



# **IMPROVING TEACHER QUALITY STATE GRANTS**

## **TITLE II, PART A**

### **NON-REGULATORY GUIDANCE**

**Revised**  
January 16, 2004

Academic Improvement and Teacher Quality Programs

Office of Elementary and Secondary Education  
U.S. Department of Education





UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF THE DEPUTY SECRETARY

January 16, 2004

Dear Colleague:

I am pleased to share with you a revised and expanded version of the *Improving Teacher Quality State Grants Non-Regulatory Guidance*. This Guidance incorporates the sections on highly qualified teachers that were released on September 12, 2003, with newly revised sections that pertain to the administration of the *Title II, Part A* program. This revised Guidance provides clearer information than prior versions and contains answers to many of the questions raised by the field during the past year about teacher quality and the administration of the *Improving Teacher Quality State Grants* program. We hope this information will be helpful as you work toward implementing the teacher quality provisions in *No Child Left Behind* and provide assistance and support for teachers around your State.

I want to encourage those of you who work in State departments of education and local school districts to take advantage of the flexibility provided within the law to set certification standards that allow qualified individuals to enter teaching, target funds to improve teaching and learning for programs that work, and tailor this national initiative for excellence to the unique needs of your State and community.

Throughout the coming months, the Department of Education's Teacher Assistance Corps will continue visiting States to discuss these important issues. These groups of education experts, researchers, and practitioners are interested in hearing more about what is working in your State, sharing ideas that are working in other regions, providing advice on areas that are particularly challenging, and assisting in setting and meeting goals. In this way, our offices can work together to help you determine the best way to ensure that all children have excellent teachers.

Finally, thanks to you and your colleagues for your tireless efforts to improve education. America is on a fast track for increasing educational excellence. With this bold new law and support at the Federal, State, and local levels, the goal of leaving no child behind will soon become a reality. Please do not hesitate to contact the *Title II* staff in the Office of Elementary and Secondary Education with any further questions or concerns. We are happy to assist in any way possible.

Sincerely,

Eugene W. Hickok  
Acting Deputy Secretary



## **PURPOSE OF THIS GUIDANCE**

This Non-Regulatory Guidance explains how State educational agencies, local educational agencies, and State agencies for higher education can effectively use *Title II, Part A* funds to ensure that all teachers are highly qualified and effective, a critical component of the *No Child Left Behind Act*.

The Guidance in this document supersedes all prior guidance issued by the Department for the *Title II, Part A* program. The revised Guidance addresses new issues raised by State and local officials in light of their experiences in administering the programs authorized in *No Child Left Behind*, provides additional clarification and rationale in areas for which the Department received inquiries from the field, and provides new and expanded examples of promising practices. This Guidance does not impose any requirements beyond those that the law specifies, and where possible, it encourages varying approaches and focuses on what can be done rather than on what cannot be done.

Any requirements referred to in this Guidance are taken directly from the statute, with citations provided throughout. Except for explicit statutory requirements, State and local recipients are free to implement *Title II, Part A* activities based on their own reasonable interpretations of the law. However, U.S. Department of Education officials, including the Inspector General, will consider States and local recipients that follow this Guidance to be in compliance with the applicable Federal statutes and regulations.



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## **A. OVERVIEW**

The *No Child Left Behind Act of 2001* (NCLB), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), places a major emphasis upon the importance of teacher quality in improving student achievement. To help ensure that all teachers of core academic subjects are highly qualified no later than the end of the 2005-2006 school year, *Title II, Part A* of ESEA - *the Improving Teacher Quality State Grants program* - provides nearly \$3 billion a year to the States. These funds can be used to prepare, train, and recruit high-quality teachers and principals capable of ensuring that all children will achieve to high standards. In 2002-2003, approximately 93 percent of all school districts chose to receive *Title II, Part A* funds.

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

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



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

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



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

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

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

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

We encourage States to examine their certification systems to remove any unnecessary requirements that inhibit, rather than encourage, the entrance of qualified people into the teaching profession. We also encourage States to use program funds creatively to address the broad challenges of teacher recruitment, retention, hiring, induction, professional development, and the need for more skilled principals and assistant principals to serve as effective school leaders.

This version of the Non-Regulatory Guidance includes new issues that have arisen during program implementation, clarifies and expands answers to prior questions, and removes questions that are now obsolete. We trust that this Guidance will be a key resource for State and local educators and administrators as they continue their work to improve teacher quality and student achievement.

## **B. GENERAL INFORMATION**

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

The purpose of *Title II, Part A* is to increase the academic achievement of all students by helping schools and districts improve teacher and principal quality and ensure that all teachers are highly qualified. Through the program, State and local educational agencies (SEAs and LEAs), and State agencies for higher education (SAHEs) receive funds on a formula basis. Eligible partnerships consisting of high-need LEAs and institutions of higher education (IHEs) receive funds that are competitively awarded by the SAHE ([see Section I](#)).

In exchange, agencies that receive funds are held accountable to the public for improvements in academic achievement. *Title II, Part A* provides these agencies with the flexibility to use these funds creatively to address challenges to teacher quality, whether they concern teacher preparation and qualifications of new teachers, recruitment and hiring, induction, professional

development, teacher retention, or the need for more capable principals and assistant principals to serve as effective school leaders.

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

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

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

The flexibility and transferability provisions, described in greater detail on the Department's website at <http://www.ed.gov/nclb/freedom/local/flexibility/index.html>, affect the *Title II, Part A* program as follows:

State-Flex (ESEA Sections 6141 through 6144)

An SEA with State-Flex authority may consolidate *Title II, Part A* funds that are available for State-level activities and State administration with State-level funds available under certain other programs. The SEA may then use the combined funding for any ESEA purpose in order to make adequate yearly progress and advance the educational priorities of the State and the LEAs with which the State enters into performance agreements.

Within a State-Flex State, an LEA that enters into a performance agreement with its SEA may similarly consolidate *Title II, Part A* funds with certain other Federal funds. The LEA can then use those funds for any ESEA purpose consistent with the SEA's State-Flex plan in order to meet the State's definition of adequate yearly progress, improve student academic achievement, and narrow achievement gaps.

The SEA, and the LEAs with which the SEA enters into performance agreements, must provide for the equitable participation of students and professional staff in private schools consistent with Section ESEA 9501. ESEA Sections 9502, 9503, and 9504 apply to all services and assistance provided with the consolidated funds. (Additional guidance on the applicability of the equitable participation requirements to the State-Flex program is provided in the State-Flex application package, available at [www.ed.gov/legislation/FedRegister/announcements/2002-4/101102e.html](http://www.ed.gov/legislation/FedRegister/announcements/2002-4/101102e.html).)

Local-Flex (ESEA Sections 6151 through 6156)

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

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

Transferability (ESEA Sections 6121 through 6123)

Under this flexibility authority, an SEA may transfer up to 50 percent of the non-administrative funds that it receives under certain Federal programs to other specified programs that address more effectively its unique needs, or it may transfer those funds to *Title I, Part A*. This authority allows a portion of an SEA's State-level non-administrative funds to be transferred into or out of the *Title II, Part A* program.

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

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

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

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

1. Employs systematic, empirical methods that draw on observation or experiment;
2. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
3. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

4. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
5. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
6. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review. (Note: practitioner journals or education magazines are *not* the same as peer-reviewed academic journals.)

The statute also requires that all SEA activities supported with program funds must be based on a review of scientifically based research, and the SEA must maintain documentation that explains why it expects those activities to improve student academic achievement.

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

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

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

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

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

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

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

- *Title I, Part A*, which requires that LEAs use at least 5 percent of their *Title I* funds for professional development activities to ensure that teachers who are not currently highly qualified meet that standard by the end of the 2005-06 school year [Section 1119(1)]. In addition, any school identified as in need of improvement for failing to make adequate yearly progress must spend 10 percent of its *Title I, Part A* funds on professional development, including teacher mentoring programs [Section 1116(c)(7)(A)(iii)].
- *Title I, Part B*, the *Reading First* program, which requires grantees to build on scientifically based reading research to implement comprehensive instruction for children in kindergarten through third grade. From the 20 percent State set-aside funds, 65 percent may be spent in preparing teachers through professional development activities so the teachers have tools to effectively help their students learn to read [Section 1202(d)(3)].
- *Title II, Part B*, the Mathematics and Science Partnerships program, which provides funding to SEAs to competitively establish IHE-LEA partnerships to enhance teacher subject-matter knowledge and the quality of teaching in mathematics and science [Section 2201(a)].
- *Title II, Part C*, the Troops-to-Teachers and Transition to Teaching programs, which support efforts to help school districts hire, train, and retain individuals from other careers and backgrounds as teachers in high-need schools [Sections 2303 and 2313].
- *Title II, Part D*, the Enhancing Education Through Technology program, under which each local recipient of funds must use at least 25 percent of those funds for ongoing, sustained, and high-quality professional development on the integration of advanced technologies into curriculum and instruction and on the use of those technologies to create new learning environments [Section 2416(a)].
- *Title III, Part A*, which authorizes LEAs to use formula grant funds for professional development of teachers providing instruction to students needing English language acquisition and language enhancement [Section 3111(a)(2)(A)].
- *Title V, Part A*, which authorizes LEAs to use formula grant funds to provide professional development activities carried out in accordance with *Title II, Part A*, as well as to recruit, train, and hire highly qualified teachers to reduce class size [Section 5131(a)(1)].
- *Title VII, Part A*, the Indian, Native Hawaiian, and Alaska Native Education program, which requires a comprehensive program for meeting the needs of Indian children that, among other things, calls for professional development opportunities to ensure that teachers and other school professionals have been properly trained [Section 7114(b)(5)].

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

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

All SEAs that receive *Title I, Part A* funds are required to develop a plan to have all teachers of core academic subjects highly qualified no later than the end of the 2005-2006 school year. Each LEA within these States must ensure that all teachers of core academic subjects hired after the first day of the 2002-2003 school year and teaching in a program supported with *Title I, Part A* funds already are highly qualified. The LEA must also have a plan describing how it will meet the annual measurable objectives established by the SEA for ensuring that all teachers in the LEA are highly qualified by the end of the 2005-2006 school year [Section 1119(a)(1) and (3)].

#### ***General Information***

##### **C-1. What is the definition of a highly qualified teacher?**

The requirement that teachers be highly qualified applies to all public elementary or secondary school teachers employed by a local educational agency who teach a core academic subject ([see question C-2, below](#)). “Highly qualified” means that the teacher:

1. Has obtained full State certification as a teacher or passed the State teacher licensing examination and holds a license to teach in the State, and does not have certification or licensure requirements waived on an emergency, temporary, or provisional basis;
2. Holds a minimum of a bachelor’s degree; and
3. Has demonstrated subject matter competency in each of the academic subjects in which the teacher teaches, in a manner determined by the State and in compliance with Section 9101(23) of ESEA.

The statutory definition includes additional elements that apply somewhat differently to new and current teachers, and to elementary, middle, and secondary school teachers. The complete definition of a “highly qualified” teacher is in Section 9101(23) of the ESEA and in Appendix A of this document.

**C-2. What is meant by “core academic subjects”?**

The term “core academic subjects” means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography [Section 9101(11)]. While the statute includes the arts in the core academic subjects, it does not specify which of the arts are core academic subjects; therefore, States must make this determination.

**C-3. How does the State determine if a *current teacher*<sup>1</sup> (elementary, middle, or secondary) is highly qualified?**

The SEA is responsible for developing and approving methods for ensuring that teachers have, in addition to a bachelor’s degree and full State certification, subject-matter competency and teaching skills. Current teachers can demonstrate their competency and skills by (a) passing a rigorous State academic subject matter test, (b) in the case of middle or secondary school teachers, completing an academic major, graduate degree, coursework equivalent to an academic major, or advanced certification or credentialing, or (c) using the high, objective, uniform State standard of evaluation (HOUSSE) (see questions [C-8 through C-10](#)) [Section 9101(23)]. [See questions [C-4 and C-5](#) for a discussion of the State academic subject matter test.]

**C-4. How does the State determine if *new elementary school teachers* have the subject matter knowledge and teaching skills that are needed of highly qualified teachers?**

To meet the requirements of the law, new teachers at the elementary level must (1) hold at least a bachelor’s degree, (2) be licensed by the State, and (3) demonstrate, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary curriculum [Section 9101(23)(B)(i)]. While the Department is always willing to respond to inquiries from States, it is the responsibility of the SEA to identify and approve specific tests. We recommend that each SEA use the guidelines below to evaluate any subject-matter tests it may consider using for this purpose.

The test may consist of a State-required certification or licensing test (or tests) in reading, writing, math, and other areas of the basic elementary school curriculum. The content of the test should be rigorous and objective and have a high, objective, uniform standard that the candidate is expected to meet or exceed. This standard must be applied to each candidate in the same way.

The purpose of the test is to establish the candidate’s knowledge of content in reading, writing, math, and other areas of the basic elementary curriculum. The SEA may wish to go on record - via a resolution passed by the State Board of Education, for example - establishing which tests meet the State’s criteria. Keeping such formal approvals on file, along with an explanation of how the tests meet the criteria required by the law, would be one way for the State to demonstrate it is in compliance with the Section 9101(23) requirements.

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<sup>1</sup> A current teacher is a teacher who has already been hired by, and is teaching in, the school district. For practical purposes, the term “current” teacher does not have a different meaning than the term “veteran teacher” or “teacher who is not new to the profession.” We use the term current teacher rather than veteran teacher in this context only because we do not want to imply that such a teacher must have extensive teaching experience.

**C-5. How does the State determine if *new middle and high school teachers* have a high level of competence in each of the subjects they will teach?**

To meet the requirements of the law, new teachers at the middle and high school levels must (1) hold at least a bachelor's degree, (2) be licensed by the State, and (3) demonstrate their competence, in each of the core academic subjects the teacher teaches, by:

- completing an academic major, a graduate degree, coursework equivalent to an academic major, or advanced certification or credentialing, or
- passing a rigorous State academic subject test [Section 9101(23)(B)(ii)].

While it is the responsibility of the SEA to identify and approve such tests, the Department recommends that each SEA use the guidelines below to evaluate any subject-matter tests it may consider using for this purpose.

The academic subject test may consist of a State-required certification or licensing test (or tests) in each of the academic subjects in which a teacher teaches<sup>2</sup>. The content of the test should be rigorous and objective, focus on a specific academic content area, and have a high, objective, uniform standard that the candidate is expected to meet or exceed. These standards must be applied to each candidate in the same way.

The purpose of the test is to establish the candidate's knowledge in a given subject matter. In addition, the test might be used to target the areas where additional coursework or staff development may be needed to help the teacher succeed at meeting the standard.

The SEA may wish to go on record - via a resolution passed by the State Board of Education, for example - establishing which tests meet the State's criteria. Keeping such formal approvals on file, along with an explanation as to how the tests meet the criteria required by the law, would be one way for a State to demonstrate it is compliance with the Section 9101 requirements.

**C-6. What is meant by “full State certification”?**

Full State certification, as determined under State law and policy, means that the teacher has fully met those State requirements that apply to the years of experience the teacher possesses. For example, these requirements may vary for first-year teachers and current teachers. In addition, “full State certification” means that the teacher must not have had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

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<sup>2</sup> Also see [question C-12](#). The Department recognizes that the ESEA does not define "middle school" and that grades 6-8 may be located in a K-8 setting, a non-departmentalized middle school, or a departmentalized middle or junior high school. If the State or LEA chooses to treat these grades, or some of the core academic subjects taught in those grades, as part of "elementary school," it may administer **rigorous** teacher assessments (that may include a broad-field assessment for elementary-level subjects) appropriate to the content standards of the subject(s) being taught.

States are free to redefine, in accordance with State law, their certification requirements (for example, they may streamline their requirements if they determine that they are too onerous) or create non-traditional approaches to certification. For example, a State may determine that an individual is fully certified if he or she has passed a rigorous assessment, such as those currently being developed by the American Board for Certification of Teacher Excellence, of his or her subject-matter mastery and professional teaching knowledge. Such non-traditional approaches to full State certification are different from alternative route to certification programs ([see C-7 below](#)) because, in the former, the candidate is fully certified before he or she starts teaching.

**C-7. When can a teacher in an alternative route to certification/licensure program be considered “highly qualified”?**

Teachers who are not yet fully certified may be considered to meet the certification requirements in the NCLB definition of a highly qualified teacher if they are participating in an alternative route to certification program under which they: (1) receive high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction before and while teaching; (2) participate in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers, or a teacher mentoring program; (3) assume functions as a teacher only for a specified period of time not to exceed three years; and (4) demonstrate satisfactory progress toward full certification as prescribed by the State.

The State must ensure, through its certification and licensure process, that these provisions are met [Section 200.56 of the *Title I* regulations, December 2, 2002].

***High Objective Uniform State Standard of Evaluation (HOUSSE)***

**C-8. What is meant by High Objective Uniform State Standard of Evaluation (HOUSSE) procedures?**

States have the option of developing a method by which current teachers can demonstrate competency in each subject they teach on the basis of a “high objective uniform State standard of evaluation” (HOUSSE). This standard must be one that, among other requirements, “provides objective coherent information about the teacher’s attainment of core content knowledge in the academic subjects in which a teacher teaches” [Section 9101(23)(C)(ii)(III)].

States can establish a process of evaluating teacher knowledge and ability based on a high, objective uniform State standard of evaluation that meets each of the following criteria [Section 9101(23)(C)(ii)]:

- Be set by the State for both grade-appropriate academic subject matter knowledge and teaching skills;
- Be aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
- Provide objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

- Be applied uniformly to all teachers in the same academic subject and teaching in the same grade level throughout the State;
- Take into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject; and
- Be made available to the public upon request.

The statute also permits the States, when developing their HOUSSE procedures, to involve multiple, objective measures of teacher competency. Each evaluation should have a high, objective, uniform standard that the candidate is expected to meet or exceed. These standards for evaluation must be applied to each candidate in the same way.

Where States choose to adopt this alternative means for assessing whether current teachers are highly qualified, we encourage them to consider going on record - via a resolution passed by the State Board of Education, for example - establishing how teachers of various subjects at different grade levels may meet the statutory criteria. Keeping such formal approvals on file, along with an explanation for how the demonstration of competency meets the criteria required by the law, would be one way for a State to demonstrate that it has established procedures that conform to the Section 9101(23) requirements.

**C-9. What factors should a State consider when developing its HOUSSE procedures?**

In considering each of the statutory criteria when developing their HOUSSE procedures, States should consider the following factors:

- Do the HOUSSE procedures provide an “objective” way of determining whether teachers have adequate subject-matter knowledge in each core academic subject they teach?
- Is there a strong and compelling rationale for each part of the HOUSSE procedures?
- Do the procedures take into account, but not primarily rely on, previous teaching experience?
- Does the plan provide solid evidence that teachers have mastered the subject-matter content of each of the core academic subjects they are teaching? (Note: experience and association with content-focused groups or organizations do not necessarily translate into an objective measure of content knowledge.)
- Has the State consulted with core content specialists, teachers, principals, and school administrators?
- Does the State plan to widely distribute its HOUSSE procedures, and are they presented in a format understandable to all teachers?

**C-10. Can a State adopt an additional set of HOUSSE procedures for a group of teachers who cannot readily be evaluated using the procedures the State would use for all other teachers?**

Yes. A State may use an additional set of procedures for HOUSSE if the regular procedures cannot readily be used to assess the subject-matter competency of a particular group of teachers (e.g., teachers who are recruited from other countries), so long as the State maintains a high standard for the subject-matter knowledge that all highly qualified teachers must have. The State would still have one overall standard of evaluation, but it can adopt a different set of HOUSSE

procedures to assess whether teachers in a special group have met this standard for demonstrating subject-matter competency.

### *Middle School Teachers*

#### **C-11. What are the requirements governing highly qualified middle school teachers?**

*New Middle School Teachers.* A middle school teacher new to the profession must have (1) passed “a rigorous State subject test in each of the academic subjects in which the teacher teaches” [Section 9101(23)(B)(ii)(I)], or (2) have successfully completed, in each of the academic subjects the teacher teaches “an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing” [Section 9101(23)(B)(ii)(II)]. [[See question C-5.](#)]

*Current Middle School Teachers.* Current middle school teachers may meet the subject matter competency requirement by completing one of the two options listed above for new middle school teachers [Section 9101(23)(C)(i)] or through the HOUSSE procedure established by the SEA. [[See question C-3.](#)]

#### **C-12. How does a State determine whether teachers of core academic subjects in grades 6, 7, and 8 must meet the subject-area competency requirements for elementary school or for middle school teachers?**

The intent of the law is to ensure that each teacher of a core academic subject has sufficient subject matter knowledge and skills to instruct effectively in his or her assigned subjects, regardless of whether the school is configured as an elementary or a middle school. For instance, 8<sup>th</sup>-grade algebra teachers must have the same requisite skills and knowledge whether they teach in elementary schools or middle schools.

To determine whether a teacher of a core academic subject in grades 6 through 8 must meet the subject-matter competency requirements for elementary school teachers or those for middle school teachers, States should examine the degree of rigor and technicality of the subject matter that the teacher will need to know in relation to the State’s content standards and academic achievement standards for the subjects that will be taught.

#### **C-13. May a teacher with middle school certification be considered highly qualified?**

Yes. In a State that issues a certification specifically for middle school teachers, middle school teachers holding such a certification would be considered highly qualified if they hold a bachelor’s degree and either pass a rigorous a State-approved test of their knowledge of each of the core academic subjects they will teach, or complete an academic major or coursework equivalent to an academic major, attain an advanced degree or certification in each subject they teach, or demonstrate competency in each subject they teach through their State’s HOUSSE procedures.

**C-14. May middle school teachers take tests that are specifically developed for middle school academic content areas, or do they have to pass the same tests as high school teachers?**

A State may approve rigorous content-area assessments that are developed specifically for middle school teachers and aligned with middle school content and academic standards.

**C-15. May a middle school teacher who has passed a State “generalist” exam in math, science, English, and social studies be considered to have demonstrated subject competency - on the basis of passing the test - to teach middle school courses and, therefore, be a highly qualified teacher?**

If the content of the generalist exam does not rigorously measure each of the subjects being taught, at the level of difficulty being taught, the exam cannot be considered valid for demonstrating subject-matter competency. The law states that a middle school (and high school) teacher must demonstrate a high level of competence “in each of the academic subjects in which the teacher teaches” [Section 9101(23)(B)(ii) and (C)(ii)]. If a teacher does not meet this requirement on the basis of successful completion of an academic major or equivalent, or through the attainment of an advanced degree or credential, the teacher either must, for each subject that he or she would teach, pass a rigorous State academic subject test or demonstrate competence through HOUSSE procedures. ([See C-17 for more information about taking a single exam for subject-area competency.](#))

*Demonstrating Subject-Area Competency*

**C-16. Is a teacher with an undergraduate degree or who has otherwise demonstrated subject-area competency in a specific scientific field (e.g., biology or chemistry) highly qualified to teach any science course?**

No. Content knowledge in one scientific discipline does not necessarily mean that a teacher will have sufficient subject-matter competency in another. Middle and secondary school science teachers must demonstrate subject-matter competency appropriate to the specific courses they are teaching. For example, a teacher who majored in biology is not, on that basis alone, considered highly qualified to teach physics.

**C-17. Can a teacher demonstrate subject-area competency in multiple subjects, e.g., civics and government, or chemistry and physics, through a single test?**

Yes, a State may offer a single test that covers more than one core content area. To be able to determine whether a teacher who passes such a test has demonstrated subject-matter competency in each subject covered by the test, the State would have to determine (as it would for a single-subject test) that the test questions adequately cover the content area of each subject and that the teacher has successfully answered an adequate subset of those questions.

***Which Teachers Must Be Highly Qualified?*****C-18. Do teachers need to meet the highly qualified requirements if they are not teaching a core academic subject?**

No, only teachers who teach core academic courses are required to meet the definition of a highly qualified teacher. ([See C-2 for the definition of core academic subjects.](#))

**C-19. How may a school district that brings in visiting international teachers comply with the requirement that all teachers be highly qualified?**

NCLB requires each teacher of a core academic subject to be highly qualified, as defined and discussed earlier in this section of the Guidance. These requirements are essential to ensuring that all teachers of core academic subjects, whether they are recruited and hired from within the United States or from other countries, have the content knowledge and teaching skills needed to enable all students to succeed. The following sections explain how, consistent with the statutory requirements governing highly qualified teachers, school districts may continue to hire and employ visiting international teachers.

**Bachelor's Degree**

A foreign teacher will have met these requirements if he or she has received a degree from a foreign college or university that is at least equivalent to a bachelor's degree offered by an American institution of higher education (IHE). Agencies responsible for recruiting international teachers should ensure that they provide the LEAs who will hire these teachers documentation that each international teacher has received the necessary degree from a foreign (or domestic) IHE.

**Full State Certification or Licensure**

Section 9101(23) states that teachers who have had certification or licensure requirements waived on an emergency, temporary, or provisional basis would not be considered to be highly qualified. However, in examining the credentials of prospective visiting international teachers, States may find that their existing certification or licensure requirements (including those that govern testing) are ones that these prospective teachers could readily meet. Because each State continues to have full authority to define and enforce its own requirements that teachers must meet in order to receive full State certification or licensure, States that employ visiting international teachers may consider establishing a separate category of temporary certification that would differ from emergency or provisional certification in that the State would not be waiving any training or experiential requirements.

In designing this certification category, a State may want to establish interim requirements for international teachers that are tailored to (1) addressing the needs of LEAs within the State, and (2) its responsibility to ensure that visiting teachers have the knowledge and skills to warrant State certification.

This approach would be particularly useful for States and districts that employ, for no more than two years, international teachers who come to this country on an "J-1" visa.

### Competency in Subject Knowledge and Teaching Skills

The definition of a “highly qualified” teacher is very specific about the methods available for having a teacher demonstrate subject knowledge and teaching skills. Experienced international teachers (i.e., teachers who are not new to the field) can demonstrate the required subject competency and teaching skills either by passing subject-matter competency tests or by demonstrating competence on a “high, objective, uniform, State standard of evaluation.” These options are discussed below.

#### Subject-Matter Competency Tests:

*For middle and high school teachers*, Section 9101(23)(B)(ii)(I) and (II) permits a State’s new or existing middle and high school teachers to demonstrate the required subject-matter competency and teaching skills by ... “successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.” Therefore, international teachers who have successfully completed at least an academic major in the subjects that they would teach in U.S. schools have demonstrated the requisite competency in subject competency and teaching skills.

Prospective international teachers who did not major in the subject that they would be hired to teach in U.S. schools would need to take and pass the State test in the subject(s) they would teach. However, States have flexibility to determine that, for purposes of the international teachers, the subject tests they have passed in their own countries constitute a requisite “State test” for purposes of ESEA Section 9101(23).

*For elementary school teachers*, Section 9101(23)(B)(i)(II) permits a State’s new or experienced elementary school teachers to demonstrate the required subject competency and teaching skills by “passing a rigorous State test ... in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum).” Elementary school teachers may not demonstrate subject-matter competency solely through a subject-area major; otherwise, the options available through HOUSSE (see below) for having middle and high school teachers demonstrate subject competency and teaching skills also apply to elementary school teachers.

#### High Objective Uniform State Standard of Evaluation:

ESEA Section 9101(23)(C)(ii) permits any experienced teacher, without regard to whether the teacher has taught in U.S. schools or schools in other countries, to demonstrate subject competency and teaching skills through a State-established HOUSSE procedure. States may be able to find reasonable ways to apply their HOUSSE procedures to international teachers.

Whatever method a State and LEA may adopt to demonstrate that international teachers have the requisite subject competency and teaching skills before they are employed in U.S. schools, any institutions responsible for recruiting these teachers should be able to provide documentation that international teachers meet the ESEA requirements that govern highly qualified teachers.

**C-20. Are early childhood or pre-kindergarten teachers subject to the highly qualified teacher requirements?**

The requirements that teachers be highly qualified do not apply to early childhood or pre-kindergarten teachers unless a State includes early childhood or pre-kindergarten as part of its elementary and secondary school system. However, even if the ESEA's highly qualified teacher requirements do not apply to these teachers, States and districts should ensure that pre-kindergarten teachers have the necessary skills and knowledge to provide their students with successful school readiness skills.

**C-21. How do the teacher quality requirements apply to individuals working in extended learning time programs?**

If services offered outside of regular school hours in a Title I extended learning time program provide instruction in core academic subjects designed to help students meet State or local academic standards, the persons providing such core academic instruction must meet the highly qualified teacher requirements. In extended learning time programs (which can include summer school), the school's regular teaching staff extend or continue the school's instructional day using the same or similar curricula, and therefore they must be highly qualified. However, if the instructor is not an employee of the LEA, the teacher quality requirements do not apply.

An extended learning time program that offers core academic instruction because an LEA has determined that particular students need additional time to learn to State standards can be distinguished from an after-school program offering academic enrichment, tutoring and homework assistance, including supplemental educational services under Section 1116 of *NCLB*. In the latter case, the highly qualified teacher (and paraprofessional) requirements do not apply. It is up to the State and the LEA to distinguish between instruction that is provided in extended time and instruction provided in enrichment programs.

**C-22. Do teachers who primarily teach English language learners need to meet the highly qualified requirements?**

Yes, if the teachers of English language learners provide instruction in core academic subjects. In addition, teachers of English language learners who teach in instructional programs funded under ESEA *Title III* must be fluent in English and any other language in which they provide instruction, including having written and oral communication skills.

**C-23. Are charter school teachers required to be highly qualified under *NCLB*?**

Yes. Charter school teachers must hold at least a bachelor's degree and must demonstrate competence in the core academic areas in which they teach. However, *NCLB* does not require that charter school teachers be fully certified. Rather, charter school teachers must only meet the requirements of the State's public charter school law, which may differ from the requirements for full State certification.

**C-24. Do short- and long-term substitute teachers need to meet the highly qualified requirements?**

Substitutes take the place of teachers and, therefore, play a critical role in the classroom and the school. It is vital that they be able to perform their duties well. Although short-term substitutes do not need to meet the highly qualified teacher requirements, it is strongly recommended that a long-term substitute teacher, as defined by the State, meet the requirements for a highly qualified teacher as defined in Section 9101(23). In establishing a definition for a long-term substitute, SEAs and LEAs should bear in mind that the law requires that parents of children in Title I schools must be notified if their child has been assigned to, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified [Section 1111(h)(6)].

**C-25. Are middle and high school teachers in small rural schools required to be highly qualified in every core academic subject they teach?**

Yes. All teachers who teach core academic subjects must be highly qualified in each subject they teach. Of course, small rural districts face special challenges in ensuring that all of their teachers are highly qualified no later than the end of the 2005-2006 school year. These districts and the States in which they are located should examine how the resources provided through *Title II, Part A* and other local, State, or Federal sources can be used to improve and expand professional development opportunities to help ensure that teachers who are not yet highly qualified in the subjects they teach (1) receive high-quality, content-specific professional development, and (2) meet the State's HOUSSSE standard for each subject they teach or pass rigorous subject-specific tests.

In addition to the professional development that rural districts can offer, they should also consider how distance learning arrangements that enlist the services of highly qualified teachers in other localities can help them meet the goal of having all the core academic subjects they offer taught by highly qualified teachers.

Schools may also hire experts (e.g., scientists, engineers, or artists) to provide content enrichment and practical applications to the content being taught. As long as these experts are reinforcing the regular teachers and not providing direct instruction in the core content areas, they do not have to meet the highly qualified requirements.

**C-26. Must special education teachers who teach core academic subjects be highly qualified?**

Yes. Special education teachers who provide instruction in core academic subjects must meet the highly qualified teacher requirements for those core academic subjects that they teach. These requirements apply whether a special education teacher provides core academic instruction in a regular classroom, a resource room, or another setting.

**C-27. What activities may special education teachers carry out if they are not highly qualified in the core academic content area being taught?**

There are many activities that special education teachers may carry out that would not, by themselves, require those teachers to be highly qualified in a particular subject matter. Special

educators who do not directly instruct students in any core academic subjects or who provide only consultation to highly qualified teachers of core academic subjects in adapting curricula, using behavioral supports and interventions, or selecting appropriate accommodations do not need to demonstrate subject-matter competency in those subjects. These special educators could also assist students with study skills or organizational skills and reinforce instruction that the child has already received from a highly qualified teacher in that core academic subject.

States and districts should consider the needs of special education teachers as they implement *Title II, Part A*, particularly for activities that relate to professional development and reform of teacher certification or licensing procedures. By coordinating the use of resources from other Federal programs, such as the Individuals with Disabilities Education Act (IDEA), States can ensure that *Title II, Part A* funds are used effectively to help establish a coherent and comprehensive system that supports teacher quality.

**C-28. Must elementary school subject specialists be highly qualified in all subjects or just the subject they teach?**

Any teacher who provides instruction in a core academic subject must be, by the end of the 2005-2006 school year, highly qualified. For veteran elementary school teachers, this means that, in addition to being fully certified and holding at least a bachelor's degree, they "must demonstrate subject matter competency in each of the academic subjects in which the teacher teaches, in a manner determined by the State" [Section 9101(23)]. A fully certified veteran elementary school teacher who only teaches a single subject, e.g., a reading or mathematics specialist, therefore does not necessarily have to demonstrate subject-matter knowledge across the entire elementary curriculum. Rather, a teacher must pass a rigorous State test in the subject area in which he or she specializes, or demonstrate competence in the subjects he or she teaches through the State's HOUSSE procedures.

On the other hand, the statute requires that *new* elementary school teachers pass a rigorous State test of reading, writing, mathematics, and other areas of the elementary school curriculum. As a practical matter, most States are already requiring new teachers, whether generalists or specialists, to pass such a test before they can obtain full State certification. In these States, new "generalist" elementary school teachers who may in the future choose to pursue subject-area specializations will already have satisfied the requirements for being highly qualified. Of course, specialists in non-core academic subjects (e.g., vocational or physical education teachers) do not have to meet these requirements.

**C-29. Are LEAs required to inform parents about the quality of a school's teachers?**

Yes. At the beginning of each school year, an LEA that accepts *Title I, Part A* funding must notify parents of students in Title I schools that they can request information regarding their child's teacher, including, at a minimum: (1) whether the teacher has met the State requirements for licensure and certification for the grade levels and subject matters in which the teacher provides instruction; (2) whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived; (3) the college major and any other graduate certification or degree held by the teacher, and the field of

discipline of the certification or degree; and (4) whether the child is provided services by paraprofessionals, and if so, their qualifications.

In addition, each Title I school must provide each parent “timely notice that the parent’s child has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who is not highly qualified” [Section 1111(h)(6)].

**C-30. If a State or LEA enters into a contract with a private school for the education of children living in the State or area served by the LEA, do the "highly qualified teacher" requirements of NCLB apply to teachers in that private school?**

No. Under the statute, the highly qualified teacher requirements apply only to public school teachers.

**D. PROFESSIONAL DEVELOPMENT**

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

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

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

**D-2. What strategies can States use to help LEAs adopt and implement more effective teacher professional development activities?**

States can, for example: (1) develop guidance on effective strategies for improving teacher quality and provide that guidance to the LEAs; (2) adopt a formal statement of State priorities; (3) improve technical assistance and monitoring for LEAs; (4) sponsor conferences and other meetings that address issues related to improving teacher performance; and (5) disseminate information about successful programs and practices.

In providing this assistance, States should consider the needs of all teachers - whether they are regular classroom teachers, special education teachers, or teachers of English language learners -

so that a unified, comprehensive system of professional development is available to all who need to be highly qualified. States might also provide guidance to LEAs on effective ways of coordinating resources available for professional development from programs such as *Title I* and *Title III* of the ESEA and IDEA, Part B.

**D-3. The statute authorizes LEAs to use program funds for “teacher advancement initiatives that promote professional growth and emphasize multiple career paths, such as paths to becoming a career teacher, mentor teacher, or exemplary teacher...” [Section 2113(c)(14)]. What are some options by which LEAs can implement these activities?**

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

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

**D-4. Does the law contain any restrictions on the amount of *Title II, Part A* funds that an SEA may spend on professional development?**

No. However, in considering how to spend its State-level funds, the SEA should focus on its need to ensure that all teachers its LEAs employ who teach in core academic subjects meet the requirements for a highly qualified teacher by the end of the 2005-2006 school year.

**D-5. In many rural areas, offering high-quality professional development activities can be challenging because there may not be a critical mass of teachers who need help in the same subject. How can rural districts address this situation?**

One possible way that rural districts can provide teachers with professional development activities is by offering distance-learning opportunities. Many State colleges and universities currently offer distance learning. Through distance learning a teacher in a rural area can take professional development courses that meet his/her specific needs. For example, the Department recently awarded a grant to the Western Governors University (WGU) to develop and implement teacher training and certification courses. WGU is currently seeking State approvals for its teacher licensure and certification programs. WGU’s website, at [www.wgu.edu/wgu/index.html](http://www.wgu.edu/wgu/index.html), explains how teachers from any location can access services.

**D-6. What types of professional development can assist veteran teachers to develop and demonstrate subject-matter competence?**

States have the flexibility, in designing their HOUSSE procedures, to determine the extent to which various types of professional development activities can assist teachers to develop and demonstrate subject-matter competence. For instance, States may determine how professional development provided by particular institutions or organizations (e.g., universities or community colleges, textbook publishers, curriculum developers, comprehensive school reform model developers, or any other specialized in-service training provider) contributes to a teacher's subject-area knowledge. However, unless it is unusually intensive, a single professional development experience by itself will not provide the content knowledge necessary to enable a veteran teacher to demonstrate subject-matter competency.

**E. FEDERAL AWARDS TO THE STATE EDUCATIONAL AGENCY****E-1. Who is eligible to receive a *Title II, Part A* State allocation?**

All States (i.e., each of the 50 States, the District of Columbia, and Puerto Rico), the Outlying Areas (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands), and the Bureau of Indian Affairs (BIA) are eligible to receive *Title II, Part A* State allocations. The Freely Associated States (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) are not eligible to receive *Title II, Part A* funds.

**E-2. How does the Department determine each State's *Title II, Part A* allocation?**Allocations to the Outlying Areas and BIA

Prior to calculating State allocations, the Secretary reserves one-half of one percent of the *Title II, Part A* appropriation for awards to the Outlying Areas (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) and one-half of one percent for an award to the BIA.

Allocations to States

In determining the amount of each State's allocation, the Department first allots to each State the amount the State received for FY 2001 under the former Eisenhower Professional Development and Class-Size Reduction programs. (In any fiscal year, if the *Title II, Part A* appropriation is too small to permit allocations that equal at least the amounts that States received under these programs in FY 2001, the Department will ratably reduce each State's allocation for that fiscal year.)

The Department distributes any remaining funds based on the following formula:

- 35 percent based on each State's relative population of children ages 5 through 17; and
- 65 percent based on each State's relative numbers of individuals ages 5 through 17 from families with incomes below the poverty line.

At a minimum, each State receives at least one-half of one percent of the additional funds allocated under this formula (i.e., the money appropriated above the FY 2001 base level).

**E-3. How much of the State’s allocation must the SEA reserve for subgrants to LEAs, and how much do the SEA and SAHE retain for State-level activities and competitive grants, respectively?**

Under this program, the SEA must provide 95 percent of the State’s *Title II, Part A* funds (after reserving up to one percent for SEA and SAHE administration) for subgrants to LEAs. The SEA retains 2.5 percent of the funds for State-level activities described in Section 2113(c). The SAHE receives 2.5 percent of the funds (up to \$125 million among all SAHEs) to make competitive subgrants to eligible IHE-LEA partnerships as described in Section I of this document [Sections 2131-2134]. See the table below for a visual representation of the allocations.

<i>TITLE II, PART A WITHIN-STATE ALLOCATIONS</i> ESEA of 1965 as amended by <i>No Child Left Behind Act of 2001</i>	
2.5% of 99% for SEA-administered State activities	1% of 100% for SEA and SAHE administration
2.5% of 99% for competitive subgrants to eligible partnerships <sup>1</sup> (SAHE portion)	
95% of 99% reserved to make subgrants to local educational agencies	
<sup>1</sup> Up to a maximum of \$125 million total for all SAHEs	

**E-4. What portion of the State’s total allocation is available for SEA and SAHE administration?**

As noted above, up to one percent of the State allocation can be reserved for administration and must be shared by the SEA and SAHE. Absent an agreement between the SEA and SAHE to the contrary, the Department will provide the SAHE the greater of:

1. The amount the FY 2001 funds it had received for administration under the predecessor *Title II*, ESEA Eisenhower Professional Development Program, or
2. Five percent of the amount available each year for subgrants to partnerships under Section 2113(a)(2) of the ESEA, as amended by NCLB.

The Department will award the remainder of the one percent to the SEA for its costs of administration and planning.

**E-5. What are the SEAs’ reporting responsibilities?**

Under NCLB, the SEA is required to prepare and submit to the Secretary the information the Department requests in the consolidated State performance report, the annual State report to the Secretary described in Section 1111(h)(1), and the State report required under Section 1119(b).

The Department will work with the States to help them meet these requirements, as well as to meet any other data collection or reporting requirements that the Department may establish in the future to ensure it has the information necessary to effectively manage the *Title II, Part A* program.

## **F. STATE USE OF FUNDS**

*Title II, Part A* provides funds to SEAs to support improvements in the recruitment, hiring, training, and retention of their teaching force. Consistent with State law, SEAs and other State agencies can exercise significant discretion and authority in how LEAs improve the overall quality of their teachers. All activities pursued, however, must be grounded in scientifically based research.

For example, States may use *Title II, Part A* funds to promote periodic teacher recertification, establish the standards for recertification, require schools to develop school improvement plans that build on the importance of high-quality professional development, and assist LEAs in developing financial incentive programs to encourage highly qualified and effective teachers to teach in high-need schools. An SEA also may work with its LEAs to ensure that the proposed activities described in their program applications reflect proper consideration of these State priorities and initiatives.

Even where a State chooses not to mandate that LEAs and teachers adopt certain practices, the SEA still has a significant role to play in ensuring that LEAs propose sound uses of their *Title II, Part A* funds. The flexibility (in exchange for accountability) that the law now offers LEAs is flexibility to make sound, informed decisions, not -- as evidenced by the comprehensive set of LEA application requirements in Section 2122 -- flexibility to make easy decisions. SEAs should take seriously their statutory responsibility to "review and approve" these applications to ensure that the LEAs are not simply funding what is easiest.

For example, an SEA may feel strongly that an LEA will shortchange the professional development needs of its teachers if it spends disproportionate amounts of its *Title II, Part A* funds on the salaries of teachers hired to reduce class size. Both activities are allowable uses of an LEA's *Title II, Part A* funds. However, using program funds to reduce class size at the expense of promoting improved teaching quality may not, for example, help the LEA to ensure either that all of its teachers are highly qualified by the end of the 2005-06 school year or that its teaching staff is effective. Where an SEA finds that an LEA application fails to reflect either the required application content or answers to basic questions such as these, the SEA may postpone awarding funds until it is satisfied with the LEA's proposal.

### **F-1. How may an SEA use its State activities funds?**

Consistent with the requirements of an individual State application [Section 2112(b)], an SEA must use these funds for one or more of the activities summarized below [Section 2113(c)]:

1. Reforming teacher and principal certification (including recertification) and licensure to ensure that teachers have the necessary subject-matter knowledge and teaching skills in subjects in which they teach, that certification or licensing requirements are aligned with challenging State academic content standards, and that principals have instructional leadership skills to help teachers teach and students learn;

2. Providing support for new and current teachers and principals through such activities as mentoring, team teaching, reduced class schedules, intensive professional development, and using standards or assessments to guide beginning teachers;
3. Carrying out programs to establish, expand, or improve alternative routes for State certification for teachers and principals (especially in the areas of mathematics and science) that will encourage entry into the teaching profession for highly qualified individuals with at least a baccalaureate degree, including mid-career professionals, military personnel, paraprofessionals, and recent college graduates with records of academic distinction;
4. Developing and implementing effective mechanisms for helping LEAs and schools to recruit and retain highly qualified teachers, principals, and pupil services personnel;
5. Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensure, consistent with *Title II* of the Higher Education Act (HEA);
6. Providing professional development for teachers and principals (and for pupil services personnel when the SEA determines their participation to be appropriate);
7. Developing systems to measure the effectiveness of specific professional development programs and activities in order to document gains in student academic achievement or increases in teacher mastery of academic subjects teachers teach;
8. Fulfilling the SEA's responsibilities for proper and efficient administration of *Title II, Part A*, including provision of technical assistance to LEAs;
9. Funding projects to promote interstate certification or licensing reciprocity for teachers and principals, provided that the reciprocity agreement does not lead to a weakening of State certification or licensing requirements;
10. Developing or assisting LEAs in the development of proven, innovative strategies to deliver intensive professional development activities that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning;
11. Supporting the training of teachers and administrators in effectively integrating technology into curricula and instruction;
12. Developing, or assisting LEAs in developing, merit-based performance systems and strategies that provide differential and bonus pay for teachers in high-need academic subjects and for teachers in high-poverty areas;
13. Assisting LEAs in developing and implementing professional development programs for principals that enable them to be effective school leaders and to prepare all students to meet

challenging State content and student academic achievement standards, which may include the development and support of school leadership academies;

14. Developing, or assisting LEAs in developing, teacher advancement initiatives that promote professional growth and that emphasize multiple career paths and pay differentiation;
15. Providing assistance to teachers to enable them to meet certification, licensing, or other requirements in order to become highly qualified by end of the 2005-2006 school year;
16. Supporting activities to ensure that teachers are able to use State academic content and achievement standards and State assessments to improve instructional practices and student academic achievement;
17. Funding projects and carrying out programs to encourage men to become elementary school teachers; and
18. Establishing and operating a center that serves as a statewide clearinghouse for the recruitment and placement of K-12 teachers and establishes and carries out programs to improve teacher recruitment.

SEAs have the flexibility to (1) select those strategies and activities that will contribute most to the recruitment, hiring, training, and retention of highly qualified teachers and principals, and (2) use *Title II, Part A* funds in ways that will have the greatest impact on increased student achievement for all students and on meeting the SEAs' responsibilities for overall accountability [Section 2141].

**F-2. Does the law restrict the amount of *Title II, Part A* funds that an SEA may spend on activities to recruit and hire teachers?**

No. However, in considering how much of its State-level funds it will spend on these or other allowable activities, the SEA should balance these needs against the need to ensure that all teachers of core academic subjects are highly qualified by the end of the 2005-2006 school year.

**F-3. States are authorized to assist LEAs in developing merit-based performance or differential pay systems in “high-poverty schools and districts” [Section 2113(c)(12)]. How is “high-poverty” defined for this purpose?**

The ESEA does not define the term “high poverty” for purposes of Section 2113(c)(12). Therefore each SEA is free to adopt a reasonable definition that reflects the demographics of the State.

A State may wish to consider whether to adopt the definition of “high-poverty” used in the *Title I, Part A* statute with regard to the requirement that the SEA include in its annual report card information on the qualifications of teachers, broken down by high- and low-poverty schools. This provision defines high-poverty to include schools in the top quartile of poverty in the State [Section 1111(h)(1)(C)(viii)].

[Note: For information on requirements for *Maintenance of Effort* and *Supplement not Supplant*, [see Section H.](#)]

## **G. STATE AWARDS TO THE LOCAL EDUCATIONAL AGENCY**

### *Administration*

#### **G-1. How does the SEA distribute funds to LEAs?**

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

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

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

(Note: in any year in which there are insufficient funds to provide the districts with their hold harmless amount, the SEA will ratably reduce each district allocation.)

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

The SEA must use the most recent available Census data, as determined by the Secretary, on the number of children age 5-17 who reside in the area served by the LEA. As of November 2003, the most recent data on the number of children age 5-17 in each school district can be found at: <http://www.census.gov/housing/saipe/sd99>.

#### **G-3. What data should an SEA use for determining the portion of an LEA's program allocation that is attributable to the number of children in poverty?**

As in [G-2](#), the SEA must use the most recent available Census data, as determined by the Secretary, on the number of children age 5-17 from families with incomes below the poverty line. As of November 2003, the most recent family poverty data can be found at: <http://www.census.gov/housing/saipe/sd99>.

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

An LEA may receive a *Title II, Part A* subgrant by submitting to the SEA either a consolidated application or a program-specific application. The SEA determines the content of a consolidated local application and the procedure for submitting it [Section 9305]. A program-specific application must be based on a needs assessment and contain the appropriate descriptions and assurances [Sections 2122 (b) and (c)]. Whichever application an LEA submits, it must meet, and keep records to confirm that it has met, all statutory and regulatory requirements for *Title II, Part A*. Hence, the LEA should have records that describe:

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

9. How the LEA will use *Title II, Part A* funds to meet the requirements of *Title I*, Section 1119 of ESEA for teachers and paraprofessionals. That section requires an SEA to establish annual measurable objectives for each LEA and school that, at a minimum, include an annual increase in the percentage of highly qualified teachers at each LEA and school to ensure that all teachers of core academic subjects are highly qualified by the end of the 2005-2006 school year. It also includes a requirement for the LEA's plan to include an annual increase in the percentage of teachers who receive high-quality professional development [Section 2122].

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

**G-5. If the number of districts within a State decreases or increases, e.g., through consolidation, dividing a district into new LEAs, or establishing new charter schools, how would the SEA determine the amount of *Title II, Part A* funds the newly created districts should receive?**

The "hold harmless" provision in the statute requires that a district receive each year an amount of *Title II, Part A* funds that is at least equal to the amount of FY 2001 funds it received under the former Eisenhower Professional Development and Class-Size Reduction programs. The ESEA is silent on how an SEA determines in-state program allocations where new districts (such as charter schools that are considered LEAs under State law) are created or eliminated. However, the SEA should ensure that unaffected districts receive their hold harmless amounts, and that needed formula adjustments are made in ways that reflect what the new districts would have received, based on the areas they serve, under those two antecedent programs.

Once the SEA calculates the hold harmless funding levels for all LEAs in the State, it uses comparable procedures to distribute, on a proportional basis, the remainder of the State's *Title II, Part A* allocation available for distribution.

**G-6. Can charter schools apply for *Title II, Part A* funds?**

It depends. Those charter schools that are LEAs can apply to their SEA in the same manner as other LEAs. However, those charter schools that are *not* LEAs cannot apply to the SEA for these funds. They are treated like the other schools within their particular LEA, and teachers and other school staff may participate in program activities on the same basis as personnel in any other school.

**G-7. What are the LEAs' reporting responsibilities?**

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

later than the end of the 2005-2006 school year. In addition, LEAs must report to the SEA information the SEA needs to meet its own reporting responsibilities ([see E-5](#)).

**G-8. What corrective steps must occur if an LEA fails to make adequate yearly progress (AYP) or fails to meet the annual measurable objectives for teacher quality?**

Section 2141 of the statute describes what States and districts must do if an LEA fails to make AYP or meet its annual measurable objectives for teacher quality. If the SEA determines, based on LEA reports submitted under Section 1119(b), that an LEA failed to make progress toward meeting its annual measurable objectives for two consecutive years, the LEA must develop an improvement plan that will enable it to meet such objectives and that directly addresses the issues that prevented it from meeting its objectives. During the development and throughout implementation of the plan, the SEA must provide technical assistance to the LEA and to schools served by the LEA that need assistance to enable them to meet the annual measurable objectives described in section 1119(a)(2).

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

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

**G-9. How may the SEA distribute any unclaimed LEA funds?**

*Title II, Part A* funds available for LEA use can be unclaimed if one or more LEAs decide not to participate in the program, or agree that they cannot use all or a portion of the funds they receive. The SEA must distribute these funds to other LEAs, but it has the flexibility to determine how this redistribution will occur. It may, but is not required, to proportionally increase the subgrant amount provided to all participating LEAs. Alternately, an SEA could establish special procedural and distribution criteria (e.g., LEAs with high proportions of teachers who are not highly qualified and need additional professional development) and make these funds available to those LEAs that meet these criteria. However, an SEA may not reserve for itself any portion of these LEA funds to augment either its State Activities or its administrative funds.

*Needs Assessment*

**G-10. What is the purpose of the LEA needs assessment and how does the LEA use it?**

The purpose of the needs assessment is to determine the needs of the LEA's teaching force in order to be able to have all students meet challenging State content and academic achievement

standards. An LEA may want to use information such as student achievement data, information about numbers of teachers (disaggregated by subject taught and grade level) who lack full teacher certification or licensure, assessments by administrators and mentor teachers who evaluate teacher and student performance, and teacher self-evaluations.

The LEA uses the needs assessment to identify local teacher quality needs. Among other things, the assessment should identify those needs that must be addressed if the LEA is to have all teachers highly qualified by the end of the 2005-2006 school year. The assessment should take into account:

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

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

**G-11. Who must be involved in the needs assessment process?**

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

**G-12. What data should the LEA use when conducting a needs assessment?**

The law provides that the LEA’s needs assessment “shall take into account the activities that need to be conducted in order to give teachers the means, including subject matter knowledge and teaching skills, and to give principals the instructional leadership skills to help teachers to provide students with the opportunity to meet challenging State and local student academic achievement standards” [Section 2122(c)(2)]. However, the law does not prescribe the data an LEA must use in conducting its needs assessment.

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

**G-13. After conducting its needs assessment, must the LEA target its use of *Title II, Part A* funds?**

Yes. The LEA must target funds to schools that (1) have the lowest proportion of highly qualified teachers, (2) have the largest average class size, or (3) are identified for school improvement under Section 1116(b) of *Title I, Part A* [Section 2122 (b)(3)].

In addition, in considering its best use of *Title II, Part A* funds, an LEA should consider whether to target *Title II, Part A* funds to help it meet its responsibilities under *Title I*. These include providing assurances that the LEA will: (1) work in consultation with schools as the schools develop and implement their plans or activities under Section 1119 [Section 1112(c)(1)(H)]; (2) comply with the requirements of Section 1119 regarding the qualifications of teachers and paraprofessionals and professional development [Section 1112(c)(1)(I)]; and (3) ensure, through incentives for voluntary transfers, professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers [Section 1112(c)(1)(L)].

**G-14. If a need is mentioned in the LEA needs assessment, must it be addressed in the district plan?**

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

**G-15. Must staff at individual schools be involved in developing an LEA's needs assessment?**

Yes. The law states that the needs assessment must reflect the needs for professional development "as identified by the [LEA] and school staff," and requires the LEA to conduct its needs assessment "with the involvement of teachers, including teachers participating in programs under part A of Title I" [Section 2122(c)(1) and (2)]. Therefore, the LEA needs to involve teachers at individual schools in the needs assessment process. How it does so (e.g., through surveys, focus groups, and other means of collecting data) is left to the LEA and its staff to decide.

**G-16. Should an LEA needs assessment examine strategies for eliminating the achievement gap that separates low-income and minority students from other students?**

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

**G-17. How can the SEA ensure that those activities an LEA proposes to implement with *Title II, Part A* funds are, in fact, consistent with the required local needs assessment?**

If an LEA submits a program-specific application under Section 2122, the alignment of the proposed activities with the needs identified in the needs assessment should be evident from the content of the application itself. An LEA's program-specific application must contain a description of the results of its needs assessment [Section 2122(b)(8) and (c)]. The remainder of the application contains information on how the LEA's use of *Title II, Part A* funds will meet its identified needs. For example, the application must include a description of the professional development activities to be carried out with *Title II, Part A* funds, how these activities will have a substantial, measurable, and positive impact on student academic achievement, and how the activities will be used as part of a broader strategy to eliminate the achievement gap that separates low-income and minority students from other students [Section 2122(b)(2)].

If, instead, an LEA receives funding on the basis of a consolidated local plan or application, the SEA has flexibility, in consultation with the LEAs and the State's governor, to adopt any application content requirements it wants provided these criteria relate to the objectives of the consolidated plan or application. For example, requirements may include improvement of teaching and learning through greater coordination of the Federal programs and their integration into State and local-funded activities. Hence, the SEA is free to tailor the application in any reasonable way to ensure that Federal funds are supporting teacher-training activities that flow from the local needs assessment. In addition, SEAs are strongly encouraged to implement monitoring procedures to ensure that district *Title II, Part A* funds are being used consistent with the findings of the local needs assessment.

**H. LOCAL USE OF FUNDS**

While State (and Federal) leadership is important, LEA officials play the most immediate and critical role in promoting the effective teaching that is needed to facilitate increased academic achievement of all students. Their schools, after all, are where teaching and learning occur. LEA officials can exercise needed leadership in such key ways as:

1. Ensuring that the LEA conducts an effective assessment of the district's needs for professional development and hiring, through meaningful consultation with teachers of all grades and subject areas, particularly teachers in high-need schools, and others;
2. Ensuring that the results of this needs assessment drive the development of sound multi-year program plans that (a) include teacher mentoring and incentives, as well as provision of professional development in subject-matter content and effective instructional strategies (i.e., those that are likely to have a positive impact on student achievement) that are based on a review of scientifically based research, and (b) focus particular attention on addressing the needs of students who are at highest risk of failing to meet the State's academic standards;
3. Incorporating objective benchmarks for success and clear statements of desired outcomes into the LEA's multiyear plan;

4. Continuously examining standards, assessments, curricula, and teaching practices to ensure that they fit together;
5. Instituting merit pay programs, tenure reform, financial incentives, special mentoring help, and other means to: (a) make teaching in the district attractive to mid-career professionals and others with special knowledge, skills, and enthusiasm, and (b) encourage the district's most effective teachers not only to stay in the district, but to teach in its highest-need schools;
6. Instilling a strong commitment to professionalism among teachers, principals, and other school and district staff and actively promoting the importance of strong school leaders; and
7. Creating a strong community expectation that the students and their schools can succeed, and a strong expectation among all school and district staff that all teachers will have the subject matter knowledge and teaching skills they need to enable each of their students to succeed.

### *Allowable Costs*

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

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

1. Developing and implementing mechanisms to assist schools to effectively recruit and retain highly qualified teachers, principals, and specialists in core academic areas (and other pupil services personnel in special circumstances, [as noted in question H-6](#) of this document).
2. Developing and implementing strategies and activities to recruit, hire, and retain highly qualified teachers and principals. These strategies may include (a) providing monetary incentives such as scholarships, signing bonuses, or differential pay for teachers in academic subjects or schools in which the LEA has shortages; (b) reducing class size; (c) recruiting teachers to teach special needs children, and (d) recruiting qualified paraprofessionals and teachers from populations underrepresented in the teaching profession, and providing those paraprofessionals with alternative routes to obtaining teacher certification.
3. Providing professional development activities that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, in:
  - a. Content knowledge. Providing training in one or more of the core academic subjects that the teachers teach; and
  - b. Classroom practices. Providing training to improve teaching practices and student academic achievement through (a) effective instructional strategies, methods, and

skills, and (b) the use of challenging State academic content standards and student academic achievement standards in preparing students for the State assessments.

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

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

The statute is silent on the amount of program funds an LEA may spend for administrative costs. Therefore, the amount of funds that an LEA may spend for this category of expenses is subject to requirements in the cost principles in the Office of Management and Budget (OMB) Circular A-87 -- including the principle that, among other things, all costs must be necessary, reasonable, and allocable to the program. To access the relevant information in OMB Circular A-87, visit <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>.

In addition, because LEA expenditures are subject to “supplement not supplant” provisions, by virtue of Section 76.563 of EDGAR an LEA's indirect costs are limited to its approved “restricted indirect cost rate.”<sup>3</sup>

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

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

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

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

In addition, as reasonable and necessary, *Title II, Part A* funds may be used to pay for substitute teachers if, and only if, (a) those regular classroom teachers they are replacing were hired with *Title II, Part A* funds to reduce class size, or (b) the teachers are participating in *Title II*-funded “programs and activities that are designed to improve the quality of the teacher force, such as...innovative professional development programs...” [Section 2123(a)(5)(A)]. LEAs also must ensure that the hiring of these substitutes supplements, and does not supplant, the use of local and State funds they would otherwise be spending for substitutes.

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<sup>3</sup> Like an LEA, the SEA and the SAHE (though not the partnership grants awarded by the SAHE) also must use program funds only in ways that supplement, but do not supplant, non-Federal funds that otherwise would be used for authorized activities. Therefore, the funds that the SEA and the SAHE reserve for administration and planning, and the funds reserved by the SEA for State-level activities, are subject not only to the same OMB cost principles, but also to the SEA's and SAHE's approved restricted indirect cost rates [Section 2113(f)].

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

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

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

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

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

Yes. Funds may be used to pay reasonable and necessary expenses to recruit these teachers and paraprofessionals, and can be used to assist them in obtaining certification through alternative route programs.

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

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

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

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

Funding for training of paraprofessionals is also available under *Title VII, Part A, Subpart 1*, Indian Education Formula Grants to LEAs program [Section 7114(b)(5)].

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

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

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

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

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

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

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

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

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

Both State and local expenditures for free public education within the State must be considered in determining whether a State has maintained effort under *Title II, Part A*. "Aggregate expenditures for free public education" includes expenditures such as those for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food service and student body activities. States may include in the maintenance of effort calculation expenditures of Federal funds for which no accountability to the Federal government is required. (Note: there are no accountability requirements for some Impact Aid program funds; however, certain Impact Aid funds, such as those received for children with disabilities, do have accountability provisions.)

States must be consistent in the manner in which they calculate maintenance of effort from year to year in order to ensure that the annual comparisons are on the same basis (e.g., calculations must from year to year consistently either include or exclude expenditures of Federal funds for which accountability to the Federal government is not required). Moreover, States that choose to include expenditures of Federal funds for which accountability to the Federal government is not required must do so with the understanding that future years' maintenance of effort calculations may be affected by fluctuating Federal appropriations over which neither the Department, nor a State, has any control.

Finally, expenditures not to be considered in determining maintenance of effort are those for community services, capital outlay, debt service, or any expenditures of Federal funds for which accountability to the Federal government is required.

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

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

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

Yes. Sections 2123(b) (for LEAs) and 2113(f) (for the SEA and SAHE) provide that *Title II, Part A* funds must be used to supplement, and not supplant, any non-Federal funds that would otherwise be used for authorized *Title II, Part A* activities.

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

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

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

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

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

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

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

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

## **I. FEDERAL AWARDS TO THE STATE AGENCY FOR HIGHER EDUCATION**

The State agencies for higher education (SAHEs) develop criteria for awarding subgrants to eligible partnerships comprised of at least (1) one institution of higher education (IHE), including its division that prepares teachers and principals, (2) one school of arts and sciences, and (3) one high-need LEA. The partnerships use the funds to conduct professional development activities in core academic subjects to ensure that highly qualified teachers, paraprofessionals, and (if appropriate) principals have subject-matter knowledge in the academic subjects they teach, including computer-related technology to enhance instruction. SAHEs should demonstrate leadership in identifying for grantees and prospective applicants scientifically based professional development that is effective in increasing student academic achievement. The thrust of SAHE partnerships should be the implementation of strategies based upon this body of research.

A SAHE may also exercise leadership by:

- Conditioning a partnership’s receipt of a subgrant on its submission of specific information to confirm that the school of education (or entity that administers the IHE’s teacher preparation program) and the school of arts and sciences will embed the professional development into the curriculum the teacher preparation program offers.
- Requiring partnerships applying for subgrants to offer a work plan and commitment of IHE funds (or provide a competitive preference to those that do) for improving specific aspects of the teacher preparation program. For example, subgrantees could ensure that teaching candidates demonstrate content knowledge of the subject(s) they intend to teach, as well as show how such content knowledge supports the State’s academic content standards.

**I-1. Does the Department make separate grant awards to SAHEs?**

Yes. ED issues two awards for the *Title II, Part A* State allocations, one to the SEA and one to the SAHE. The SEA award includes funds for State activities and administration and LEA subgrants; the SAHE award includes funds for eligible partnerships and SAHE administration.

**I-2. How is the amount of funds a SAHE receives for competitive grant awards to partnerships and for administration of the program determined?**

After one percent of the State's allocation is set aside for SEA and SAHE administration and planning, the SAHE receives an award for competitive grants that is 2.5 percent of the State's remaining allocation. The SAHE's portion of the one percent administrative set-aside is, absent an agreement with the SEA to the contrary, the greater of (1) the amount of FY 2001 funds it received for administration under the former Eisenhower programs, or (2) five percent of the funds available each year for competitive subgrants.

***Competitive Process*****I-3. How does the SAHE administer the competitive portion of the *Title II, Part A* program?**

The SAHE administers its portion of *Title II, Part A* funds by working in conjunction with the SEA to identify priorities and criteria for funding competitive applications, publishing an application package that describes the rules and requirements of the competition, managing the competition and peer review process used to select grantees, disbursing funds to grantees, and monitoring and providing technical assistance to help ensure the success of the partnership grants. The SAHE's priorities are guided by the "State plan," developed under Section 2112 of the ESEA, which identifies Statewide professional development needs and priorities for developing, supporting, and retaining a high-quality teaching force ([also see I-8](#)).

**I-4. Who is eligible to receive a competitive award from the SAHE?**

Eligibility is limited to partnerships comprised at a minimum of: (1) a private or State IHE and the division of the institution that prepares teachers and principals; (2) a school of arts and sciences; and (3) a high-need LEA ([see I-5 below](#)). [Note: for purposes of this Guidance, the statutorily required partners will be referred to as "principal partners."] An eligible partnership also may include another LEA, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another IHE, a school of arts and sciences within that IHE, the division of that IHE that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a pre-kindergarten program, a teacher organization, a principal organization, or a business.

**I-5. What is a high-need LEA?**

A high-need LEA is defined as an LEA:

- (A) (i) that serves not fewer than 10,000 children from families with incomes below the poverty line; **or**  
(ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; **and**
- (B) (i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; **or**  
(ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing [Section 2102(3)].

**I-6. Where can the relevant poverty information be found for the criterion of a high-need LEA regarding children served by the agency that are from families with incomes below the poverty line?**

As of November 2003, the most current poverty information required for identification of a high-need LEA is found on the Census Bureau website at:

<http://www.census.gov/hhes/www/saife/school/sd99ftpdoc.html>. This site reports the most recent data (collected in 1999 but periodically adjusted to reflect more current Census data) on the number of children in poverty for nearly every school district in the United States. (Note: the Census Bureau data does not include poverty data for newly created districts, including new charter schools.)

**I-7. If a SAHE finds that the use of Census Bureau data to determine the numbers or percentages of children from families with incomes below the poverty line generates only a very small number of LEAs that meet the definition of high-need, may other methods be used to determine which districts qualify as a high-need LEA?**

No. Census Bureau data reflect the only available information that is consistent with the statutory requirement that districts eligible as high-need LEAs include a determination of whether they have the requisite percentages or numbers of children from families with incomes below the poverty line. However, a SAHE-funded partnership that includes the required IHE and high-need LEA may also include other LEAs, whether or not they are high-need LEAs under the statutory definition.

**I-8. How does the SAHE determine its priorities for soliciting subgrant applications?**

A SAHE determines priorities for the *Title II, Part A* subgrant competition and awards based on a review of the State plan developed under ESEA Section 2112, as well as discussions with the SEA [Section 2132(a)]. These discussions presumably will center on how the SAHE can support projects that will have the greatest impact on helping LEAs - and particularly high-need LEAs - ensure that all teachers are highly qualified and have the knowledge and teaching skills they need to help all students achieve to high standards.

A SAHE may solicit applications that respond to defined areas of need, such as professional development for mathematics or science. In designing its competitive subgrant procedures, consistent with State law the SAHE also can propose to give additional weight to those applications that address the stated funding priorities, or reject any applications that do not address particular areas of focus. Provided that all information is available to each potential applicant, the SAHE may want to provide technical assistance to prospective applicants in developing applications that address these needs. This assistance might take the form of workshops, review of pre-proposal submissions, information on effective models, and clarification of assessment and anticipated outcomes for projects.

**I-9. Does the SAHE competition for IHE-LEA partnerships need to ensure that services are offered on an equitable basis to public and private school teachers?**

Yes, as required by Section 9501, which describes the applicable requirements for equitable services for private school students and teachers under *Title II, Part A*.

**I-10. Are there any Federal requirements that govern how SAHEs must conduct the competition?**

The statute requires the State to award subgrants that are equitably distributed by geographic area within a State, and to ensure that eligible partnerships in all geographic areas within the State are served through the subgrants [Section 2132(a)]. Otherwise, State law generally determines the procedures for announcing and publicizing the competition and for reviewing and awarding program funds [Sections 76.770 and 76.400(c) of EDGAR].

***Eligible Partnerships***

**I-11. Section 2132(b) requires the SAHE to ensure that its subgrants are either “equitably distributed by geographic area within a State” or that “eligible partnerships in all geographic areas within the State are served through the subgrants.” What do these phrases mean?**

The meaning of these phrases is left to reasonable SAHE interpretation.

**I-12. Does the definition of an “eligible partnership” permit a community college to be part of a partnership that is eligible to receive a *Title II, Part A* subgrant?**

Yes, but it may be considered as one of the statutorily required principal partners only if the community college has a division that prepares teachers and principals [Section 2131(1)]. The community college may be the subgrantee (i.e., fiscal agent) if allowed by the rules and procedures of the subgrant competition. In any case, a community college may be an additional, non-principal member of any partnership.

**I-13. May a regional educational service agency, intermediate educational unit, or similar public agency participate in a partnership as a high-need LEA?**

In general, no. These agencies may be considered LEAs, as the term is defined in Section 9101(26), because they are public authorities “legally constituted within a State for either administrative control, or direction of, or to perform a service for, public [schools] in a city, county, township, school district, or other political subdivision of a state, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public schools.” However, these agencies will rarely be “high-need” LEAs within the meaning of Section 2102(3) as they are unlikely to have a high percentage of out-of-field teachers or those who hold emergency, provisional, or temporary certification.

**I-14. May teachers or principals in low-performing schools that are not located in a high-need LEA participate in a SAHE project?**

Yes. As long as a high-need LEA is a principal partner, low-performing schools in districts that do not meet the definition of “high need” may be additional partners [Section 2131(1)(B)], and their teachers and principals may participate in the project.

**I-15. Does the law require partnerships that receive subgrants from *Title II, Part A* and another program to coordinate activities conducted under the two awards?**

The law requires any partnership receiving both a subgrant from a SAHE and an award under the Partnership Program for improving teacher preparation authorized in Section 203 of *Title II* of the Higher Education Act (HEA) to coordinate activities under the two awards.

***Activities*****I-16. What activities may a SAHE fund with its share of *Title II, Part A* funds?**

Consistent with the priorities and criteria it has announced for selection of grant recipients, a SAHE makes awards of *Title II, Part A* funds to support one or more of the following types of activities to enhance student achievement in LEAs and schools participating in the partnerships:

- Professional development activities in core academic subjects to ensure that:
  - teachers, highly qualified paraprofessionals (as defined in Section 1119), and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach (including knowledge of computer-related technology to enhance student learning); and
  - principals have the instructional leadership skills to help them work most effectively with teachers to help students master core academic subjects.
- Development and provision of assistance to LEAs and to their teachers, highly qualified paraprofessionals, or school principals, in providing sustained, high-quality professional development activities that:

- ensure that those individuals can use challenging State academic content standards, student academic achievement standards, and State assessments to improve instructional practices and student academic achievement;
- may include intensive programs designed to prepare individuals who will return to a school to provide instruction related to the professional development described in the preceding paragraph to others in their schools; and
- may include activities of partnerships between one or more LEAs, one or more of the LEAs' schools, and one or more IHEs for the purpose of improving teaching and learning at low-performing schools.

**I-17. What is an “institution of higher education” for the purposes of the SAHE program?**

The Higher Education Act [HEA, Section 101(a)] defines an “institution of higher education” as an educational institution in any State that:

- Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- Is legally authorized within such State to provide a program of education beyond secondary education;
- Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
- Is a public or other nonprofit institution; and
- Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is a satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

*Title IX*, Section 9101(24) adopts this definition for ESEA programs, including the SAHE program in *Title II, Part A*.

**I-18. May a SAHE devote some *Title II, Part A* funds to pre-service teacher training?**

Yes, but only if the project creates:

- School-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty [Section 9101(34)(B)(i)]; or
- Programs to enable paraprofessionals who work with teachers in LEAs that receive *Title I, Part A* funds to obtain the education necessary for those paraprofessionals to become certified and licensed teachers [*Title IX*, Section 9101(34)(B)(ii)].

The ESEA considers both of these activities to be “professional development,” and hence either can be the focus of SAHE subgrants.

**Administration****I-19. What kinds of costs may a SAHE pay with its administration and planning funds?**

The SAHE may use funds to pay the costs it incurs related to such activities as helping to conduct an assessment of State needs for the overall State plan, designing the application package, paneling those who will review grant applications, and administering, monitoring, and providing technical assistance to, and evaluation of, SAHE-funded projects. As appropriate, these services may be provided through contracts with public or private agencies, provided that the SAHE retains overall responsibility for the administration of these projects.

**I-20. If a portion of the SAHE's administrative funds is not needed, can the SAHE fund additional partnership grants or must the funds be returned to the SEA?**

The funds a SAHE has available for administration are part of the one percent available to the State to pay for the administration of both the SEA and SAHE components of the *Title II, Part A* program. If the SAHE does not need its entire administrative portion, the remaining funds must be provided to the SEA if the SEA uses these funds for its costs of administration and planning. This transfer would not affect the 2.5 percent of the State's allocation (after one percent of the allocation is reserved for SEA and SAHE administration) the SAHE receives to fund partnership grants.

**I-21. Must members of the partnership receiving a SAHE subgrant use a "restricted indirect cost rate" in calculating the maximum amount of indirect costs that may be charged to their awards?**

No. The *Title II, Part A* program does not require these partnerships to use program funds only to supplement and not supplant non-Federal funds that otherwise would be used for funded activities. Because the restricted indirect cost rate (see EDGAR Section 76.563) applies only where a "supplement not supplant" requirement is in effect, partnership members may apply a larger, unrestricted indirect cost rate. (On the other hand, the SAHE itself, as well as the SEA, must use the restricted indirect cost rate because Section 2113(f) of the ESEA provides that a supplement, not supplant requirement applies to funds that they receive.)

**I-22. In establishing application selection criteria or funding priorities, may the SAHE preclude members of the partnership from charging any indirect costs to the subgrant?**

No. EDGAR and applicable Office of Management and Budget (OMB) cost principles permit grant recipients to charge indirect costs to their grants. However, should it desire to limit the amount of funds that members of a partnership may charge to indirect costs in order to have more project funds to pay for direct services, a SAHE may (1) adopt selection criteria that focus on an IHE's willingness (or that of any other partner) to reduce the indirect costs that it otherwise might claim, or (2) by rule (pursuant to State law), limit the amount of its indirect costs or the indirect cost rate to a reasonable amount.

**I-23. May the SAHE establish, as a selection criterion to be used in reviewing subgrant applications, the willingness of the partnership members to limit the amount of their administrative costs?**

Yes. As with the case of limiting charges for a partner's indirect costs, the SAHE may establish selection criteria that give preference to applicants that agree to charge lower levels of administrative costs. Moreover, as with every other aspect of the IHE's proposed use of funds, the SAHE should, when it negotiates budgets with prospective subgrantees, ensure that administrative costs are reasonable and necessary for the proper implementation of the grant.

**I-24. Is there a maximum project period for SAHE grants?**

No, although the project period cannot be longer than the period for which the ESEA is currently authorized. Moreover, project periods, which are established by the SAHE when it awards subgrants, may vary depending on the kind of activity a subgrant award is funding. Eligible partnerships must obligate funds before the end of the Federal fiscal year following the fiscal year in which the SAHE receives its allocation from the Department. For instance, FY 2003 funds became available to the SAHE on July 1, 2003, and must be obligated by the subgrantees no later than September 30, 2005.

**I-25. May a high-need charter school that is an LEA qualify as the high-need LEA principal partner required for a SAHE grant?**

Yes. If, under State law, a public charter school is considered to be an LEA and otherwise meets the definition in Section 2102(3) of a "high-need LEA," it is eligible to be the high-need LEA principal partner. Otherwise, a public charter school could still be a non-principal partner in an eligible partnership (or be a part of an LEA that is a component of the partnership).

**I-26. May a SAHE use *Title II, Part A* funds reserved for partnership subgrants to support a separate evaluation of subgrantee projects?**

No. Evaluation activities of this type may be supported by the *Title II, Part A* program only with funds retained for program administration. However, a SAHE could require partnerships applying for subgrants to include provisions for program assessment or evaluations and then budget for such evaluations in their applications.

***Recordkeeping and Reports***

**I-27. What kinds of records must partnership members keep under the *Title II, Part A* program?**

Grantees and subgrantees must keep records that fully show:

- The amount of funds under the grant or subgrant;
- How the grantee or subgrantee uses the funds;
- The total cost of project activities;
- The share of the cost provided from other sources; and
- Other records to facilitate an effective audit.

In addition, all grantees and subgrantees are required to keep records to show their compliance with program requirements. Record keeping should permit an “audit trail” that clearly documents that all funds were used for activities that were reasonable, allowable, and allocable to the program [EDGAR Sections 76.730 and 76.731].

**I-28. What are the SAHEs’ reporting responsibilities?**

The law does not create separate SAHE reporting requirements. However, the Department may, following appropriate procedures for establishing information collections, establish evaluation or data reporting requirements as necessary to monitor the program effectively.

***Special Rule***

**I-29. What is the meaning of Section 2132(c) (the “special rule”) that states “no single participant in an eligible partnership may use more than 50 percent of the *Title II, Part A* funds made available to the partnership”?**

Section 2132(c) of the law requires that no single participant in an eligible partnership, (i.e., no single high-need LEA, no single IHE and its division that prepares teachers and principals, no single school of arts and sciences, and no other single partner), may “use” more than 50 percent of the subgrant. The provision focuses not on which partner receives the funds, but on which partner directly benefits from them.

**Example: Correct Use of Funds**

Jefferson University, its College of Education, and its College of Arts and Sciences partner with the Lincoln high-need school district to provide professional development in instructional leadership for 20 principals. Jefferson University’s grants office receives **100 percent** of the *Title II, Part A* funds for the partnership. The Grants Office gives:

- the College of Education **25 percent** of the funds to use to pay its faculty to deliver professional development in instructional leadership methodologies for 20 principals at Lincoln school district;
- the College of Arts and Sciences **25 percent** of the funds to use to pay its faculty to deliver professional development content knowledge in instructional leadership for 20 principals at Lincoln School District;
- Lincoln School District **50 percent** of the funds to use to pay stipends for its principals to participate in the professional development offered by faculty from the College of Education and College of Arts and Sciences at Jefferson University.

In this example no partner uses more that 50 percent of the funds for its own benefit.

**Example: Incorrect Use of Funds**

Jefferson University, its College of Education, and its College of Arts and Sciences partner with the Lincoln high-need school district to provide professional development in instructional leadership for 20 principals. Jefferson University's Grants Office receives **100 percent** of the *Title II, Part A* funds for the partnership. The Grants Office gives:

- the College of Education **20 percent** of the funds to use to pay its faculty to deliver a professional development summer course in instructional leadership methodologies for 20 principals at Lincoln school district;
- the College of Arts and Sciences **10 percent** of the funds to use to pay its faculty to deliver a professional development summer course in instructional leadership content knowledge for 20 principals at Lincoln school district;
- a mentor principal **10 percent** of the funds to work with the 20 Lincoln school district principals, in their buildings, applying what they learned in the professional development summer courses;
- Lincoln school district **60 percent** of the funds to pay stipends to the 20 principals attending the professional development summer courses.

In this example one partner uses more than 50 percent of the funds for its own benefit.

**I-30. May two principal partners (e.g., a school of education and a department of arts and sciences) each receive 50 percent of the subgrant funds?**

Yes. However, under Section 2132(c), the issue is not the amount of funds that each partner "receives" but the amount of funds that each partner "uses." Hence, so long as each of the two divisions of the IHE "use" 50 percent of the subgrant funds for activities over which it has responsibility (and so directly benefits from the subgrant funds) an IHE fiscal office would not actually need to disburse grant funds to each IHE division (unless, of course, this were the IHE's normal fiscal procedures).

**I-31. If an IHE receives program funds that teachers would otherwise pay for IHE-sponsored professional development, would those funds figure in as part of the funds "used" by the IHE partner?**

Not necessarily. Since the tuition assistance is for a teacher's professional development, the funds also may reasonably be attributable to use by the LEA partner that employs the teacher. Costs associated with developing professional development materials, IHE faculty time, and other expenses that the IHE incurs to conduct the professional development may be treated as funds used by the division of the IHE that bears these costs.

- I-32. If IHE faculty are full-time employees of the IHE, but a percentage of their time and services go to the LEA, which partner is deemed to “use” *Title II, Part A* funds? Similarly, if IHE faculty members receive “release time” to serve LEAs, are their salaries attributable to the IHE or to the LEA partner?**

Since the Department has not issued regulations in this area, the subgrantee may attribute these salary costs to the partners in any manner that is reasonable. However, if the subgrant is paying for salary costs that otherwise would be paid by the IHE, it would seem to make sense to view the subgrant used to pay this salary as used by the division of the IHE in which the individuals are employed. Moreover, while faculty release time (i.e., a reduced IHE teaching load) may permit faculty members to provide services to the LEA and its teachers, program funds are still paying for a portion of faculty members’ salaries. Therefore, here too, it seems reasonable that these *Title II, Part A* funds are best attributable to the division of the IHE that employs the faculty.

- I-33. Are the salaries of teachers hired under a SAHE subgrant to work as mentors to other teachers attributable to the LEA or to the IHE, if the IHE pays these salaries?**

While the IHE (should it be the partnership’s fiscal agent) may pay the salaries of these mentor teachers, these individuals presumably are working at, and for, the LEA. Therefore, the *Title II, Part, A* funds used to pay these salaries may reasonably be considered to have been “used” by the LEA.

- I-34. Are indirect costs of the partnership’s fiscal agent treated as part of the maximum allowable 50 percent of *Title II, Part A* funds that the partner may use?**

In general, indirect costs reflect general administration and overhead that cannot easily be charged as direct program costs of the programs or activities they benefit, and that are borne by a party as a result of activities it charges as direct costs. While a portion of one partner’s direct costs (e.g., salaries of mentor teachers paid by the IHE fiscal agent) may be considered as used by another partner (in this case, the LEA), the IHE and not the LEA is benefiting from being able to charge the indirect costs. Hence, subgrant funds used to pay indirect costs are best attributable to the partner that “uses” the corresponding funds as direct costs.

## **J. PRIVATE SCHOOL PARTICIPATION**

Under the *Title II, Part A* program, private school teachers, principals, and other educational personnel are eligible to participate to the extent that the LEA uses funds to provide for professional development for teachers and other school personnel.

### ***General Issues***

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

Yes. Private school teachers, principals, and other educational personnel are eligible to participate in *Title II, Part A*, to the extent that the LEA uses funds to provide for professional

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

The requirement for the equitable participation of private school teachers and other educational personnel applies only to the LEA's *Title II, Part A* funds to the extent that the LEA uses these funds for professional development of its teachers and other staff. However, this flexibility is constrained by the requirement [described below in J-3](#).

**J-2. What is meant by “equitable participation?”**

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

**J-3. How does an LEA determine the minimum amount required for equitable services to private school teachers and other educational personnel?**

Under *Title II, Part A*, LEAs are required to provide equitable services for private school teachers and other educational personnel only to the extent that they use the funds for professional development. For purposes of determining the amount of *Title II, Part A* funds that an LEA must make available for equitable services to private school teachers and other educational personnel, the statute has the LEA assume that it is spending at least as much for professional development under *Title II, Part A* as it did in FY 2001 under the Eisenhower Professional Development and Class-Size Reduction programs [*Title IX*, Section 9501(b)(3)(B)].

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

Yes. As noted in J-3 above, for purposes of determining the amount of *Title II, Part A* funds it must reserve for professional development provided to private school teachers, the LEA must assume that it is spending at least as much *Title II, Part A* funds each year for professional development as it did with FY 2001 funds under the former Eisenhower Professional Development and Class-Size Reduction programs. Hence, the district must provide equitable services based on this minimal amount to private school teachers and other educational personnel even if the LEA transfers some *Title II* funds to other programs.

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

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

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

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

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

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

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

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

- Improving the knowledge of teachers, principals, and other educational personnel in one or more of the core academic subjects and in effective instructional teaching strategies, methods, and skills;
- Training in effectively integrating technology into curricula and instruction;
- Training in how to teach students with different needs, including students with disabilities or limited English proficiency, and gifted and talented students;

- Training in methods of improving student behavior, identifying early and appropriate interventions, and involving parents more effectively in their children's education;
- Leadership development and management training to improve the quality of principals and superintendents; and
- Training in the use of data and assessments to improve instruction and student outcomes.

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

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

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

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

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

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

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

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

Yes. *Title II, Part A* funds may be used to pay for stipends for private school teachers, as reasonable and necessary. For example, if the professional development activity is conducted during after-school hours or in the summer, stipends may be needed to compensate teachers for their participation outside their regular employment hours. Stipends for private school teachers

must be available on the same basis as those for public school teachers *and* the stipends must be paid directly to the private school teachers for their own use, and not to the private school.

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

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

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

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

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

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

***LEAs and Private Schools***

**J-15. When must an LEA consult with appropriate private school officials?**

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

**J-16. Must an LEA contact the officials of all private schools every year, even when there have been no recent indications of a desire to participate in the *Title II, Part A* program?**

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

**J-17. May an LEA require private school representatives to submit an application in order to receive services for the teachers in a private school with *Title II, Part A* funds?**

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

**J-18. What kinds of records should an LEA maintain in order to show that it has met its responsibilities for equitable participation of private school teachers?**

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

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

**J-19. Must the LEAs administer and retain control over the *Title II, Part A* funds used to serve private school teachers?**

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

**J-20. May professional development be conducted within private schools?**

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

**J-21. Does the law require that LEAs provide equitable services with *Title II, Part A* funding only to private "nonprofit" schools?**

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

**J-22. Are teachers employed with *Title I* funds who provide services to eligible private school children required to meet the highly qualified requirements?**

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

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

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

*SEAs, SAHEs, and Private Schools*

**J-24. Must an SEA provide equitable services to private school teachers if it uses its *Title II, Part A* funds reserved for State activities to provide professional development?**

Yes. An SEA must provide equitable services to public and private school teachers and other educational personnel in professional development activities supported by these funds.

**J-25. Do the ESEA *Title IX* requirements regarding services to private school teachers apply to activities conducted under the competitive awards made under SAHE-administered partnerships program?**

Yes. The SAHE-funded grants to partnerships of IHEs and high-need LEAs must ensure that services are offered on an equitable basis to public and private school teachers since the requirements apply to grants of “financial assistance” provided to an LEA “or another entity” [Section 9501(b)(1)].

## APPENDIX A

### Definitions, Acronyms, and Abbreviations

**AYP:** Adequate Yearly Progress

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

**CFR:** Code of Federal Regulations

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

1. In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of the paragraph of the statute that defines “charter schools”;
2. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
3. Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
4. Provides a program of elementary or secondary education, or both;
5. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
6. Does not charge tuition;
7. Complies with the Age Discrimination Act of 1975, *Title VI* of the Civil Rights Act of 1964, *Title IX* of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act;
8. Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
9. Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of the Charter Schools program;
10. Meets all applicable Federal, State, and local health and safety requirements;

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

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

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

**EDGAR:** Education Department General Administrative Regulations

**EISENHOWER PROGRAM:** Eisenhower Professional Development Program

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

**ELIGIBLE PARTNERSHIP:** This term includes a private or State institution of higher education and the division of the institution that prepares teachers and principals; a school of arts and sciences; and a high-need local educational agency; and may include another LEA, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a pre-kindergarten program, a teacher organization, a principal organization, or a business [Section 2131].

**ESL:** English as a Second Language

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

**FY:** Fiscal Year

**HIGH-NEED LEA:** An LEA that serves not fewer than 10,000 children from families with incomes below the poverty line; or for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing [Section 2102(3)].

**HEA:** Higher Education Act

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

**HIGHLY QUALIFIED TEACHER:**

1. When the term “highly qualified teacher” is used with respect to any public elementary school or secondary school teacher teaching in a State, it means that:
  - a. The teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when the term is used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the certification or licensing requirements set forth in the State's public charter school law (*see entry below for the definition of a highly qualified charter school teacher*); and
    - i) The teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.
2. When the term “highly qualified teacher” is used with respect to:
  - a. An elementary school teacher who is new to the profession, it means that the teacher has met the requirements of paragraph (a) above, and:
    - i) Holds at least a bachelor's degree; and
    - ii) Has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of basic elementary school curriculum); or
  - b. A middle school or secondary teacher who is new to the profession, it means that the teacher has met the requirements of paragraph (a) above, holds at least a bachelor's degree, and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:
    - i) Passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); **or**
    - ii) Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.
3. When the term “highly qualified teacher” is used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, it means that the teacher has met the requirements of paragraph (a) above, holds at least a bachelor's degree, and:

- a. Has met the applicable standard requirements, which includes an option for a test; **or**
- b. Demonstrates competency in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that-
  - i) Is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;
  - ii) Is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
  - iii) Provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
  - iv) Is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;
  - v) Takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
  - vi) Is made available to the public upon request; and
  - vii) May involve multiple, objective measures of teacher competency [Section 9101(23)].

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

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

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

**IHE:** Institution of Higher Education

**LEA:** Local educational agency

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

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

**OMB:** Office of Management and Budget

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

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

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

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

1. Includes activities that:
  - a. Improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;
  - b. Are an integral part of broad schoolwide and districtwide educational improvement plans;
  - c. Give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;
  - d. Improve classroom management skills;
  - e. Are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom and are not 1-day or short-term workshops or conferences;
  - f. Support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;
  - g. Advance teacher understanding of effective instructional strategies that are:
    - i) Based on scientifically based research (except that this subclause shall not apply to activities carried out under Part D of Title II); and

- ii) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and
  - h. Are aligned with and directly related to:
    - i) State academic content standards, student academic achievement standards, and assessments; and
    - ii) The curricula and programs tied to the standards described in subclause (a) [except that this subclause shall not apply to activities described in clauses (ii) and (iii) of Section 2123(3)(B)];
  - i. Are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;
  - j. Are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;
  - k. To the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;
  - l. As a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;
  - m. Provide instruction in methods of teaching children with special needs;
  - n. Include instruction in the use of data and assessments to inform and instruct classroom practice; and
  - o. Include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and
2. May include activities that:
- a. Involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;
  - b. Create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under Part A of Title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

- c. Provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that is designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom [Section 9101(34)].

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

**RFP:** Request for Proposal

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

1. Means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and
2. Includes research that--
  - a. Employs systematic, empirical methods that draw on observation or experiment;
  - b. Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
  - c. Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
  - d. Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
  - e. Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
  - f. Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review [Section 9101(37)].

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

**SAHE:** State agency for higher education

**SEA:** State educational agency

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

## APPENDIX B

### Title II, Part A Statute

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

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

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

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

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

In this part:

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

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

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

### **Subpart 1 - Grants to States**

##### **SEC. 2111. ALLOTMENTS TO STATES.**

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

##### **(b) DETERMINATION OF ALLOTMENTS-**

###### **(1) RESERVATION OF FUNDS-**

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

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

###### **(2) STATE ALLOTMENTS-**

###### **(A) HOLD HARMLESS-**

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

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

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

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

(B) ALLOTMENT OF ADDITIONAL FUNDS-

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

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

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

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

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

**SEC. 2112. STATE APPLICATIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) A description of how the State educational agency will use funds under this part to meet the teacher and paraprofessional requirements of section 1119 and how the State educational agency will hold local educational agencies accountable for meeting the annual measurable objectives described in section 1119(a)(2).

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

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

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

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

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

- (1) give the State educational agency notice and an opportunity for a hearing; and
- (2) notify the State educational agency of the finding of noncompliance and, in such notification, shall--
  - (A) cite the specific provisions in the application that are not in compliance; and
  - (B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.
- (f) RESPONSE- If the State educational agency responds to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B), the Secretary shall approve or disapprove such application prior to the later of--
  - (1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or
  - (2) the expiration of the 120-day period described in subsection (c).
- (g) FAILURE TO RESPOND- If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

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

- (a) IN GENERAL- A State that receives a grant under section 2111 shall -
  - (1) reserve 95 percent of the funds made available through the grant to make subgrants to local educational agencies as described in subpart 2;
  - (2) reserve 2.5 percent (or, for a fiscal year described in subsection (b), the percentage determined under subsection (b)) of the funds to make subgrants to local partnerships as described in subpart 3; and
  - (3) use the remainder of the funds for State activities described in subsection (c).
- (b) SPECIAL RULE- For any fiscal year for which the total amount that would be reserved by all States under subsection (a)(2), if the States applied a 2.5 percentage rate, exceeds \$125,000,000, the Secretary shall determine an alternative percentage that the States shall apply for that fiscal year under subsection (a)(2) so that the total amount reserved by all States under subsection (a)(2) equals \$125,000,000.
- (c) STATE ACTIVITIES- The State educational agency for a State that receives a grant under section 2111 shall use the funds described in subsection (a)(3) to carry out one or more of the following activities, which may be carried out through a grant or contract with a for-profit or nonprofit entity:
  - (1) Reforming teacher and principal certification (including recertification) or licensing requirements to ensure that -
    - (A)(i) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach; and
    - (ii) principals have the instructional leadership skills to help teachers teach and students learn;
    - (B) teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and
    - (C) teachers have the subject matter knowledge and teaching skills, including technology literacy, and principals have the instructional leadership skills, necessary to help students meet challenging State student academic achievement standards.
  - (2) Carrying out programs that provide support to teachers or principals, including support for teachers and principals new to their profession, such as programs that -
    - (A) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development; and
    - (B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the requirements for professional development activities described in section 9101.
  - (3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers and principals, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers or principals.
  - (4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only -
    - (A) if the State educational agency is making progress toward meeting the annual measurable objectives described in section 1119(a)(2); and
    - (B) in a manner consistent with mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals.
  - (5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.
  - (6) Providing professional development for teachers and principals and, in cases in which a State educational agency determines support to be appropriate, supporting the participation of pupil services personnel in the same type of professional development activities as are made available to teachers and principals.
  - (7) Developing systems to measure the effectiveness of specific professional development programs and strategies to document gains in student academic achievement or increases in teacher mastery of the academic subjects the teachers teach.
  - (8) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration of the programs carried out under this part, including provision of technical assistance to local educational agencies.
  - (9) Funding projects to promote reciprocity of teacher and principal certification or licensing between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

- (10) Developing or assisting local educational agencies in the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.
- (11) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.
- (12) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for teachers in high-need academic subjects such as reading, mathematics, and science and teachers in high-poverty schools and districts.
- (13) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable the principals to be effective school leaders and prepare all students to meet challenging State academic content and student academic achievement standards, and the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.
- (14) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.
- (15) Providing assistance to teachers to enable them to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year for which the State receives funds under this part (as amended by the No Child Left Behind Act of 2001).
- (16) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement.
- (17) Funding projects and carrying out programs to encourage men to become elementary school teachers.
- (18) Establishing and operating a center that -
- (A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and
  - (B) establishes and carries out programs to improve teacher recruitment and retention within the State.
- (d) ADMINISTRATIVE COSTS- A State educational agency or State agency for higher education receiving a grant under this part may use not more than 1 percent of the grant funds for planning and administration related to carrying out activities under subsection (c) and subpart 3.
- (e) COORDINATION- A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section.
- (f) SUPPLEMENT, NOT SUPPLANT- Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

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

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

- (a) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES-
- (1) IN GENERAL- The Secretary may make a grant to a State under subpart 1 only if the State educational agency agrees to distribute the funds described in this subsection as subgrants to local educational agencies under this subpart.
- (2) HOLD HARMLESS-
- (A) IN GENERAL- From the funds reserved by a State under section 2113(a)(1), the State educational agency shall allocate to each local educational agency in the State an amount equal to the total amount that such agency received for fiscal year 2001 under -
    - (i) section 2203(1)(B) of this Act (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and
    - (ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106-554).
  - (B) NONPARTICIPATING AGENCIES- In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allocated to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if the agency had elected to participate in all of the programs for which the agency was eligible under each of the provisions referred to in those clauses.
  - (C) RATABLE REDUCTION- If the funds described in subparagraph (A) are insufficient to pay the full amounts that all local educational agencies in the State are eligible to receive under subparagraph (A) for any fiscal year, the State educational agency shall ratably reduce such amounts for the fiscal year.
- (3) ALLOCATION OF ADDITIONAL FUNDS- For any fiscal year for which the funds reserved by a State under section 2113(a)(1) exceed the total amount required to make allocations under paragraph (2), the State educational agency shall allocate to each of the eligible local educational agencies in the State the sum of -
- (A) an amount that bears the same relationship to 20 percent of the excess amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and
  - (B) an amount that bears the same relationship to 80 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number

of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

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

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

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

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

- (i) challenging State academic content standards and student academic achievement standards, and State assessments; and
- (ii) the curricula and programs tied to the standards described in clause (i).

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

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

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

- (A) have the lowest proportion of highly qualified teachers;
- (B) have the largest average class size; or
- (C) are identified for school improvement under section 1116(b).

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

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

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

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

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

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

- (A) teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;
- (B) improve student behavior in the classroom and identify early and appropriate interventions to help students described in subparagraph (A) learn;
- (C) involve parents in their child's education; and
- (D) understand and use data and assessments to improve classroom practice and student learning.

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

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

(c) NEEDS ASSESSMENT-

(1) IN GENERAL- To be eligible to receive a subgrant under this subpart, a local educational agency shall conduct an assessment of local needs for professional development and hiring, as identified by the local educational agency and school staff.

(2) REQUIREMENTS- Such needs assessment shall be conducted with the involvement of teachers, including teachers participating in programs under part A of title I, and shall take into account the activities that need to be conducted in order to give teachers the means, including subject matter knowledge and teaching skills, and to give principals the instructional leadership skills to help teachers, to provide students with the opportunity to meet challenging State and local student academic achievement standards.

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

(a) IN GENERAL- A local educational agency that receives a subgrant under section 2121 shall use the funds made available through the subgrant to carry out one or more of the following activities, including carrying out the activities through a grant or contract with a for-profit or nonprofit entity:

(1) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only -

- (A) if the local educational agency is making progress toward meeting the annual measurable objectives described in section 1119(a)(2); and
- (B) in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

(2) Developing and implementing initiatives to assist in recruiting highly qualified teachers (particularly initiatives that have proven effective in retaining highly qualified teachers), and hiring highly qualified teachers, who will be assigned teaching positions within their fields, including -

- (A) providing scholarships, signing bonuses, or other financial incentives, such as differential pay, for teachers to teach -
  - (i) in academic subjects in which there exists a shortage of highly qualified teachers within a school or within the local educational agency; and
  - (ii) in schools in which there exists a shortage of highly qualified teachers;
- (B) recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades; and
- (C) establishing programs that -
  - (i) train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children);
  - (ii) train and hire highly qualified teachers of special needs children, as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;
  - (iii) recruit qualified professionals from other fields, including highly qualified paraprofessionals, and provide such professionals with alternative routes to teacher certification, including developing and implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, and using a system of intensive screening designed to hire the most qualified applicants; and
  - (iv) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.
- (3) Providing professional development activities--
  - (A) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning--
    - (i) one or more of the core academic subjects that the teachers teach; and
    - (ii) effective instructional strategies, methods, and skills, and use of challenging State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement; and
  - (B) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that--
    - (i) involve collaborative groups of teachers and administrators;
    - (ii) provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;
    - (iii) provide training in methods of--
      - (I) improving student behavior in the classroom; and
      - (II) identifying early and appropriate interventions to help students described in clause (ii) learn;
    - (iv) provide training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children; and
    - (v) provide training on how to understand and use data and assessments to improve classroom practice and student learning.
- (4) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within elementary schools and secondary schools with a high percentage of low-achieving students, including programs that provide--
  - (A) teacher mentoring from exemplary teachers, principals, or superintendents;
  - (B) induction and support for teachers and principals during their first 3 years of employment as teachers or principals, respectively;
  - (C) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic achievement; or
  - (D) incentives, including financial incentives, to principals who have a record of improving the academic achievement of all students, but particularly students from economically disadvantaged families, students from racial and ethnic minority groups, and students with disabilities.
- (5) Carrying out programs and activities that are designed to improve the quality of the teacher force, such as--
  - (A) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 9101, and are coordinated with activities carried out under part D;
  - (B) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;
  - (C) tenure reform;
  - (D) merit pay programs; and
  - (E) testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.
- (6) Carrying out professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented aspiring or current principals and superintendents become outstanding managers and educational leaders.
- (7) Hiring highly qualified teachers, including teachers who become highly qualified through State and local alternative routes to certification, and special education teachers, in order to reduce class size, particularly in the early grades.
- (8) Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.
- (10) Carrying out programs and activities related to exemplary teachers.

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

### **Subpart 3 - Subgrants to Eligible Partnerships**

#### **SEC. 2131. DEFINITIONS.**

In this subpart:

(1) ELIGIBLE PARTNERSHIP- The term 'eligible partnership' means an entity that -

(A) shall include -

(i) a private or State institution of higher education and the division of the institution that prepares teachers and principals;

(ii) a school of arts and sciences; and

(iii) a high-need local educational agency; and

(B) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, a principal organization, or a business.

(2) LOW-PERFORMING SCHOOL- The term 'low-performing school' means an elementary school or secondary school that is identified under section 1116.

#### **SEC. 2132. SUBGRANTS.**

(a) IN GENERAL- The State agency for higher education for a State that receives a grant under section 2111, working in conjunction with the State educational agency (if such agencies are separate), shall use the funds reserved under section 2113(a)(2) to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 2134.

(b) DISTRIBUTION- The State agency for higher education shall ensure that -

(1) such subgrants are equitably distributed by geographic area within a State; or

(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

(c) SPECIAL RULE- No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

#### **SEC. 2133. APPLICATIONS.**

To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

#### **SEC. 2134. USE OF FUNDS.**

(a) IN GENERAL- An eligible partnership that receives a subgrant under section 2132 shall use the subgrant funds for -

(1) professional development activities in core academic subjects to ensure that -

(A) teachers and highly qualified paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach, including the use of computer related technology to enhance student learning; and

(B) principals have the instructional leadership skills that will help such principals work most effectively with teachers to help students master core academic subjects; and

(2) developing and providing assistance to local educational agencies and individuals who are teachers, highly qualified paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that -

(A) ensure that the individuals are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement;

(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

(C) may include activities of partnerships between one or more local educational agencies, one or more schools served by such local educational agencies, and one or more institutions of higher education for the purpose of improving teaching and learning at low-performing schools.

(b) COORDINATION- An eligible partnership that receives a subgrant to carry out this subpart and a grant under section 203 of the Higher Education Act of 1965 shall coordinate the activities carried out under this subpart and the activities carried out under that section 203.

### **Subpart 4 - Accountability**

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

(a) IMPROVEMENT PLAN- After the second year of the plan described in section 1119(a)(2), if a State educational agency determines, based on the reports described in section 1119(b)(1), that a local educational agency in the State has failed to make progress toward meeting the annual measurable objectives described in section 1119(a)(2), for 2 consecutive years, such local educational agency shall develop an improvement plan that will enable the agency to meet such annual measurable objectives and that specifically addresses issues that prevented the agency from meeting such annual measurable objectives.

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

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

- (2) provide technical assistance, if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to meet the annual measurable objectives described in section 1119(a)(2).
- (c) ACCOUNTABILITY- After the third year of the plan described in section 1119(a)(2), if the State educational agency determines, based on the reports described in section 1119(b)(1), that the local educational agency has failed to make progress toward meeting the annual measurable objectives described in section 1119(a)(2), and has failed to make adequate yearly progress as described under section 1111(b)(2)(B), for 3 consecutive years, the State educational agency shall enter into an agreement with such local educational agency on the use of that agency's funds under this part. As part of this agreement, the State educational agency -
  - (1) shall develop, in conjunction with the local educational agency, teachers, and principals, professional development strategies and activities, based on scientifically based research, that the local educational agency will use to meet the annual measurable objectives described in section 1119(a)(2) and require such agency to utilize such strategies and activities; and
  - (2)(A) except as provided in subparagraphs (B) and (C), shall prohibit the use of funds received under part A of title I to fund any paraprofessional hired after the date such determination is made;
  - (B) shall allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate that the hiring is to fill a vacancy created by the departure of another paraprofessional funded under title I and such new paraprofessional satisfies the requirements of section 1119(c); and
  - (C) may allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate -
    - (i) that a significant influx of population has substantially increased student enrollment; or
    - (ii) that there is an increased need for translators or assistance with parental involvement activities.
- (d) SPECIAL RULE- During the development of the strategies and activities described in subsection (c)(1), the State educational agency shall, in conjunction with the local educational agency, provide from funds allocated to such local educational agency under subpart 2 directly to one or more schools served by such local educational agency, to enable teachers at the schools to choose, with continuing consultation with the principal involved, professional development activities that -
  - (1) meet the requirements for professional development activities described in section 9101; and
  - (2) are coordinated with other reform efforts at the schools.

## APPENDIX C

### Statute -- ESEA Title I, Part A, Section 1119

#### SEC. 1119. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) TEACHER QUALIFICATIONS AND MEASURABLE OBJECTIVES-

(1) IN GENERAL- Beginning with the first day of the first school year after the date of enactment of the No Child Left Behind Act of 2001, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

(2) STATE PLAN- As part of the plan described in section 1111, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005-2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum -

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005-2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

(3) LOCAL PLAN- As part of the plan described in section 1112, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005-2006 school year.

(b) REPORTS-

(1) ANNUAL STATE AND LOCAL REPORTS-

(A) LOCAL REPORTS- Each State educational agency described in subsection (a)(2) shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002-2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2).

(B) STATE REPORTS- Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002-2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2).

(C) INFORMATION FROM OTHER REPORTS- A State educational agency or local educational agency may submit information from the reports described in section 1111(h) for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 1111(h).

(2) ANNUAL REPORTS BY THE SECRETARY- Each year, beginning with the 2002-2003 school year, the Secretary shall publicly report the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2).

(c) NEW PARAPROFESSIONALS-

(1) IN GENERAL- Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after the date of enactment of the No Child Left Behind Act of 2001 and working in a program supported with funds under this part shall have -

(A) completed at least 2 years of study at an institution of higher education;

(B) obtained an associate's (or higher) degree; or

(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment -

(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

(2) CLARIFICATION- The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

(d) EXISTING PARAPROFESSIONALS- Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before the date of enactment of the No Child Left Behind Act of 2001, and

working in a program supported with funds under this part shall, not later than 4 years after the date of enactment satisfy the requirements of subsection (c).

(e) EXCEPTIONS FOR TRANSLATION AND PARENTAL INVOLVEMENT ACTIVITIES- Subsections (c) and (d) shall not apply to a paraprofessional -

(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

(2) whose duties consist solely of conducting parental involvement activities consistent with section 1118.

(f) GENERAL REQUIREMENT FOR ALL PARAPROFESSIONALS- Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

(g) DUTIES OF PARAPROFESSIONALS-

(1) IN GENERAL- Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

(2) RESPONSIBILITIES PARAPROFESSIONALS MAY BE ASSIGNED- A paraprofessional described in paragraph (1) may be assigned -

(A) to 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;

(B) to assist with classroom management, such as organizing instructional and other materials;

(C) to provide assistance in a computer laboratory;

(D) to conduct parental involvement activities;

(E) to provide support in a library or media center;

(F) to act as a translator; or

(G) to provide instructional services to students in accordance with paragraph (3).

(3) ADDITIONAL LIMITATIONS- A paraprofessional described in paragraph (1) -

(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with section 1119; and

(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(h) USE OF FUNDS- A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

(i) VERIFICATION OF COMPLIANCE-

(1) IN GENERAL- In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 1114 or 1115 attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) AVAILABILITY OF INFORMATION- Copies of attestations under paragraph (1) -

(A) shall be maintained at each school operating a program under section 1114 or 1115 and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) COMBINATIONS OF FUNDS- Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, other Acts, and other sources.

(k) SPECIAL RULE- Except as provided in subsection (l), no State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(c)(3).

(l) MINIMUM EXPENDITURES- Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005-2006 school year.