students are not performing as expected, then schoolwide status can be considered.

Targeted Assistance Schools

All schools receiving Title I funds that are either ineligible for or choosing not to elect the option of operating schoolwide programs are known as targeted assistance schools. Such schools may use Title I funds only for services to children identified as having the greatest need for special instructional support and assistance. Instructional services must be scientifically research based [NCLB §1115].

Eligible Population

To be eligible for Title I services, the student must demonstrate academic need based upon criteria set by each eligible school. The population eligible for Title I services in a targeted assistance school includes children not older than age twenty-one (21) who are entitled to a free public education through grade twelve (12). Preschool age children who are old enough to benefit from an organized instructional program in a school or other educational setting are also eligible. Children who are economically disadvantaged; homeless; have disabilities; migrant children; limited English proficient; and who participated in a Head Start or Even Start program at any time during the two (2) years preceding the year for which selection is made are eligible for Title I services in targeted assistance schools on the same basis as all other children using the same criteria.

Other children eligible for Title I services are those that are at risk: such as those in local institutions for neglected or delinquent children, or children attending community day programs for such children, and homeless children attending any school in the LEA.

Selection of Students

Children eligible for services are those from the population described above and identified by the school as failing, or most at risk of failing, to meet the state student performance standards on the basis of multiple, educationally related, objective criteria established by the LEA and supplemented by the school. Students identified from preschool through grade 2, however, must be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

Components of a Targeted Assistance School

In a targeted assistance school, Title I funds must be used to help eligible children identified for Title I services to meet the same challenging state standards in language arts literacy and mathematics as all other children in the school.

To this end, programs of instruction must be based on effective instructional approaches and other means of improving student achievement. Title I planning must be incorporated into existing school plans and must be coordinated with and support the regular education program of the school. Also, schools may provide services simultaneously by serving Title I students and students with similar educational needs in the same educational setting, where appropriate.

In planning, consideration should be given to the following: 1) extending learning time; 2) providing an accelerated, high-quality curriculum; 3) minimizing “pull-out” instruction; 4) providing instruction by highly qualified staff; 5) upgrading staff skills through additional training; 6) using strategies such as family literacy services to increase parent involvement; 7)

coordinating and supporting the regular educational program, including such services as counseling, mentoring, college and career awareness and preparation; and 8) helping students to make transitions, such as those from early childhood programs to elementary school programs and from school to work.

Requirements

Targeted assistance schools are required to coordinate with other resources in order to maximize opportunities for students to meet Colorado's content and performance standards. In addition, targeted assistance schools are required to review the progress of participating students on an ongoing basis and revise the program, if necessary, to enable students to improve their achievement. Each targeted assistance school will devote sufficient resources to carry out effectively appropriate professional development activities for the school year. Such a school may, however, enter into a consortium with another school to carry out such activities.

Comprehensive Services

A targeted assistance school may provide comprehensive services if health, nutrition, and other social services are not otherwise available to eligible children. Then as a last resort, a portion of allocated Title I funds may be used to provide such services as eyeglasses, hearing aids, and other basic medical equipment; compensation of a coordinator; and training for teachers, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

Comprehensive services may be provided only if the school has engaged in a comprehensive needs assessment, established a collaborative partnership with local service providers, and determined that funds for such services are not reasonably available from other public or private sources.

Section VII: Title II, Part A

Key Elements

The No Child Left Behind Act (NCLB) places a major emphasis upon the importance of teacher quality in improving student achievement. Title II, Part A is intended to increase student academic achievement by improving teacher and principal quality. This includes increasing the number of highly qualified teachers in classrooms, improving the skills of principals and assistant principals in schools, and increasing the effectiveness of teachers and principals. These funds can be used to prepare, train, and recruit high-quality teachers and principals capable of ensuring that all children will achieve to high standards.

Allowable Activities

- Recruiting, Hiring, and Retaining Highly Qualified Teachers and Principals
 - Monetary incentives
 - Recruiting teachers to teach special needs children
 - Teacher mentoring
 - Induction and support for new teachers and principals
- Programs and activities designed to improve the quality of the teaching force
 - Tenure reform
 - Merit pay programs
- Teacher advancement initiatives that emphasize multiple career paths and pay differentiation.
- Professional development activities that improve the knowledge of teachers and principals
 - Content knowledge and classroom practices
 - Effective instructional practices that involve collaborative groups of teachers and administrator and address the needs of students with different learning styles,
- Provide training on
 - Improving student behavior and identifying early and appropriate interventions
 - Involving parents in their children's education
 - Using data and assessments
- Professional development programs that improve the quality of principals and superintendents
- Hiring highly qualified teachers to reduce class size
 - Class sizes between 14-20 students

Distribution of Funds

LEAs first receive the amount that they received in FY 2002 for the Eisenhower Professional Development and Class-Size Reduction programs. The remaining or excess amount that the state receives for distribution to LEAs is allocated on the following basis: twenty (20%) percent based on district student enrollment of 5-17 year olds and eighty (80%) percent based upon 5-17 year olds in the district from families below the poverty line.

Sanctions

If the LEA is unable to meet its HQ targets and AYP targets for three consecutive years, CDE must enter into an agreement with the LEA on its use of Title II program funds under which the Department will:

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

To have this sanction lifted, the LEA must either meet the HQ target (now set at 100% for all LEAs) or meet AYP. In acknowledgement of the exceptional difficulty in staffing rural districts and special education position, some flexibility has been afforded LEAs in meeting this sanction. Teachers new to the teaching profession in rural districts and in special education positions have an additional two years to meet the HQ rules before being counted toward these sanctions. However, note that any reporting must still include these teachers.

Nonpublic Schools

Professional development services to teachers must be offered to nonpublic schools. If the LEA uses funds for professional development activities, nonpublic schools must be provided an opportunity to equitably participate in such activities. Participation is considered to be equitable if the LEA: 1) assesses, addresses, and evaluates the needs and progress of both groups of teachers in the same manner; 2) provides, in the aggregate, approximately the same amount of training, and where appropriate, instruction, to teachers with similar needs; 3) spends an equal amount of funds to serve similar public and nonpublic school teachers; and 4) provides nonpublic school teachers with an opportunity to participate in Title II, Part A program activities equitable to the opportunity provided public school teachers.

This program is governed by the Uniform Provisions, but the amount of funding available for services to private school personnel is governed by NCLB Section 9501 (b) (3), which requires equitable services for private school teachers and other education personnel to the extent that the LEA uses its funds for professional development. For the purposes of determining the amount of program funds for services to private school teachers, the law "imputes" a minimum amount of program funds devoted to professional development as the total amount spent in fiscal year 2001 for professional development under the predecessor Eisenhower Professional Development Program and the Class Size Reduction Program.

The LEA must contact all eligible nonpublic schools every year, even those who have not participated in the past. LEAs may request documentation from nonpublic school officials to help them identify services that may be appropriate to the needs of nonpublic school teachers. A formal application, however, may be deemed inappropriate, depending upon its form and content. The LEA, in consultation with the nonpublic school representatives, should develop a separate program for nonpublic schools, if their needs differ from the LEA's.

Program Plan Development

LEAs are required to conduct an assessment of local needs for hiring and professional development, including charter schools and nonpublic schools within the district.

The needs assessment must be conducted with the involvement of teachers including teachers participating in programs under Title I, part A. It must take into account the activities that will give teachers subject matter knowledge and teaching skills and principals the instructional leadership skills to help teachers. These skills will, in turn, provide students with the opportunity to meet challenging state and local student academic achievement standards.

To determine the professional development needs, the LEA may also want to use information such as student achievement data, class observations and lesson plan reviews, as well as teacher surveys and teacher self-evaluations. To determine the hiring needs, the LEA may consider using information such as highly qualified teacher and para data, teacher and principal attrition rates, data on hard to staff positions, and the equitable distribution of highly qualified teachers within schools.

To comply with the Title II, Part A regulations, the LEA must ensure that the following activities occur and that documentation is kept:

- Results of the local needs assessment for professional development that incorporates input from the LEA's teachers;
- Activities that the LEA will carry out with program funds, including the professional development provided to teachers and principals and how these activities are aligned with challenging state academic content standards, student academic achievement standards, state assessments, and the curricula and programs tied to those standards;
- How proposed activities are based on a review of scientifically based research and will have a substantial, measurable, and positive impact on student academic achievement, and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates the performance of low-income and minority students from other students;
- How the LEA will coordinate professional development activities authorized under Title II, Part A with professional development activities provided through other federal, state, and local programs;
- How the LEA will integrate Title II, Part A funds with funds the LEA receives through Title II, Part D to train teachers to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy;
- How the LEA will ensure that the professional development needs of teachers, including teacher mentoring, and principals will be met with Title II, Part A funds;
- How the LEA's teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in preparing the local plan and will collaborate in the activities to be undertaken;
- How the LEA will provide training to enable teachers to a) teach to the needs of students with different learning styles—particularly students with disabilities, students with special learning needs (including those who are gifted and talented), and those with limited English proficiency; b) improve student behavior in the classroom; c) involve parents in their child's education; and d) understand and use data and assessments to improve classroom practice and student learning; and

- How the LEA will use Title II, Part A funds to meet the requirements of Title I (*NCLB* §1119) for teachers and paraprofessionals, requiring the LEA to establish annual measurable objectives for each LEA and school that, at a minimum, include an annual increase in the percentage of highly qualified teachers at each LEA and school. It also includes a requirement for the LEA's plan to include an annual increase in the percentage of teachers who receive high-quality professional development [*NCLB* §2122].

Title II, Part A funds may be consolidated with other allowable grant funds to implement a Title I schoolwide program.

Professional Development

Title II, Part A, the Teacher and Principal Training and Recruiting Fund, focuses on professional development and teacher/principal quality. The purpose of Title II, Part A is to increase student academic achievement through strategies such as improving teacher and principal quality, and increasing the number of highly qualified teachers in the classroom and highly qualified principals and assistant principals in schools. Effective teacher professional development is more than just coursework designed to fill a state or district requirement. It is a comprehensive set of activities that produce a demonstrable and measurable effect on student academic achievement. Effective professional development works best when it is part of a system-wide effort to improve and integrate teacher quality at all stages—preparation, induction, support, and ongoing development. *NCLB* emphasizes that effective professional development must be grounded in scientifically based research [*NCLB* Section 9101(34)].

Parental Involvement

These funds may be used to enable teachers and principals to involve parents in their children's education, especially parents of limited English proficient and immigrant children.

Section VIII: Title II, Part D

Key Elements

The primary goal of this part is to improve student academic achievement through the use of technology in elementary and secondary schools. The additional goals of this part are:

- To assist every student in crossing the digital divide by ensuring that every student is technologically literate by the time the student finishes the eighth grade, regardless of the student's race, ethnicity, gender, family income, geographic location, or disability; and
- To encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based instructional methods that can be widely replicated.

State Waivers

Title II, Part D requires that twenty-five percent (25%) of all public school Title II, Part D funding is expended on all teachers of core academic subjects participating in ongoing, sustained, intensive, high-quality professional development that is focused on the integration of technology into the curriculum and instruction. The professional development requirement does not apply if the LEA successfully demonstrates to the CDE that it already provides professional development to all teachers in core academic subjects, based on a review of relevant research. LEAs seeking a waiver of the professional development requirement must complete the Educational Technology Professional Development Waiver provided in the *NCLB* application. The remaining funds (seventy-five percent) are to be used to implement other activities consistent with the purposes of Title II, Part D and the district's local technology plan.

Note: See the application directions for specific information about waiving this requirement.

Data Collection

LEAs must develop a process and accountability measures that will be used to evaluate the extent to which activities funded under Title II, Part D are effective in: 1) integrating technology into curricula and instruction; 2) increasing the ability of teachers to teach; and 3) improving student academic achievement.

The annual student assessment system is one tool to determine the academic achievement of students in schools that are recipients of Title II, Part D funding. Additionally, CDE is currently exploring activities involved with adopting or developing an assessment tool to measure technology literacy in order to satisfy the requirement that every student is technologically literate by the end of eighth grade. The formula grant is allocated to eligible LEAs on the basis of each LEA's proportionate share of funds under Title I, Part A for the current year.

Internet Safety

Title II, Part D incorporates the requirements of the *Children's Internet Protection Act* (CIPA). These requirements apply to all elementary and secondary schools.

Services for Children in Nonpublic Schools

Title II, Part D allocates funding specifically for supporting the integration of technology into the curricula and instruction. Funding is specified for ongoing, sustained, high-quality professional development specifically related to educational technology integration into the classrooms to improve teaching and learning. Funding is also specified for distance learning initiatives, acquiring educational technology and using educational technology to enhance parental involvement and participation in the classroom. Nonpublic school consultation must occur and funding must be used to support teaching and learning in the nonpublic school.

Professional Development

LEAs must expend at least twenty-five percent (25%) of the Title II, Part D allocation on ongoing, sustained, and intensive high-quality professional development for all teachers that focuses on the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments.

Allowable Costs

The district must provide professional development for integrating advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments. Teachers completing professional development should be able to:

- Access data and resources to develop curricula and instructional materials;
- Enable teachers to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators and to retrieve Internet-based learning resources; and
- Lead to improvements in classroom instruction in the core academic subjects that effectively prepare students to meet challenging state academic content standards, including increasing student technology literacy and student academic achievement standards.

The seventy-five percent (75%) of the funding is to be used to implement other activities consistent with the purposes of Title II, Part D and the district's local technology plan.

Section IX: Title III, Part A

Key Elements

- Allocations to LEAs are based on the number of limited English proficient students enrolled in the district; however, districts must be eligible for at least \$10,000 in order to receive a grant;
- Districts may form consortia in order to become eligible for funding;
- There is a two percent (2%) limit on administrative costs;
- Supplement, not supplant requirement applies; and
- Accountability objectives must include annual measurable objectives and adequate yearly progress for English language proficiency.

Allowable Costs

LEAs must use Title III funds to provide high-quality language instruction programs that are based on scientifically based research demonstrating effectiveness in increasing English proficiency and student academic achievement in the core academic subjects. Subgrants may be used for the following:

- Develop and implement new language instruction educational programs and academic content instructional programs for limited English proficient students in early childhood, elementary, and secondary programs;
- Expand or enhance existing language instruction educational programs by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures;
- Implement schoolwide programs within individual schools to restructure, reform, and upgrade all programs, activities, and operations related to language instructional programs and academic content instructional programs for limited English proficient students; and
- Provide the following:
 - 1) Tutorial and academic or vocational education for LEP children and intensified instruction;
 - 2) Community participation programs, family literacy services, and parent outreach and training activities to LEP children and their families; and
 - 3) Improved instruction of LEP children by providing for the acquisition or development of educational technology or instructional materials and access to, or participation in, electronic networks for materials, training, and communication.

Note: *No more than two percent (2%) of the subgrant may be used for administrative purposes.*

Distribution of Funds to LEAs

Funds are allocated to the CDE based on the limited English proficient (LEP) count submitted as part of the application. LEA funding eligibility is based on the number of LEP students enrolled in the LEA. Ten percent (10%) of Title III, A funds are set aside to serve immigrant students.

Districts must qualify for a grant of more than \$10,000 to apply for the funds. If an LEA's allocation is less than \$10,000, the LEA may form a consortium with another district(s) to meet the \$10,000 base.

Immigrant Funds

Under Title III of *No Child Left Behind*, states are required to set aside a portion of their Title III grant to provide funding to school districts impacted by increased immigrant student enrollment and to help ensure that immigrant children and youth receive enhanced instructional opportunities to help them meet state academic and achievement standards. To be eligible for Title III Immigrant funds, local education agencies (LEAs) must meet the following criteria:

- 1) LEAs must have provided data to the Office of Specialized Populations in the February 2007 Student Immigrant Count indicating that there were twenty (20) or more public and nonpublic immigrant students enrolled in the district's jurisdiction; and
- 2) LEAs must have demonstrated a two percent (2%) or greater increase in the percentage of immigrant children and youth enrolled in the public and nonpublic schools in the district in comparing the February 2007 immigrant student count with the average immigrant enrollment reported to the Department of Education in February 2005 and 2006.

Immigrant Children and Youth means individuals who –

- A. Are aged 3 through 21;
- B. Were not born in any state in the United States; and
- C. Have not been attending one or more schools in any one or more states for more than three (3) full academic years.

Please note the following change in the eligibility criteria for the 2007-2008 year:

LEAs are eligible to receive a grant under Title III Immigrant if the students within the LEA meet the above criteria. It is not required that LEAs meet the \$10,000 minimum grant amount on the basis of their immigrant enrollment before they can be eligible for supplemental immigrant student aid.

Title III Immigrant Funds – Allowable Costs

The purpose of funds under this grant program is to pay for activities that provide enhanced instructional opportunities for immigrant children and youth which may include:

- Family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
- Support for personnel, including teacher aides who have been trained or are being trained to provide services to immigrant children and youth;
- Provision for tutorials, mentoring, and academic or career counseling;
- Identification and acquisition of curricular materials, educational software and technologies to be used in the program;
- Basic instructional services that are directly attributable to the presence in the school district of immigrant children and youth, including the costs of classroom supplies, transportation or any other costs that are directly attributable to such additional basic instruction services; and

- Other instructional services that are designed to assist immigrant children and youth to achieve in schools in the United States such as civics education and activities coordinated with community-based organizations, institutions of higher education, private sector entities or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

Program Plan Development

Consolidated State Plans must address the programs and staff requirements for teaching English and academic subjects to those students who are limited English proficient, including immigrant students, to prepare them to meet the state's academic content standards and integrate them into all-English instructional settings without linguistic support. The plan should outline teaching methods that are based on scientific research.

Accountability

Plans must identify measurable goals that are congruent with the state's annual measurable achievement objectives. LEAs are required to annually assess LEP students' progress in learning English and meeting the state's academic content standard and student achievement standards.

Professional Development

Plans must identify the professional development for teachers, including mainstream teachers, principals, administrators, and other school personnel, designed to improve the instruction and assessment of LEP students. Such professional development must be based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency or subject matter knowledge and must be of sufficient duration and intensity.

Title III Improvement Plans

A district that receives Title III funds and has failed to make progress toward meeting annual measurable achievement objectives (AMAOs) for two (2) consecutive years is required to develop an improvement plan.

Title III of *NCLB* requires that LEP students be annually assessed to determine the progress they have made in learning English. The assessment must be aligned with the state's English language proficiency, language arts literacy and content area standards. Colorado has selected the CELA as its language proficiency assessment

Data Collection

NCLB Section 3122 requires States to establish two (2) types of annual measurable achievement objectives. One is based on the percentage of limited English proficient (LEP) students, determined by cohort, who attain English language proficiency at the end of each school year. The other is based on the percentage of limited English proficient students making progress in learning English.

Waiver Process

No Child Left Behind contains a provision allowing districts to request a waiver from the requirement in *NCLB* §1111(b)(3)(C) stipulating that the academic assessment of reading and language arts of students who have attended schools in the US (not including Puerto Rico) for three (3) or more consecutive school years use tests written in English. Since Colorado currently has no native language versions of statewide assessments, (except for the Special Review Assessments (SRA) in the native language, for which eligibility is limited to students who have been attending schools in the United States for three years or less), this waiver provision is not applicable to Colorado schools at this time.

Nonpublic Schools

Title III allocates funds for limited English proficient students (LEP) and immigrant students enrolled in nonpublic schools. Allocations are based on the reported numbers of LEP students enrolled in the nonpublic schools based on the Nonpublic School Enrollment Form. As in other titles, students and teachers in nonprofit nonpublic schools are eligible to participate in these programs if the LEA in which the nonpublic school is located is eligible and has submitted an approvable application or is part of a consortium. Allocations are calculated on a per-pupil basis.

Title III also provides supplemental funds for immigrant students. In order to be eligible for services, nonpublic schools must report their number of enrolled immigrant students to the LEA during the annual February immigrant count. Only LEAs that have experienced a two percent (2%) increase in the number of immigrant students, as compared to the average of the two (2) preceding years, are eligible to receive supplemental immigrant funds.

Parental Notification Requirement

Not more than thirty (30) days after the beginning of the school year, each LEA must inform a parent if a limited English proficient child has been identified for services. The parent must be advised of the following requirements:

- The reasons the child was identified as limited English proficient and in need of placement in a language instruction educational program;
- The child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;
- The methods of instruction that will be used in the program, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;
- How the child's program will meet the educational strengths and needs of their child;
- How the program will specifically help the child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;
- The specific exit requirements for the program, including the expected rate of transition from such programs into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such programs if funds under this part are used for children in secondary schools;
- How such a program meets the objectives of the individualized education program of a disabled child;

- Information pertaining to parental rights that includes written guidance detailing the right of parents to have the child immediately removed from the program upon their request and the options that parents have to decline enrolling their child in the program or to choose another program or method of instruction, if available; and
- Information to assist parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the LEA [*NCLB* §1112(g)(1)].

In addition, LEAs must provide notice to parents of any failure of the instructional program to make progress on the annual measurable achievement targets. This notice must be provided no later than thirty (30) days after the failure occurs and, to the degree practicable, in a language the parent understands. LEAs must also implement an effective way to inform parents of limited English proficient students as to how they can be involved in the education of their children, as well as active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet challenging state academic achievement standards aligned with the state's academic content standards expected of all students. This includes holding and sending notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this subgrant [*NCLB* §1112(g) (4)].

Collaboration

In developing the application, the LEA must consult with teachers, researchers, school administrators, and parents and, if appropriate, with institutions of higher education and education-related community groups and nonprofit organizations.

Section X: Title IV, Part A

Purpose

To support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities; and that are coordinated with related federal, state, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement.

In order to be eligible for funding, school districts are required to develop the Title IV application through timely and meaningful consultation with state and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community-based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).

In any fiscal year, a local education agency, intermediate education agency, or consortium may retain for obligation in the succeeding fiscal year:

1. An amount equal to not more than 25 percent of the allocation it receives under this subsection for such fiscal year; or
2. Upon submission of a written justification which includes a statement showing good cause by such agency or consortium, a greater amount approved by the Colorado Department of Education.

Principles of Effectiveness

A program or activity developed under the Safe and Drug-free Schools and Communities Act must meet the principles of effectiveness and such program shall:

- A. Be based on an assessment of objective data regarding the incidence of violence and illegal drug use in the elementary schools and secondary schools and communities to be served including an objective analysis of the current conditions and consequences regarding violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities.
- B. Be based on an established set of performance measures aimed at ensuring that the elementary schools and secondary schools and communities to be served by the program have a safe, orderly, and drug-free learning environment.
- C. Be based on scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use.
- D. Be based on an analysis of the data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; and other variables in schools and communities in the State identified through scientifically based research.
- E. Include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity.

Waiver – Scientifically-based Researched Programs (Section 4115(a)(3))

When submitting an application for funding, an LEA may apply to the State for a waiver of the requirement of the Principles of Effectiveness regarding science-based programs to allow innovative activities or programs that demonstrate substantial likelihood of success. The form is accessible via a link in the on-line application.

The primary intent of the waiver is to support newly created programs, based on prevention-related research, that have not yet been evaluated. The LEA must describe the evaluation methods they will use to demonstrate the effectiveness toward reducing substance abuse and violence in two years time.

Scientifically-based Research

The term 'scientifically based research' means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and includes research that:

- A. Employs systematic, empirical methods that draw on observation or experiment.
- B. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn.
- C. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators.
- D. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls.
- E. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings.
- F. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparable rigorous, objective, and scientific review.

Use of Funds

A local educational agency shall use its Title IV funds to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs that shall

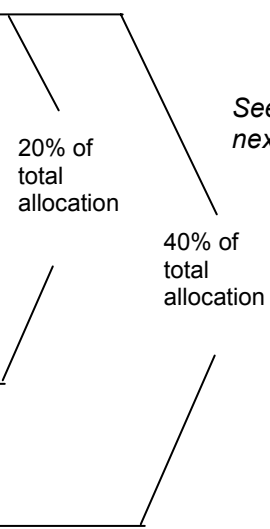
- A. Foster a safe and drug-free learning environment that supports academic achievement.
- B. Be consistent with the principles of effectiveness.
- C. Be designed to:
 - i. Prevent or reduce violence; the use, possession, and distribution of illegal drugs; and delinquency.
 - ii. Create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts.
- D. Include activities to:
 - i. Promote the involvement of parents in the activity or program.

- ii. Promote coordination with community groups and coalitions, and government agencies.
- iii. Distribute information about the local educational agency's needs, goals, and programs.

Authorized Activities

Each local education agency, or consortium of such agencies, that receives funds may use such funds to carry out activities that comply with the principles of effectiveness, such as the following:

- A. Age appropriate and developmentally based activities that
 - i. Address the consequences of violence and the illegal use of drugs, as appropriate.
 - ii. Promote a sense of individual responsibility.
 - iii. Teach students that most people do not illegally use drugs.
 - iv. Teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use.
 - v. Teach students about the dangers of emerging drugs.
 - vi. Incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.
- B. Activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.
- C. Dissemination of drug and violence prevention information to schools and the community.
- D. Professional development and training for, and involvement of, school personnel, pupil services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.
- E. Drug and violence prevention activities that may include the following:
 - i. Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.
 - ii. Acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies.
 - iii. Reporting criminal offenses committed on school property.
 - iv. Development and implementing comprehensive school security plans or obtaining technical assistance concerning such plans, which may include obtaining a security assessment or assistance from the School Security and Technology Resource Center at the Sandia National Laboratory located in Albuquerque, New Mexico.
 - v. Supporting safe zones of passage activities that ensure that students travel safely to and from school, which may include bicycle and pedestrian safety programs.
 - vi. The hiring and mandatory training based on scientific research, of school security personnel (including school resource officers) who interact with students in support of youth drug and violence prevention activities under this part that are implemented in the school.



- vii. Expanded and improved school-based mental health services related to illegal drug use and violence, including early identification of violence and illegal drug use, assessment, and direct or group counseling services provided to students, parents, families, and school personnel by qualified school-based mental health services.
- viii. Conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.
- ix. Alternative education programs or services for violent or drug abusing students that reduce the need for suspension or expulsion or that serve students who have been suspended or expelled from the regular educational settings, including programs or services to assist students to make continued progress toward meeting the State academic achievement standards and to reenter the regular educational setting.
- x. Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.
- xi. Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.
- xii. Drug and violence prevention activities designed to reduce truancy.
- xiii. Age-appropriate, developmentally-based violence prevention and education programs that address victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence.
- xiv. Consistent with the fourth amendment to the Constitution of the United States the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect.
- xv. Emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident that have disrupted the learning environment.
- xvi. Establishing or implementing a system for transferring suspension and expulsion records, consistent with section 444 of the General Education Provisions Act (20 USC 1232g), by a local educational agency to any public or private elementary school or secondary school.
- xvii. Developing and implementing character education programs, as a component of drug and violence prevention programs that take into account the views of parents of the students for whom the program is intended.
- xviii. Establishing and maintaining a school safety hotline.
- xix. Community service, including community service performed by expelled students, and service-learning projects.
- xx. Conducting a nationwide background check of each local educational agency employee, regardless of when hired, and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted if a crime that bears upon the employee's fitness
 - I. To be responsible for the safety or well-being of children.

- II. To serve in the particular capacity in which the employee or prospective employee is or will be employed.
- III. To otherwise be employed by the local educational agency.
- xxi. Programs to train school personnel to identify warning signs of youth suicide and to create an action plan to help youth at risk of suicide.
- xxii. Programs that respond to the needs of students who are faced with domestic violence or child abuse.
- F. The evaluation of any of the activities authorized under this subsection and the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives.

Limitations (Spending Caps)

Not more than 40 percent of the funds available to a local education agency may be used to carry out the activities described in section (E) clauses (ii) through (vi), of which not more than 50 percent may be used to carry out the activities described in section (E) clauses (ii) through (v).

If other sources of federal funds are used for the purposes listed in section (E) clauses (ii) through (v), Safe & Drug-Free Schools and Communities funds may not be used.

Annual Performance Report

Each funded district is required to complete an annual year-end performance report developed by the Colorado Department of Education. This report describes the strategies that the district completed for the year and the results of the district's measurable performance objectives.

District results are posted at the CDE Website. This report serves to:

- 1) Demonstrate accountability for program effectiveness,
- 2) Inform the public about local needs, strategies, objectives, results, and overall use of funds, and
- 3) Maintain an inventory of programs and strategies supported by Title IV funds.

General Provisions

General Provisions in regards to the *Safe and Drug-Free Schools and Communities* program are outlined in Subpart 4 of the Title IV, Part A law. Below is an excerpt of three provisions that all LEA applicants should be aware of when applying for Title IV, Part A funds:

SEC. 4152. MESSAGE AND MATERIALS

- (a) WRONG AND HARMFUL' MESSAGE- Drug and violence prevention programs supported under this part shall convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.
- (b) CURRICULUM- The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

SEC. 4153. PARENTAL CONSENT

Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this part. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this part, other than classroom instruction.

SEC. 4154. PROHIBITED USES OF FUNDS.

No funds under this part may be used for —

- (1) construction (except for minor remodeling needed to accomplish the purposes of this part); or
- (2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs.

Definitions

Definitions are also included in the General Provision section of the Title IV, Part A law. If an LEA intends to utilize funds for programs and activities for the following items, the definitions should guide what is allowable and what is not. Examples:

Applying funds to the support a School Resource Officer (SRO) component may or may not be allowable, depending on whether or not the officer is utilized for prevention and student support activities per the definition. SROs who are used primarily for enforcement duties would not fit this definition. Furthermore, SRO activities should still conform to the Principles of Effectiveness so any prevention-related program that he or she is part of must still be research-based. And, funds for SROs are limited to the “no more than 40%” of an LEA’s total allocation and only if other federal funds are not used.

The General Provision definitions include the following terms:

CONTROLLED SUBSTANCE- The term controlled substance' means a drug or other substance identified under Schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

DRUG- The term drug' includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

DRUG AND VIOLENCE PREVENTION- The term drug and violence prevention' means —

- (A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs;
- (B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

HATE CRIME- The term hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

NONPROFIT- The term nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

PROTECTIVE FACTOR, BUFFER, OR ASSET- The terms protective factor', buffer', and asset' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illegal drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

RISK FACTOR- The term risk factor' means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illegal drug use, as well as violent behavior, by youth in the school and community.

SCHOOL-AGED POPULATION- The term school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

SCHOOL BASED MENTAL HEALTH SERVICES PROVIDER- The term school based mental health services provider' includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

SCHOOL PERSONNEL- The term school personnel' includes teachers, principals, administrators, counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

SCHOOL RESOURCE OFFICER- The term school resource officer' means a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department to a local educational agency to work in collaboration with schools and community based organizations to —

- (A) educate students in crime and illegal drug use prevention and safety;
- (B) develop or expand community justice initiatives for students; and
- (C) train students in conflict resolution, restorative justice, and crime and illegal drug use awareness.

Section XI: Title V, Part A

Key Elements

- Use of funds greatly expanded from eight (8) to twenty-seven (27) broad categories including teacher quality, professional development, class-size reduction, technology and educational materials, educational reform and school improvement, special needs, parental options, literacy, early childhood and adult education, community services and involvement, and health services;
- Needs assessment and evaluation required to make decisions about activities for subsequent year;
- Annual evaluation report; and
- The innovative assistance programs described in the list of twenty-seven (27) must be
 - Tied to promoting challenging academic achievement standards;
 - Used to improve student academic achievement; and
 - Part of an overall education reform strategy.

Data Collection

LEAs must annually report participation information pertaining to services provided to public and nonpublic school students and teachers and the planned allocation of funds for each of the twenty-seven (27) innovative assistance areas. The report must describe how the programs affected student achievement, and LEAs must use this data to evaluate the value of the programs for the following year.

Allowable Costs

Title V has a broad range of allowable costs per *NCLB* §5131. The list of five (5) goals and twenty-seven (27) innovative assistance areas is provided below:

No Child Left Behind goals:

- Proficiency in reading and math
- Highly qualified teachers and professional development
- Academic achievement through technology
- English proficiency
- Safe and civil learning environments

Innovative Assistance areas:

- 1) Programs to recruit, train, and hire highly qualified teachers
- 2) Technology, including professional development
- 3) Acquisition of instructional and educational materials (including library services and materials)
- 4) Promising education reform projects, including magnet schools
- 5) Programs to improve the academic achievement of educationally disadvantaged students, including dropout prevention
- 6) Adult education and family literacy programs
- 7) Gifted and talented education
- 8) Planning, design and initial implementation of charter schools
- 9) School improvement programs or activities under Section 1116 and 1117

- 10) Community service programs
- 11) Activities to promote consumer, economic, and personal finance education
- 12) Activities to promote, implements or expand public school choice
- 13) Programs to hire and support school nurses
- 14) Expansion and improvement of school-based mental health services
- 15) Alternative education programs for students who have been expelled or suspended
- 16) Programs to establish or enhance pre-kindergarten programs for children
- 17) Academic intervention programs that are operated jointly with community-based organizations
- 18) Programs for cardiopulmonary resuscitation (CPR) training
- 19) Programs to establish smaller learning communities
- 20) Activities that encourage and expand improvements throughout the area served by the LEA
- 21) Initiatives to generate, maintain, and strengthen parental community involvement
- 22) Programs and activities that expand learning opportunities through best practice models
- 23) Programs to provide same gender schools and classrooms (consistent with applicable law)
- 24) Service learning activities
- 25) School safety programs
- 26) Programs that employ research based, cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model
- 27) Supplemental educational services, as defined in Section 1116(e)

Unallowable Costs

The LEA may not use Title V, Part A funds to contract with a for-profit agency, organization, or institution to operate programs or conduct programmatic activities. However, this does not preclude the LEA from contracting with an individual or a for-profit corporation or other organization to purchase specific goods or services (e.g., equipment and materials, computer hardware and software, audit services, evaluation services, professional development services) to assist in carrying out a program.

Nonpublic Schools

Equitable participation provisions of Title V, Part A require the LEA to spend equal per-pupil amounts for services to public and nonpublic school students. The funds must benefit the specific needs of nonpublic school students, not the nonpublic school or general needs of students enrolled in the nonpublic schools.

The services, materials, and equipment that the LEA provides for nonpublic school students must be secular, neutral, and non-ideological. The LEA should obtain from the appropriate nonpublic school official a written assurance to this effect. The LEA should ensure that nonpublic school personnel will be informed as to these limitations and that they will be used to supplement, not supplant. The title to any equipment and materials purchased with Title V, Part A funds must remain in a public agency and not be transferred to a nonpublic school. The materials and equipment should be clearly marked as property of the LEA and the LEA should maintain an up-to-date inventory. Periodic monitoring by the LEA is also suggested and any violations on use of materials and equipment should be immediately corrected.

Services may be provided either directly or through a contractor, which may be a person, association, agency, or corporation, but independent of the nonpublic school or any religious organization. The LEA must supervise and have ultimate control over any contractor hired.

LEAs may not use funds for class-size reduction purposes in a nonpublic school; however, they may use funds to provide professional development for nonpublic school teachers.

According to *NCLB* §5142(a) (2), if the LEA refuses to participate, the nonpublic school should notify the CDE that it wishes to participate. The CDE will make arrangements for the provision of services and materials, through contracts with nonprofit agencies or organizations, to the same extent as would have occurred if the LEA had participated.

Public Control of Funds and Property

LEAs may *not* turn funds over to the nonpublic schools and allow the nonpublic school to oversee their use. The LEA must administer funds, retain control over the funds, and retain equipment, materials, and property that are purchased with federal funds [*NCLB* §9501(d)]. The services and personnel or agencies providing services to nonpublic school children must be under the control and supervision of the LEA. Personnel employed by or under contract with the LEA must provide services to nonpublic school children. The services must be provided independent of the nonpublic school and of any religious organization. These funds must not be commingled with nonfederal funds.

Title to real property and nonexpendable personal property (tangible personal property having a useful life of more than one year and an acquisition cost of \$2,000 or more per unit) purchased by LEAs partly or wholly with federal funds will be vested in the LEA until the assets are no longer available for use in the federally sponsored program, or used for purposes not authorized by the state grantor agency. At that time, federal and state equitable interest will be refunded to the state in the same proportion as the federal and state participation in its costs of acquisition [*EDGAR* 34 CFR §80.32].

Program Plan Development

The purpose of Title V, Part A is to support statewide education reform efforts through the provision of funds to LEAs to be used to develop, maintain, and implement local reform initiatives. Plans for innovative programs can target several identified areas to help LEAs emphasize skill development where it is needed and the LEA's needs assessment will determine where the need is the greatest. Title V is a flexible program that is ideal to coordinate and cross-reference to other covered programs. The twenty-seven (27) allowable uses of funds are broad and overarching. Activities should be tied to promoting the state standards, directed to allowable uses that improve student academic achievement or improve the quality of education for students, and be part of an overall education reform strategy. Title V programs must be evaluated annually and the results are to be used to make decisions about appropriate changes in the program for the subsequent year.

Section XII: Title VI, Part B

Flexibility Provision - Transferability

Title VI-A, Subpart 2

NCLB allows LEAs, including BOCES, the flexibility to target federal funds to federal programs that most effectively address the unique needs of the LEA. Funds may not be transferred from Title I-A. Funds may be transferred *from* Titles II-A, II-D, IV-A, and V *to* the activities authorized under Titles I-A, II-A, II-D, IV-A, and V.

Limitations: LEAs may transfer no more than 50% of an eligible program's funds. If an LEA is on improvement status, it may transfer no more than 30%. If an LEA is on a corrective action status, it may not transfer any funds.

Budget: Funds are accounted for via the transfer-related electronic budget pages that accompany the Consolidated Federal Programs application. Funds are not transferred in such a way as to increase or decrease original allocations. Refer to the instructions of the electronic budget for further details.

Accountability for Program Requirements: LEAs are held accountable for all program requirements for the remaining funds that cannot be transferred. Funds transferred to another program become subject to that program's requirements. For example, unless waived, Title II-D requires 25% of its allocation be used for professional development activities. The 25% is calculated *after* the transfer.

Small, Rural Schools: LEAs that meet the eligibility criteria for the Small, Rural School Achievement Program do not use the transferability option. They instead utilize the Alternate Uses Provision described in Title VI, Part B, Subpart 1.

Title VI, Part B, Subpart 2 - Rural, Low-Income School Program

Purpose

To address the unique needs of rural school districts that frequently lack the personnel and resources needed to compete effectively for Federal competitive grants and that receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

Eligibility Criteria

An LEA is eligible to receive Rural, Low-Income funds if:

- (a) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line;
- (b) all of the schools served by the agency are designated with a school locale code of 6, 7, or 8, and
- (c) the LEA is not eligible for the Small, Rural Schools Achievement Program.

Authorized Activities

Districts or BOCES that receive Rural, Low-Income funds may apply the funds toward the following programs and activities.

1. Teacher recruitment and retention, including the use of signing bonuses and other financial incentives
2. Teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers
3. Educational technology, including software and hardware, as described in Title II-D
4. Parental involvement activities
5. Activities authorized under the Safe and Drug-Free Schools program under Title IV-A
6. Activities authorized under Title I-A
7. Activities authorized under Title III

Accountability

The State will determine, after three years of participation, whether the LEA participating in the program made adequate yearly progress. If the LEA has not made adequate yearly progress the LEA may use the funds in the following year's allocation (if still eligible for funds) only to carry out school improvement activities described under section 1116 of Title I.

Title VI, Part B, Subpart 1: Alternative Uses Provision (for Small, Rural LEAs)

Purpose

To address the unique needs of rural school districts that frequently lack the personnel and resources needed to compete effectively for Federal competitive grants and that receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

Uses of Funds

NCLB Title VI-B, Subpart 1, allows eligible LEAs to use up to 100% of funds under Titles II-A, II-D, IV-A, and V for activities authorized under Titles I, II-A, II-D, III, IV-A, and V. If a BOCES has eligible districts assign eligible funds to the BOCES, the BOCES may redirect the use of funds on behalf of only those eligible districts. The funds do not transfer between programs. The use of funds must conform to the requirements of the alternate program for which they are used.

Eligibility Criteria

An LEA is eligible if:

1. The total number of students in average daily attendance at all schools served by the LEA is fewer than 600; *or* each county in which a school served by the LEA is located has a total population density of fewer than 10 persons per square mile; *and*
2. All of the schools served by the LEA are designated with a school locale code of 7 or 8.

Important: LEAs provide notice of participation in the Alternative Uses provision via the Consolidated Federal Programs application. LEAs cannot use funds for alternative uses unless they give notice to CDE that they intend to do so via the application. LEAs participate for a three year time period.

Accountability

The State will determine, after three years of participation, whether the LEA participating in the program made adequate yearly progress. The State will permit only those that made adequate yearly progress to continue to participate, and permit those LEAs that failed to make adequate yearly progress to continue to participate only if such LEA uses the applicable funding to carry out school improvement activities described under Title I.

Additional Funds Allocated from the U.S. Department of Education

LEAs meeting the eligibility criteria for Small, Rural Schools may receive an additional allocation directly awarded by the US Education Department. The purpose of the funds must support the goals of the No Child Left Behind Act.

The underlying planning assumption is that the LEA will utilize the Consolidated Federal Program application planning process to identify the priority needs toward which to apply this additional funding.

Use of Funds

The additional funds must be used only for the activities authorized by Title I, Part A; Title II, Part A; Title II, Part D; Title III; Title IV, Part A or B; and Title V, Part A.

Accountability

The same "AYP in three years time" requirement applies to these additional funds.

Section XIII: Title IX

General Provisions

Title IX includes many provisions that apply to some/all of the *NCLB* programs, such as definitions, flexibility provisions relating to consolidated plans and use of administrative funds, waivers, uniform provisions, and limitations on the federal role in education. Summarized below are some of the more significant new general provisions.

Constitutionally Protected School Prayer

To qualify for funding, each LEA must certify in writing by October 1 of each year to the CDE that it has no policy that prevents constitutionally protected prayer in the public schools. By November 1 of each year, the CDE is required to forward a list of LEAs that have not filed the required certification or those against which complaints have been made. This provision is outlined in guidance published by USDE by September 1, 2002 and every second year thereafter. The USDE is directed to bring enforcement action against any LEA that fails to submit the required certification or that provides its certification in bad faith. The school prayer assurance is included in the consolidated application [*NCLB* §9524].

Equal Access to Public School Facilities

Prohibits the CDE, the LEA, or public school that receives funds from the USDE and permits outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts or any other youth group listed as a patriotic society in title 36 of the United States Code based on the group's membership criteria or oath of allegiance [*NCLB* §9525].

General Prohibition of Use of Funds

NCLB funds cannot be used to develop/distribute materials or operate programs that promote or encourage sexual activity; distribute legally obscene materials to minors on school grounds; provide sex education or HIV prevention education unless such instruction is age-appropriate and includes the health benefits of abstinence; or operate a program of contraceptive distribution in schools [*NCLB* §9526].

Armed Forces Recruiter Access

Requires each LEA that receives funds under the *ESEA* to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students. However, parents may request that such information not be released for their child without prior written parental consent. LEAs must give military recruiters the same right of access to secondary students as they provide generally to postsecondary institutions and prospective employers [*NCLB* §9528].

Unsafe School Choice Option

Requires each state that receives *NCLB* funds to implement a statewide policy that offers to the parents of each student who attends a “persistently dangerous” public school (as determined by the state), or “who becomes a victim of a violent criminal offense” (as determined by state law) while on school grounds the option to attend a safe public school within the same LEA.