Texas Education Agency

NCLB Program Coordination

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No Child Left Behind

Public Law 107-110

GUIDANCE FOR THE IMPLEMENTATION OF

TITLE I, PART A

IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATION AGENCIES

Additional USDE Guidance on Uses of Funds
Available at http://www.tea.state.tx.us/index4.aspx?id=4478&menu_id=798

DIVISION OF NCLB PROGRAM COORDINATION
TEXAS EDUCATION AGENCY

REVISED FEBRUARY 1, 2010

BASED ON STATUTE, REGULATIONS, AND USDE GUIDANCE DOCUMENTS

Eligibility and Funding

Question 1: How is eligibility determined for Title I, Part A funding?

Title I, Part A consists of four formula grants: Basic, Concentration, Targeted, and Education Finance Incentive Grants (EFIG). Under NCLB, the Targeted and EFIG grants are new. The following factors affect LEA eligibility for these grants.

Census Updates

The USDE allocates, through the Texas Education Agency, Title I, Part A funds by LEA using the Census Bureau's school district estimates of poor school-age children based on the most recent Census update, and the annual update of neglected and foster home children.

Hold-Harmless Amounts

As required by Public Law 107-110, Section 1122(c), the USDE allocated funds using a variable hold-harmless based on the percent the LEA's formula children ages 5-17 as reflected below:

- 95% of prior-year entitlement if formula children are 30% or greater;
- 90% of prior-year entitlement if formula children are 15% and less than 30%;
- 85% of prior-year entitlement if formula children are less than 15%.

Basic Grant

1. Children to be Counted (ages 5-17, inclusive) – An LEA's Basic Grant shall be based on the number of formula children residing within the LEA boundaries. Formula children are defined as:
    a. low-income children as documented by the Census Bureau's poverty criteria (not free/reduced-price lunch criteria);
    b. children who live in foster homes as reported directly to the USDE by the Department of Protective and Regulatory Services; and
    c. children who live in facilities for neglected children as reported on the Annual Survey of Children in Local Facilities for Neglected Children.

2. LEA Eligibility – in order to be eligible for Title I, Part A Basic Grant funds, an LEA must have:
    a. at least ten formula children; and
    b. the number of formula children must be greater than two percent of the LEA's population (ages 5-17, inclusive, as documented by the Census Bureau's poverty criteria).

Concentration Grant

1. Children to be Counted – same formula children as required for a Basic Grant.
2. LEA Eligibility – in order to be eligible for Title I, Part A Concentration Grant funds, an LEA must:
    a. be eligible for a Basic Grant; and
    b. have total formula children that exceed 6,500 or the number must exceed 15 percent of the total population in the LEA (ages 5-17, inclusive).

    Exception: An LEA that does not meet the minimum eligibility criteria for a Concentration Grant for four consecutive years shall no longer be eligible to receive a hold-harmless amount for a Concentration Grant.

Targeted Grant

1. Children to be Counted – same formula children as required for a Basic Grant.
2. LEA Eligibility – in order to be eligible for Title I, Part A Targeted Grant funds, an LEA must have:
    a. at least ten formula children; and
    b. the number of formula children must be five percent or greater of the LEA's population (ages 5-17, inclusive, as documented by the Census Bureau's poverty criteria).
3. Weighted Child Count – an eligible LEA receives a Targeted Grant based on a weighted child count determined by the higher of percent or number of formula children.

Education Finance Incentive Grant (EFIG)

1. Children to be Counted – same formula children as required for a Basic Grant.
2. LEA Eligibility – in order to be eligible for Title I, Part A EFIG funds, an LEA must have:
    a. at least ten formula children; and
    b. the number of formula children must be five percent or greater of the LEA's population (ages 5-17, inclusive, as documented by the Census Bureau's poverty criteria).
3. Weighted Child Count – an eligible LEA receives an Education Finance Incentive Grant based on the State's equity factor and a weighted child count determined by the higher of percent or number of formula children.

For more information on the funding formula, see pages 1-4 of the document at:
http://ritter.tea.state.tx.us/nclb/nclbaa/ap15FundingFormulas.pdf

Question 2: When the state receives an increase in the Title I, Part A allocation, do all LEAs receive an increase in Title I, Part A funding for the following school year?

No. Although the state as a whole may receive an increase in Title I, Part A funding, all eligible LEAs normally do not receive an increase in funding.

This is due to the variable hold-harmless established by the statute; the eligibility requirements established by the statute; and the impact of charter schools. In addition, the federal allocation is allocated by each of the four individual formulas discussed in question 1. It is common for only a portion of the formulas to receive an increase in funding and other formulas may be decreased; therefore, the LEA's eligibility for each of the formulas also impacts whether the LEA receives any increase.

Fiscal Requirements

Question 3: What are the fiscal requirements under Title I, Part A?

To ensure that Title I, Part A funds are used to provide services that are in addition to the regular services normally provided by an LEA for participating children, the LEA must meet three fiscal requirements related to the expenditure of regular state and local funds. An LEA must—

- Maintain state and local effort;
- Provide services in project areas with state and local funds that are at least comparable to services provided in areas not receiving Title I, Part A services; and
- Use Title I, Part A funds to supplement, not supplant regular non-federal funds.

Compliance with Title I, Part A fiscal requirements is essential for meeting the statutory purpose of the program—providing extra educational assistance to disadvantaged children.

Question 4: How does an LEA determine Maintenance of Effort (MOE)?

An LEA may receive its full Title I, Part A entitlement if either the combined fiscal effort per student or the aggregate expenditures 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.

MOE is determined using state and local operating expenditures by function, excluding expenditures for community services, capital outlay, debt service, and supplementary expenses as a result of a Presidential declared disaster, as well as any expenditures from funds provided by the federal government.

The Texas Education Agency includes the following categories of expenditures from state and local funds in determining whether the LEA has met the MOE requirement:

Category	Function
Instruction	11
Instructional Leadership (previously Administration)	21
Instructional Resources and Media Services	12
School Leadership (previously Administration)	23
Curriculum Development and Instructional Staff Development	13
Guidance and Counseling Services	31
Social Work Services	32
Health Services	33
Student (Pupil) Transportation	34
Deficits for Cocurricular/Extracurricular Student Body Activities	36
Deficits for Food Services	35
General Administration	41
Plant Maintenance and Operation	51
Data Processing Services	53

Any expenditures for community services, capital outlay, or debt service, and any expenditures made from funds granted under federal programs will be excluded from the calculation.

Question 5: How is MOE monitored?

The Texas Education Agency monitors compliance of LEAs with respect to MOE through a desk audit, using data on the LEA's actual expenditures as reported to PEIMS. The LEA is responsible for producing documentation of compliance with MOE for the LEA's independent auditor.

Question 6: What happens if the LEA fails to maintain effort with state and local funds?

The Agency is required to reduce the amount of the LEA's allocation of Title I, Part A funds in the exact proportion by which the LEA fails to meet the MOE requirement.

In determining MOE for the fiscal year immediately following the fiscal year in which the LEA failed to maintain effort, the LEA must consider the expenditures in the year the failure occurred to be no less than 90 percent of the expenditures for the second preceding year (this establishes a new base year). Note: MOE is based on actual expenditures, not on budget projections.

Question 7: Is there a waiver available for MOE?

The state has no authority to waive the MOE requirement. However, the U.S. Secretary of Education may waive the MOE requirement if the Secretary determines that such a waiver would be equitable due to:

- exceptional or uncontrollable circumstances such as a natural disaster; or
- a precipitous decline in the financial resources of the LEA.

Question 8: What is the Comparability of Services requirement under Title I, Part A?

The LEA may receive Title I, Part A funds only if state and local funds will be used at Title I, Part A campuses to provide services that, taken as a whole, are at least comparable to services at non-Title I, Part A campuses. If all campuses in the LEA are Title I, Part A campuses, then the LEA must use state and local funds to provide services that are substantially comparable at each campus.

Comparability of services is a federal requirement intended to ensure that Title I, Part A campuses receive the same level of services from state and local funds as other campuses.

The comparability of services requirement applies only to LEAs which are multiple attendance areas. Single attendance areas are not required to demonstrate compliance with the comparability of services requirement because there is no basis for comparison. An LEA may exclude campuses with 100 or fewer students when determining compliance with the comparability of services requirement. Also, an LEA may exclude supplemental state or local funds expended in any school attendance area or school for programs that meet the intent and purpose of Title I, Part A.

An LEA may determine comparability on a districtwide basis or on a grade-span basis. If an LEA "skips" a campus, the LEA is responsible for ensuring that the "skipped" campus meets the comparability of services requirement just as if it had been a Title I, Part A campus. If the LEA chooses to determine

comparability by grade spans, all campuses in the grade span (including magnet and other specialized campuses) must be included in the calculation.

LEAs must develop procedures for compliance with the comparability of services requirement and implement these procedures annually. The Texas Education Agency monitors compliance of LEAs with respect to comparability by using the PEIMS data on actual expenditures.

Question 9: What does "Supplement, Not Supplant" mean?

The federal supplement, not supplant provision is intended to ensure that services provided under Title I are used to supplement (*increase the level of services)*, and not supplant *(replace)*, services that would otherwise be provided to participating students with state and local funds if Title I funds were not available.
Any program activity required by state law, State Board of Education (SBOE) rule, or local board policy may not be funded with Title I, Part A funds. State or local funds may not be decreased or diverted for other uses merely because of the availability of these funds.

The LEA must maintain documentation that clearly demonstrates the supplementary nature of these funds.

There are three presumptions of supplanting, which may be rebutted with proper documentation:

- Providing services that the LEA is required to make available under other federal law, state law, State Board of Education rule, or local policy.
  Rebuttal: It is extremely hard to document and prove that the LEA would not have implemented the other federal, state, or local requirements. The review also considers how all other funds were expended.
- Providing services that the LEA provided the prior school year with nonfederal funds.
  Rebuttal: This presumption may be rebutted with proper documentation; however, the documentation must show that the original source of funding is no longer available and the service or activity would not have been continued in the next year. This situation must be documented at the time the decisions to not continue the service or activity is made. The decision cannot be made due to Title I funds being available. This situation cannot be documented after the fact.
  Note: Providing services with ARRA Title I funds that the LEA provided the prior school year with regular Title I funds is not a supplant, as both are federal funds.
- Providing services to students participating in a Title I program that the LEA provides to non-Title I students or students at non-Title I schools with nonfederal funds.
  Rebuttal: The rebuttal to this presumption is often the exclusion for Title I-like programs (described in Question 10 below), which is allowed in statute.

Question 10: What is the difference in the Supplement, Not Supplant Requirement for Schoolwide and Targeted Assistance Programs?

On a Title I Targeted Assistance Program (TAP) records must be maintained that document that Title I, Part A funds are expended on activities and services for only Title I, Part A eligible children identified as having the greatest need for special assistance.

On Title I Schoolwide Programs (SWP) the Title I, Part A funds are only required to supplement the amount of funds available from non-federal sources for the campus including funds to provide services

that are required by law for children with disabilities and children with limited English proficiency. The campus is not required to demonstrate that activities are supplemental. The campus does not identify (target) particular students or to provide supplemental services to identified students. Other funds may be used on a schoolwide campus in combination with Title I, Part A to upgrade the entire educational program of the campus. Such schoolwide programs are exempt from statutory or regulatory requirements of other federal education programs, provided that the intent and purposes of such programs are met and the needs of the intended beneficiaries of the federal fund sources combined are met. The effectiveness of the program is measured by student performance.

An LEA may exclude from its S/NS compliance any state or local funds expended in any school for programs that meet the intent and purpose of Title I, Part A. Title I regulations govern what constitutes a program that meets the intent and purpose of Title I, Part A. A Targeted Assistance-like program meets the intent and purpose of Title I if the program:

- Serves only students failing or most at-risk of failing to meet the state's academic achievement standards,
- Provides supplementary services designed to meet the special needs of the students in the program, and
- Uses the state's assessment system to determine effectiveness of the program.

A Schoolwide-like program meets the intent and purpose of Title I if the program:

- Campus meets the SW poverty threshold (40%) for eligibility,
- Promotes schoolwide reform and upgrades the entire educational operation of the campus to support students in their achievement toward meeting the state's student academic achievement standards;
- Meets the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student academic performance standards; and
- Uses the state's assessment system to determine effectiveness of the program.

There are three ways to consolidate funds on a Title I Schoolwide program based on USDE's latest guidance on implementing schoolwide programs.

1. Full consolidation of federal, state, and local funds in SWP budget:
    - Expenditures for any cost on the campus are allowable from the SWP budget.
2. Federal consolidation—only combining federal funds in SWP budget:
    - Expenditures for only educational (instructional, as defined by USDE staff) costs on the campus are allowable from the SWP budget.
3. No consolidation—only Title I, Part A funds in SWP budget:
    - Expenditures for only educational (instructional, as defined by USDE staff) costs on the campus are allowable from the SWP budget, and
    - LEA must track Title I, Part A funds to allowable Title I activity.

Campus Eligibility

Question 11: How does the LEA determine which campuses are eligible to participate in Title I, Part A?

The LEA determines campus eligibility based on the level of poverty at each campus. Title I, Part A statute allows the following measures of poverty to be used:

- Children, ages 5 through 17, inclusive, in poverty counted in the most recent census data approved by the Secretary of Education;
- Children eligible for free and/or reduced-price lunches under the National School Lunch Act;
- Children in families receiving assistance under the Temporary Assistance to Needy Families (TANF) program;
- Children eligible to receive medical assistance under the Medicaid program; or
- A composite of any of the above measures.

Whichever poverty measure the LEA chooses to use, the LEA must use the same measure of poverty to—

- identify eligible school attendance areas;
- determine the ranking of each attendance area; and
- determine campus allocations.

Question 12: How are Single Attendance Areas and Multiple Attendance Areas defined, and how do they affect campus eligibility?

If the LEA is a Single Attendance Area (i.e., the LEA has only one campus per grade span) or if the LEA has a total enrollment of fewer than 1,000 students, then all campuses are eligible to receive Title I, Part A services. The LEA may choose to serve any or all of its campuses without regard to the percentage of students from low-income families.

If the LEA is a Multiple Attendance Area (i.e., the LEA has a total enrollment of 1,000 or more students and has more than one campus per grade span), a school attendance area is eligible to receive Title I, Part A services if the percentage of low-income students residing in the attendance area is equal to or greater than the LEA as a whole. If the LEA is a Multiple Attendance Area, the following rules apply:

- The LEA must rank its campuses according to the percentage (not number) of students from low-income families.
- If Title I, Part A funds are insufficient to serve all eligible campuses, the LEA must, without regard to grade span, serve in rank order those campuses that exceed 75 percent poverty.
- If Title I, Part A funds remain after serving all campuses exceeding 75 percent poverty, the LEA shall:
    a) Rank the remaining eligible campuses either by grade span or by LEA as a whole; and

b) Serve these campuses in rank order, either within the selected grade span grouping or within the LEA as a whole.

- The same districtwide poverty average must be used if the LEA chooses to continue with the districtwide ranking.
- For ranking by grade span groupings, the LEA may use (1) the district-wide poverty average or (2) the district-wide grade span poverty averages for the relevant grade span grouping.
- If an LEA has no school attendance areas above 75 percent poverty, the LEA may rank district-wide or by grade span groupings.
- An LEA's organization of its schools defines its grade span groupings. For example, if an LEA has elementary schools serving all elementary grades, middle schools, and high schools, the grade span groupings would be grades K-5, 6-8 and 9-12. To the extent an LEA has schools that overlap grade spans (e.g., K-5, K-8, 6-8), the LEA should include a school in the grade span in which it is most appropriate.

LEA Discretion

An LEA may designate as eligible:

- any campus where at least 35 percent of the students are from low-income families;
- any campus that is not in an eligible school attendance area, if the percentage of students from low-income families enrolled is equal to or greater than the percentage of students from low-income families in a Title I, Part A participating campus. This is called the "Optional Method."
- any ineligible campus that was eligible last year and was served as a Title I, Part A campus, if the LEA elects to continue serving that campus as a Title I, Part A campus for one additional transition year.

Question 13: May an LEA skip a campus?

An LEA may choose NOT to serve (i.e., may choose to "skip") an eligible attendance area that has a higher poverty percentage if all of the following conditions are met:

- the "skipped" campus meets the comparability of services requirement; and
- the "skipped" campus receives supplemental funds from other state or local sources that are expended according to the requirements of a Targeted Assistance (section 1114) or a Schoolwide campus (section 1115); and
- the funds expended from such other sources equal or exceed the amount that would be provided to the campus under Title I, Part A.

If the LEA chooses to "skip" a campus, the LEA must provide the eligible private school children who reside within the boundaries of the "skipped" campus's attendance area the opportunity to receive Title I, Part A services.

Several examples of Campus Selection are provided on the following pages.

Question 14: How does the LEA determine whether supplemental state or local funds are expended according to the requirements of Sections 1114 [Targeted] or 1115 [Schoolwide].

Under § 200.79 of the Title I regulations, a supplemental State or local program meets the requirements of Section 1114 if the program –

- Is implemented in a school that meets the minimum 40 percent poverty threshold required to operate a schoolwide program;
- Is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the State's challenging academic achievement standards that all students are expected to meet;
- Is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards; and
- Uses the State's assessment system described in § 200.2 of the Title I regulations to review the effectiveness of the program.

A supplemental State or local program meets the requirements of Section 1115 if the program –

- Serves only children who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards;
- Provides supplementary services designed to meet the special educational needs of the children who are participating in the program to support their achievement toward meeting the State's student academic achievement standards; and
- Uses the State's assessment system described in § 200.2 of the Title I regulations to review the effectiveness of the program.

Attendance Area Selection Example 1—Forest ISD

List All Campuses Operated by the LEA in Descending Order of Percentage of Students Meeting Low-Income Criteria (per Column G) (Do not enter JJAEP campuses.)	Campus No.	Grade Span	Total Number of Students ENROLLED at Campus	Number of Students RESIDING in Each Attendance Area		Low-Income % (Col. F ÷ E)	Feeder Pattern %	One-Yr Transition	Ed-Flex	SW 4	TA 4	Campus Not Served
				TOTAL	Meeting Low-Income Criteria							
A	B	C	D	E	F	G	H	I	J	K	L	M
Oak Elementary	109	PK-5	475	480	384	80.00%				4		
Birch Middle School	041	6-8	425	430	324	75.35%				4		
Aspen Elementary	103	K-5	300	300	177	59.00%				4		
Mesquite Middle School	042	6-8	324	320	125	39.06%	59.00%			4		
Catalpa Elementary	104	K-5	430	505	178	35.25%					4	
Cedar Middle School	043	6-8	460	458	150	32.75%						4
Elm Elementary	105	PK-5	830	840	125	14.88%		4			4	
Maple High School	001	9-12	891	900	112	12.44%						4
Hackberry Middle School	044	6-8	451	450	55	12.22%						4
Juniper High School	002	9-12	708	720	85	11.80%	68.40%			4		
	TOTALS		5294	5403	1715							
	LEA's Low-Income Percentage: Total Col. F ÷ Total Col. E					31.74%						

In Example 1, Forest ISD has a districtwide low-income percentage of less than 35 percent (31.74 percent), but chooses to serve only campuses with a low-income percentage of at least 35 percent (with feeder patterns). The following observations may be made from this example:

- Oak Elementary and Birch Middle School, which have low-income percentages of 80.00 percent and 75.35 percent, respectively, must be served before any other campus can be served.
- Aspen Elementary, which feeds into Mesquite Middle School and has a low-income percentage of 59.00 percent, qualifies as a Schoolwide Program. Mesquite Middle School, which has a low-income percentage of 39.06 percent, has used its feeder pattern percentage from Aspen Elementary (59.00 percent) to qualify as a Schoolwide Program.
- Catalpa Elementary is eligible to be served because its low-income percentage (35.25 percent) is greater than the districtwide average (31.74 percent).
- Although Cedar Middle School is eligible because it is above Forest ISD's low-income average of 31.74 percent, the LEA has chosen not to serve that campus.
- The LEA has used feeder patterns to qualify Juniper High School (11.80 percent) for Title I, Part A eligibility and for schoolwide eligibility. The two schools feeding into Juniper are Birch (75.35 percent) and Mesquite (59.00%, feeder pattern percentage) middle schools, giving Juniper High School a feeder pattern percentage of 68.40 percent. This feeder pattern percentage will be used when determining campus allocations, as well as for determining whether the LEA is serving any campus below 35 percent (see Campus Allocations).
- The LEA is serving Elm Elementary School for one additional year under the one-year transition option available for campuses that were Title I, Part A campuses the previous year, but that were otherwise ineligible this year.

Attendance Area Selection Example 2—Jellyjam ISD

List All Campuses Operated by the LEA in Descending Order of Percentage of Students Meeting Low-Income Criteria (per Column G) (Do not include JJAEP campuses)	Campus No.	Grade Span	Total Number of Students ENROLLED at Campus	Number of Students RESIDING in Each Attendance Area		Low-Income % (Col. F ÷ E)	Feeder Pattern %	One-Yr Transition	Ed Flex	S W 4	T A 4	Campus Not Served
				TOTAL	Meeting Low-Income Criteria							
A	B	C	D	E	F	G	H	I	J	K	L	M
Apple Middle School	043	6-8	363	363	314	86.50%				4		
Blackberry Elementary	105	PK-5	617	617	489	79.25%				4		
Cranberry High School	002	9-12	1002	951	718	75.50%				4		
Elderberry Middle School	042	6-8	865	872	500	57.34%						4
Guava Elementary	107	K-5	670	672	324	48.21%					4	
Mint Middle School	041	6-8	936	935	334	35.72%						4
Raspberry Elementary	104	K-5	630	648	224	*35.40% (223)					4	
Strawberry Elementary	108	K-5	700	700	246	35.14%					4	
Grape High School	001	9-12	1200	1235	95	7.69%						4
	TOTALS		6983	6993	3244							
	LEA's Low-Income Percentage: Total Col. F ÷ Total Col. E					46.39%						

In Example 2, Jellyjam ISD, with a districtwide low-income percentage GREATER THAN 35 percent (46.39 percent), chooses to serve campuses which are below the districtwide average but which have at least 35 percent low-income students.

- The low-income percentages at Apple Middle School, Blackberry Elementary, and Cranberry High School exceed 75 percent; therefore, these campuses must be served before any campus with 75 percent low-income or less can be served.
- Jellyjam ISD groups by grade span those campuses having low-income percentages of 75 percent or less and has chosen to serve elementary campuses. The LEA chooses not to serve Elderberry and Mint middle schools.
- Raspberry Elementary used the "optional method" of determining low-income percentage. The optional method may be used in this case because Raspberry is an otherwise ineligible campus (224 ÷ 648 = 34.57%). When using the Optional Method, the LEA uses documentation of the number of low-income students enrolled (223). Because the percentage of low-income students enrolled at Raspberry (35.40 percent) is greater than the percentage of low-income students at another participating Title I, Part A campus (e.g., Strawberry Elementary with 35.14 percent), the Optional Method may be used to qualify Raspberry Elementary as a Title I, Part A campus.
- Jellyjam ISD has chosen to designate as eligible those campuses which have at least 35 percent low-income. Guava, Raspberry, and Strawberry elementaries qualify by this method.

Attendance Area Selection Example 3—Nutty Brown ISD

List All Campuses Operated by the LEA in Descending Order of Percentage of Students Meeting Low-Income Criteria (per Column G) (Do not include JJAEP campuses)	Campus No.	Grade Span	Total Number of Students ENROLLED at Campus	Number of Students RESIDING in Each Attendance Area		Low-Income % (Col. F ÷ E)	Feeder Pattern %	One-Yr Transition 4	Ed Flex 4	S W 4	T A 4	Campus Not Served 4
				TOTAL	Meeting Low-Income Criteria							
A	B	C	D	E	F	G	H	I	J	K	L	M
Pecan Elementary	102	K-6	300	300	180	60.00%				4		
Walnut Elementary	103	K-6	505	505	230	45.54%					4	
Filbert Elementary	104	K-6	410	410	130	31.71%					4	
Pistachio Jr. High	041	7-9	615	620	160	25.81%						4
Almond Jr. High	042	7-9	600	600	150	25.00%						4
Hickory High School	001	10-12	1200	1250	120	9.60%						4
	TOTALS		3630	3685	970							
	LEA's Low-Income Percentage: Total Col. F ÷ Total Col. E					26.32%						

In Example 3, Nutty Brown ISD has a districtwide low-income percentage that is LESS THAN 35 percent (26.32 percent) and chooses to serve campuses that are below 35 percent but above the district average.

- Nutty Brown ISD will serve three campuses: Pecan and Walnut elementaries, which are above 35 percent low-income and Filbert Elementary, which is above the district average but below 35 percent low-income.
- The LEA must apply the 125 Percent Special Allocation Rule to all three campuses.

Attendance Area Selection Example 4—Flower ISD

List All Campuses Operated by the LEA in Descending Order of Percentage of Students Meeting Low-Income Criteria (per Column G) (Do not include JJAEP campuses)	Campus No.	Grade Span	Total Number of Students ENROLLED at Each Campus	Number of Students RESIDING in Each Attendance Area		Low-Income % (Col. F ÷ E)	Feeder Pattern %	One-Yr Transition 4	Ed Flex 4	S W 4	T A 4	Campus Not Served 4
				TOTAL	Meeting Low-Income Criteria							
A	B	C	D	E	F	G	H	I	J	K	L	M
Rose Elementary	101	K-5	200	200	60	30.00%				4		
Daisy Middle School	041	6-8	190	190	55	28.95%						4
Bluebonnet High School	001	9-12	181	181	50	27.62%						4
	TOTALS		571	571	165							
	LEA's Low-Income Percentage: Total Col. F ÷ Total Col. E)					28.90%						

In Example 4, Flower ISD is a Single Attendance Area. By definition, all campuses in a single attendance area (or in an LEA with a total enrollment of less than 1,000 students) are eligible to receive Title I, Part A services. All campuses have low-income percentages lower than 35 percent; therefore, the 125 Percent Special Allocation Rule must be applied to all campuses that the LEA chooses to serve. In this example, the LEA has chosen to serve only Rose Elementary.

Reservation of Funds and Campus Allocations

Question 15: What regulations govern the reservation of funds and campus allocations?

An LEA must follow the regulations as stated in 34 CFR 200.77 for the reservation of funds and 34 CFR 200.78 for the allocation of Title I, Part A funds.

Question 16: For what activities must an LEA reserve funds prior to determining allocations for participating Title I, Part A campuses?

Before allocating funds in accordance with 34 CFR 200.78, an LEA must reserve funds as stated in 34 CFR 200.77 as are reasonable and necessary to—

- Provide services comparable to those provided to children in participating school attendance areas and schools to serve—
  - Homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where homeless children may live;
  - Children in local institutions for neglected children; and
  - If appropriate—
    - Children in local institutions for delinquent children; and
    - Neglected and delinquent children in community day school programs;
- Provide, where appropriate under section 1113(c)(4) of the Act, financial incentives and rewards to teachers who serve students in Title I schools identified for school improvement, corrective action, and restructuring;
- Meet the requirements for school choice-related transportation and supplemental educational services in 34 CFR 200.48, unless the LEA meets these requirements with non-Title I funds (20% or an amount equal to 20%, unless a lesser amount is needed);
- Address the professional development needs of instructional staff, including—
  - Professional development requirements under 34 CFR 200.52(a)(3)(iii) if the LEA has been identified for improvement or corrective action; and
  - Professional development expenditure requirements under 34 CFR 200.60 (5% to 10%, unless a lesser amount is needed to meet the needs of teachers who are not highly qualified);
- Meet the requirements for parental involvement in section 1118(a)(3) of the Act (1% if LEA's entitlement exceeds $500,000);
- Administer programs for public and private school children under this part, including special capital expenses, if any, incurred in providing services to eligible private school children, such as—
  - The purchase and lease of real and personal property (including mobile educational units and neutral sites);
  - Insurance and maintenance costs;

- Transportation; and
- Other comparable goods and services, including non-instructional computer technicians; and

- Conduct other authorized activities (such as preschool programs, summer school and intersession programs, additional professional development, school improvement, and coordinated services) that are implemented for all applicable Title I served campuses.

An LEA may consider variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as a part of the fringe benefit costs for personnel at each individual campus. This policy must be applied consistently to staff serving both public and private school children throughout the LEA.

Because the reservation of funds by an LEA will reduce the amount of funds available for distribution to participating campuses, the LEA must consult with teachers, pupil services personnel (where appropriate), principals, parents of children receiving services in determining, as part of the LEA plan, what reservations are needed. This issue must also be a part of the consultation with private school officials before the LEA makes any decisions that affect the opportunity of eligible private school children to participate in Title I, Part A programs.

Amounts that are reserved by the LEA are not included in the determination of campus allocations. Even though some of the activities may occur on specific campuses, the funds that are reserved do not become part of any campus budget.

If the LEA is required to apply the 125 Percent Special Allocation Rule, the calculation of the minimum per-pupil amount for each campus must be based on the LEA's total entitlement, not on the amount available to campuses after the reservation of funds is determined.

The LEA must maintain documentation of the reservations taken for authorized Title I, Part A activities, as well as the per-pupil amounts used to determine allocations to individual Title I, Part A campuses. <u>These are auditable data.</u>

Question 17: How does the LEA determine Title I, Part A allocations to participating campuses?

General Campus Allocation Rules

1. An LEA that is a Single Attendance Area or that has a total enrollment of fewer than 1,000 students may allocate funds to any campus, regardless of rank order of poverty.
2. An LEA that is a Multiple Attendance Area must allocate funds to campuses in rank order on the basis of the total number of low-income students in each attendance area.
    - The LEA is not required to allocate the same per-child amount to each campus; however, the LEA must not allocate a greater per-child amount to a campus with a lower poverty rate than it allocates to campuses with higher poverty rates.
    - An LEA that chooses to serve campuses with 75 percent poverty or less using grade span groupings may determine different per-child amounts for different grade spans as long as those amounts do not exceed the amount allocated to any campus above 75 percent poverty. Per-child amounts within grade spans may also vary, as long as the

LEA allocates higher per-child amounts to campuses with higher poverty rates than it allocates to campuses in the grade span with lower poverty rates.

125 Percent Special Allocation Rule

If an LEA serves any campus below 35 percent poverty, the LEA must allocate to ALL participating campuses an amount for each low-income child in each participating campus that is at least 125 percent of the LEA's allocation per low-income child.

125 Percent Per-Pupil Calculation
Total LEA entitlement **divided** by Total low-income students in LEA = Base amount per pupil.
Base amount per pupil **multiplied** by 125% = Minimum amount per low-income student to ALL participating campuses.

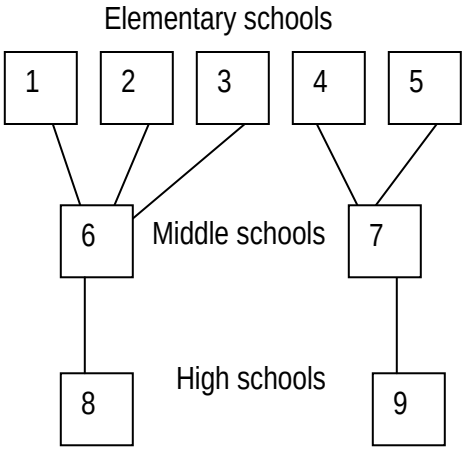
EXCEPTION: If an LEA uses the feeder pattern of an elementary school with a low-income percentage of 35 percent or more to establish the low-income percentage of a middle or high school whose original low-income percentage was below 35 percent, the LEA is not required to implement the 125 Percent Special Allocation Rule. However, if the LEA uses the feeder pattern to qualify a campus, the LEA is required to base funding for the campus on the number of low-income students projected by the feeder pattern. [Correspondence from the U.S. Department of Education, September 11, 1995.]

Any LEA that provides Title I, Part A services to any campus that has a low-income percentage of less than 35 percent must apply the 125 Percent Special Allocation Rule to ALL its participating campuses. This rule applies regardless of whether the LEA is a Single Attendance Area or a Multiple Attendance Area.

- The LEA must calculate the 125 Percent per-pupil amount based on the LEA's total entitlement, not on the amount remaining after reserves are determined.
- The LEA must allocate at least the minimum amount for each low-income child at each campus the LEA serves with Title I, Part A funds, not just for those campuses below 35 percent poverty.
- If supplemental state and local funds are expended for programs that meet all requirements of Sections 1114 [Schoolwide] or 1115 [Targeted Assistance], the LEA may reduce the amount of Title I, Part A funds needed to meet the 125 Percent Special Allocation Rule requirements at that campus by the amount of the supplemental state and local funds.
- If funds are not sufficient to allocate the full 125 percent per pupil to the next ranked eligible campus, the LEA may still allocate the funds to that campus if it determines that the funds are sufficient to enable children to make adequate progress toward meeting the state's student performance standards.

Question 18: Does using a feeder pattern to determine campus eligibility affect campus allocations?

Yes. The feeder pattern for an LEA determines which campus a student attends. Generally, when students finish a particular elementary school, they attend a particular middle school, and then a particular high school. The elementary schools that are associated with a particular middle school are "feeder campuses" for that middle school.



In the example above, elementary schools 1, 2, and 3 are feeder campuses for Middle School 6. Middle School 6 is the feeder campus for High School 8.

Feeder patterns may be used to establish a qualifying low-income percentage either for initial campus eligibility so that the campus may be served as a Title I campus or for schoolwide program eligibility. If the LEA uses a feeder pattern to project a low-income percentage for a particular campus, the LEA must use the feeder pattern percentage to project the number of low-income students for determining the appropriate allocation for that campus.

Example
Middle School 6 has an enrollment of 500 students, of whom 100 completed free/reduced-price lunch surveys documenting that they are from low-income families. The low-income percentage for Middle School 6 would normally reflect 20 percent. Because the percentage of low-income students in the LEA as a whole is above 20 percent, Middle School 6 is not eligible to receive Title I, Part A services.

However, the feeder pattern for Middle School 6 as shown below may be used to make Middle School 6 eligible for Title I, Part A services:

Feeder Campus	Enrollment	Low-income
Elementary School 1	300	150
Elementary School 2	285	140
Elementary School 3	250	165
TOTAL	835	455

The average low-income percentage for the three elementary schools that feed into Middle School 6 is determined by dividing their total low-income by their total enrollment (455/835). The average low-income percentage is 54.49%.

Based on the feeder pattern the projected low-income percentage for Middle School 6 is 54.49%. To project the number of low-income students at the middle school, multiply the middle school's enrollment

by the average percentage for the feeder campuses (500 x 54.49% = 272). This is the number of low-income students that the LEA must use to allocate Title I, Part A funds to Middle School 6.

In this example, the poverty percentage of Middle School 6 is raised to 54.49 percent from 20 percent. If the LEA chooses to serve Middle School 6, it will be on the basis of the 54.49 percent, not the 20 percent; therefore, serving this campus will not activate the 125 Percent Special Allocation Rule.

However, if the 125 Percent Special Allocation Rule is applied to this LEA because another campus below 35 percent is served, then the minimum amount per pupil must be applied to the projected number of students from low-income families (272), not to the original number of low-income students (100).

Question 19: How do carryover (roll forward) funds affect campus allocations?

The LEA is limited by statute to carry over into the following fiscal year no more than 15 percent of its Title I, Part A current-year entitlement. [Note that if an LEA transfers funds from another federal program into Title I, Part A under the transferability provision in Section 6123, then the additional amount transferred is added to the LEAs current year allocation and the combined amount becomes the base for calculating the 15 %.

Exceptions: The percentage limitation does not apply to an LEA receiving a Title I, Part A entitlement that is less than $50,000 for any fiscal year.

Once every three years the LEA may be granted a statutory waiver of this limitation through the Consolidated NCLB Application for Federal Funding as long as the Agency determines that the request is reasonable and necessary.

LEAs that receive a significant increase in Maximum Entitlement may apply for/utilize an Ed-Flex waiver if the LEA has already utilized a Title I, Part A statutory roll forward waiver within the last 3 years. This waiver is valid for one year and may be renewed each year the statutory waiver is not available that the LEA receives a significant increase at Maximum Entitlement. An LEA must include the Roll Forward Waiver Schedule in the original submission of the Consolidated NCLB Application for Funding to apply for this waiver.

Use of Carryover Funds

Although an LEA may not use carryover funds to provide services to an ineligible campus, the LEA does have considerable discretion in handling its carryover funds. Some options include:

- Allowing each campus to retain its carryover funds for use in the subsequent year.
- Adding carryover funds to the LEA's subsequent year's entitlement and distributing to participating campuses in accordance with allocation procedures.
- Designating carryover funds for particular activities or campuses in greatest need. [Examples: parental involvement activities or campuses with the highest concentrations of poverty]

The funds carried over from the previous year are NOT required to be included in the calculation of the minimum per-pupil amount when applying the 125 Percent Special Allocation Rule.

Question 20: When applying the "35 percent rule," must all school attendance areas with at least 35 percent poverty be served?

No. However, school attendance areas to be served must be selected in rank order.

Question 21: May an LEA allocate a greater per-pupil amount, for example, to schoolwide program schools than to targeted assistance schools since schoolwide programs serve all children in the school?

The Title I statute requires allocations to be based on the total number of low-income children in a school attendance area or school. Therefore, poverty is the only factor on which an LEA may determine funding. In other words, an LEA may not allocate funds based on the instructional model, educational need, or any other non-poverty factor. In fact, now that Title I, Part A places the responsibility for selecting participants and designing programs on schools rather than on the LEA, the LEA will not necessarily be in a position to know in advance the instructional model or educational need when determining allocations.

Question 22: Is there a maximum amount that an LEA may reserve?

No. An LEA must bear in mind, however, that the goal of Title I, Part A is to enable participating children to make adequate progress toward meeting the challenging student performance standards that all children are expected to meet. The per child allocation amount must be large enough to provide a reasonable assurance that a school can operate a Title I program of sufficient quality to achieve that purpose. Moreover, if the 125 Percent Special Allocation Rule applies, the LEA must calculate 125 percent of the LEA's allocation per low-income child before it reserves any funds.

Question 23: How do funds that an LEA transfers into Part A of Title I under the transferability provision in section 6123 of ESEA affect the specific percentages an LEA must reserve for choice-related transportation and supplemental educational services, professional development, and parent involvement?

If an LEA transfers funds from another Federal education program into Title I, Part A under the transferability provision in section 6123, then the additional amount transferred is added to the LEA's Title I, Part A allocation, and the combined amount becomes the base for calculating the specific reserves required for choice-related transportation and supplemental educational services, professional development, and parent involvement.

Question 24: How may preschool children be served under Title I, Part A?

There are several ways in which preschool children may be served under Title I, Part A. For example—

- A participating school may use part of its Title I, Part A funds to operate a preschool program.
- An LEA may reserve an amount from the LEA's total allocation to operate a Title I, Part A preschool program for eligible children in the district as a whole or for a portion of the district.
- An LEA may reserve an amount from the LEA's total allocation and distribute these funds to schools that wish to operate a Title I, Part A preschool program.

Question 25: Is there any flexibility in how an LEA may count children from low-income families in middle and high schools?

Of the four measures of poverty the statute permits an LEA to use for identifying eligible school attendance areas and allocating funds to those areas, eligibility for free or reduced-price lunch is by far the measure most frequently used. Yet, we know from experience that high school and middle school students are less likely to participate in free and reduced-price lunch programs than are elementary school students. Hence, those schools often may not be identified as eligible for Title I, Part A services or, if eligible, may not receive as high an allocation as their actual poverty rate would require. In order to address the situation, an LEA may use comparable data collected through alternative means such as a survey. Also, an LEA may use the feeder pattern concept. This concept would allow the LEA to project the number of low-income children in a middle school or high school based on the average poverty rate of the elementary or middle school attendance areas that feed into that school.

Campus Allocation Example 1—Single Attendance Area

Flower ISD

Campus	Grade	Total Residing	Low-income Residing	Percentage Low-income	SW	TA
Daisy Middle School	6-8	500	255	51.00%	4	
Rose Elementary	K-5	600	300	50.00%	4	
Bluebonnet High School	9-12	475	171	36.00%		
Totals		1,575	726	46.10%		

Flower ISD has a Title I, Part A entitlement of $150,000. Because Flower ISD is a Single Attendance Area, it is not required to allocate funds to campuses in rank order. This means that the LEA can allocate a higher per-pupil amount to Rose Elementary than it does to Daisy Middle School, even though Daisy Middle School has a higher poverty percentage.

If Flower ISD reserves $24,000 of the $150,000 entitlement for district-level Title I, Part A activities and chooses to allocate $200 per low-income student to Daisy Middle School and $250 per student to Rose Elementary, the campus allocations would be as follows:

Campus	Low-income Students	Campus Allocation
Daisy Middle School	255	$51,000
Rose Elementary	300	$75,000
Total to Campuses		$126,000

Campus Allocation Example 2—Multiple Attendance Area

Forest ISD

Campus	Grade	Total Residing	Low-income Residing	Percentage Low-income	SW	TA
Oak Elementary	PK-5	480	384	80.00%	4	
Birch Middle School	6-8	430	324	75.35%	4	
Aspen Elementary	K-5	300	177	59.00%	4	
Mesquite Middle School	6-8	320	158	49.38%		4
Catalpa Elementary	K-5	505	178	35.25%		4
Cedar Middle School	6-8	458	150	32.75%		
Elm Elementary	PK-5	840	125	14.88%		
Maple High School	9-12	900	112	12.44%		
Hackberry Middle School	6-8	450	55	12.22%		
Totals		4683	1,663	35.51%		

Forest ISD has a Title I, Part A entitlement of $1,000,000. Because Forest ISD is a Multiple Attendance Area, it must allocate funds to campuses in rank order. This means that Aspen Elementary cannot receive a higher amount per pupil than Birch Middle School.

However, within these parameters, the LEA has considerable flexibility in how it chooses to allocate funds to participating campuses.

One option is to use the same per-pupil amount to determine all of the campus allocations.
If the LEA reserves a total of $145,300 of the $1,000,000 entitlement for district-level Title I, Part A activities and all participating campuses receive $700 per low-income student, the campus allocations would be:

Campus	Low-income Students	Campus Allocation
Oak Elementary	384	$268,800
Birch Middle School	324	$226,800
Aspen Elementary	177	$123,900
Mesquite Middle School	158	$110,600
Catalpa Elementary	178	$124,600
Total to Campuses		$854,700

Example 2—continued

Another option is to use a tiered approach. The LEA might choose to reserve $108,100 for district-level Title I, Part A activities and give $800 per low-income student to campuses that had a poverty percentage exceeding 75%; $700 to campuses that have at least 50% but not more than 75%; and $600 to campuses that have at least 35% but less than 50%. Based on these figures, the campus allocations would be as follows:

Campus	Low-income Students	Campus Allocation
Oak Elementary	384	$307,200
Birch Middle School	324	$259,200
Aspen Elementary	177	$123,900
Mesquite Middle School	158	$ 94,800
Catalpa Elementary	178	$106,800
Total to Campuses		$891,900

A third option is to rank campuses with 75% poverty or less by grade span. Oak Elementary and Birch Middle School might receive $700 per low-income student. If the LEA then wished to focus its efforts on the remaining elementary schools, it might choose to allocate as much as $700 per low-income student to Aspen Elementary and Catalpa Elementary. Grouping by grade span would permit the LEA to give only $400 (or some lesser amount) to Mesquite Middle School, even though its low-income percentage would have placed Mesquite above Catalpa in a straight rank order. Based on these figures, the campus allocations would be as follows:

Campus	Low-income Students	Campus Allocation
Oak Elementary	384	$268,800
Birch Middle School	324	$226,800
Aspen Elementary	177	$123,900
Mesquite Middle School	158	$63,200
Catalpa Elementary	178	$124,600
Total to Campuses		$807,300

Campus Allocation Example 3—Reservation of Funds without 125% Special Allocation Rule

Blackbird ISD has a Title I, Part A entitlement of $550,000. The LEA, in consultation with teachers, principals, and parents of children at participating campuses and with officials at participating private nonprofit schools, determines what reservations are reasonable and necessary. The following chart is an example of how the LEA might reserve funds before allocating funds to participating campuses.

Parental Involvement	$55,000
Local Neglected	$10,000
Local Delinquent	
Homeless Students not attending participating Title I, Part A Campuses	$10,000
Administration (of public and private nonprofit school Title I, Part A programs)	$80,000
Professional Development	$15,000
Preschool programs	$80,000
School Improvement	
Coordinated Services	
Other authorized activities	
Total amount reserved	$250,000

$550,000 (Title I, Part A entitlement)
- 250,000 (Reservations)
$300,000 (For allocation to participating campuses)

If the LEA is not serving any campus that is below 35% poverty, the 125% Special Allocation Rule does not apply. The LEA may determine the per-pupil amount(s) based on the funds remaining after the reservations are made.

If the LEA is a Multiple Attendance Area, the LEA must allocate funds to participating campuses in rank order and ensure that a higher per-pupil amount is not used for a campus with a lower poverty percentage.

If the LEA is a Single Attendance Area, the LEA is not required to allocate funds in rank order.

Campus Allocation Example 4—Reservation of Funds with 125% Special Allocation Rule

Big Thicket ISD has a Title I, Part A entitlement of $120,000. The LEA, in consultation with teachers, principals, and parents of children at participating campuses and with officials at participating private nonprofit schools, determines what reservations are reasonable and necessary. The following chart is an example of how the LEA might reserve funds before allocating funds to participating campuses.

Parental Involvement	$10,000
Local Neglected	$ 2,500
Local Delinquent	
Homeless Students not attending participating Title I, Part A Campuses	$ 2,500
Administration (of public and private nonprofit school Title I, Part A programs)	$20,000
Professional Development	
Preschool programs	$10,000
School Improvement	
Coordinated Services	
Other authorized activities	
Total amount reserved	$45,000

$120,000 (Title I, Part A entitlement)
- 45,000 (Reservations)
$ 75,000 (For allocation to participating campuses)

If the LEA is choosing to serve a campus below 35% poverty, the 125% Special Allocation Rule must be applied to determine the minimum allocations to participating campuses. The LEA must determine the minimum per-pupil amount based on the LEA's total entitlement ($120,000), not on the amount remaining ($75,000) after reservations are made.

Campus Allocation Example 5—Multiple Attendance Area with 125% Special Allocation Rule

Big Thicket ISD

Campus	Total Students Residing	Low-income Residing	Low-income Percentage	SW	TA
Willow Elementary	200	100	50.00%	4	
Pine Middle School	400	140	35.00%		
Cedar Elementary	200	63	31.50%		4
Cypress Elementary	200	62	31.00%		4
Oak High School	400	68	17.00%		
Totals	1400	433	30.93%		

Big Thicket ISD's LEA average is 30.93%. The LEA chooses to group by grade span and provide Title I, Part A services to all three elementary schools. The LEA's Title I, Part A entitlement is $120,000.

Before allocating funds to these campuses, the LEA must apply the 125% Special Allocation Rule to determine the minimum per-pupil amount to use:

Total LEA entitlement ÷ Total low-income students in LEA = Base amount per pupil

$120,000 ÷ 433 students = $277.13625 (base amount)

Base amount per pupil x 125% = Minimum amount per pupil to ALL campuses served

$277.13625 x 125% = $346.42 ™ $347 per low-income student

This amount is rounded up to the next dollar. Each campus that is going to receive Title I, Part A services must receive at least $347 per low-income student.

Campus	Low-income Students	Minimum Allocation	Actual Allocation
Willow Elementary	100	$34,700	$34,700
Cedar Elementary	63	$21,861	$21,861
Cypress Elementary	62	$21,514	$18,439
		$78,075	$75,000

Big Thicket has reserved $45,000 for district-level activities and for administration. When this amount is subtracted from the $120,000 entitlement, the LEA has only $75,000 to distribute to campuses. The LEA gives the full minimum amount to the first two campuses on the list. There is not enough to give the full minimum allocation to the third campus, but the LEA has determined that the funds are sufficient to enable the participating children at that campus to make adequate progress toward meeting the state's student performance standards.

Campus Allocation Example 6—Single Attendance Area with 125% Special Allocation Rule

Berry ISD

Campus	Total Students Residing	Low-income Residing	Low-income Percentage	SW	TA
Blueberry Middle School	300	108	36.00%		4
Raspberry Elementary	400	130	32.50%		4
Strawberry High School	325	65	20.00%		
Totals	1,025	303	29.56%		

Berry ISD is a Single Attendance Area because it has only one campus per grade span (i.e., no duplicate grades). LEAs with a total enrollment of less than 1,000 are also considered Single Attendance Areas for the purposes of campus eligibility and allocation. All campuses are eligible because it is a Single Attendance Area, but Berry ISD chooses to provide Title I, Part A services only at its elementary and middle schools. The LEA's Title I, Part A entitlement is $80,000.

The LEA is reserving a total of $15,000 for district-level activities and administration. Before allocating funds to these campuses, the LEA must apply the 125% Special Allocation Rule to the total entitlement in order to determine the minimum per-pupil amount to use:

Total LEA entitlement ÷ Total low-income students in LEA = Base amount per pupil

$80,000 ÷ 303 students = $ 264.0264 (base amount)

Base amount per pupil x 125% = Minimum amount per pupil to ALL campuses served

$264.0264 x 125% = $330.033 ™ $331 per low-income student

This amount is rounded up to the next dollar. Each campus that is going to receive Title I, Part A services must receive at least $331 per low-income student.

Campus	Low-income Students	Minimum Allocation	Actual Allocation
Blueberry Middle School	108	$35,748	$21,970
Raspberry Elementary	130	$43,030	$43,030
Total to Campuses		$78,778	$65,000

The LEA has reserved a total of $15,000 for district-level activities and administration. When this amount is subtracted from the $80,000 entitlement, only $65,000 remain for campus allocations. The minimum allocations to the two campuses that the LEA chooses to serve total $78,778. Because the LEA is a Single Attendance Area and, therefore, does not have to serve its campuses in rank order, the LEA can choose to allocate the full minimum amount to the Elementary School. The LEA has determined that the remaining $21,970 are sufficient to enable the participating children at the Middle School to make adequate progress toward meeting the state's student performance standards.

Campus Allocation Example 7—Use of Carryover Funds with 125% Special Allocation Rule

In Example 4, Big Thicket ISD reserved $45,000 of its Title I, Part A funds for district-level activities and determined its minimum per-pupil amount according to the 125% Special Allocation Rule:

Campus	Low-income Students	Campus Allocation
Willow Elementary	100	$36,700
Cedar Elementary	63	$21,861
Cypress Elementary	62	$18,439
Total to Campuses		$75,000

In addition to its current-year entitlement, Big Thicket ISD has an additional $15,000 in Title I, Part A funds that it rolled forward from the previous year. The LEA is not required to include the carryover amount in its application of the 125% Special Allocation Rule.

Big Thicket ISD may decide to use the $15,000 carryover to implement additional professional development activities:

Parental Involvement	$10,000
Local Neglected	$ 2,500
Local Delinquent	
Homeless Students not attending participating Title I, Part A Campuses	$ 2,500
Administration (of public and private nonprofit school Title I, Part A programs)	$20,000
Professional Development	
Preschool programs	$10,000
School Improvement	
Coordinated Services	
Other authorized activities	
Total amount reserved	$45,000
Carryover funds used for professional development activities	$15,000
Total amount allocated to campuses	$75,000
Total amount budgeted (entitlement + roll forward)	$135,000

Schoolwide Programs

Question 26: What is a Title I, Part A schoolwide program?

A Title I, Part A schoolwide program permits a school to use funds from Title I, Part A and other federal education program funds and resources to upgrade the entire educational program of the school in order to raise academic achievement for all the students. This contrasts with a Title I, Part A targeted assistance program, through which Title I, Part A funds are used only for supplementary educational services for eligible children who are failing or at risk of failing to meet state standards.

Schoolwide programs have great latitude in determining how to spend their Title I, Part A funds. Schoolwide programs do not have to identify particular children as eligible for services, show that Part A funds are paying for supplemental services that would otherwise not be provided, or separately track dollars to "allowable" activities. Instead, schoolwide programs can use their Title I, Part A funds in the manner they choose, as long as they engage in reform strategies that increase the amount and quality of learning and help provide a high-quality curriculum for all children, according to a comprehensive plan to help children meet the state's student performance standards.

Schoolwide programs may use, in addition to Title I, Part A funds, funds from most other federal education programs to upgrade the entire educational program. A schoolwide program that includes other federal programs <u>does not have to conform to the specific statutory or regulatory requirements of each separate program</u> as long as the school maintains records that demonstrate that the schoolwide program, <u>considered as a whole</u>, addresses the intent and purposes of each program that supports the schoolwide program, as well as certain requirements relating to such critical areas as civil rights, health, and safety are met. The involvement, during comprehensive planning of a schoolwide program, of all staff, parents, and others in the community that have a stake in the children's education will help to ensure that the program is designed to meet the needs of all the school's students.

Flexibility in the use of funds is tied to increased achievement by children in the target groups that the individual programs are intended to help.

There are three ways to consolidate funds on a Title I Schoolwide program based on USDE's latest guidance on implementing schoolwide programs.

1. Full consolidation of federal, state, and local funds in SWP budget:
    - Expenditures for any cost on the campus are allowable from the SWP budget.
2. Federal consolidation—only combining federal funds in SWP budget:
    - Expenditures for only educational (instructional, as defined by USDE staff) costs on the campus are allowable from the SWP budget.
3. No consolidation—only Title I, Part A funds in SWP budget:
    - Expenditures for only educational (instructional, as defined by USDE staff) costs on the campus are allowable from the SWP budget, and
    - LEA must track Title I, Part A funds to allowable Title I activity.

Question 27: What is the poverty threshold for Title I, Part A Schoolwide Eligibility?

NCLB lowered the poverty threshold for schoolwide eligibility to 40%. If a campus has a poverty percentage of 40% or more, and the LEA determines that the campus will be served with Title I, Part A

funds, the campus may operate as a Title I, Part A Schoolwide Campus once the statutorily required planning process has been completed.

Question 28: What happens if a school that becomes a schoolwide program drops below the initial 40 percent poverty threshold for eligibility in a subsequent year?

To promote effective, long-term planning, a school may maintain its schoolwide program eligibility even if it drops below the initial 40 percent poverty threshold, if the campus continues to be a Title I, Part A eligible campus. There is no required redetermination of schoolwide program status as long as the campus continues to operate a schoolwide program. Therefore, a school that becomes a schoolwide in 2002-03 with 40% poverty may continue its schoolwide program even if its poverty level falls below 40% in following years, as long as the school meets the general Title I, Part A eligibility and selection requirements, continues to operate as a schoolwide program, and the LEA has sufficient funds to serve the school.

Question 29: How does a school become a schoolwide program?

The LEA determines that a school's poverty level makes it eligible to become a schoolwide program and the school has been selected to participate in Title I, Part A.

A campus that desires to operate a schoolwide program, in consultation with the LEA, works with an external school support team (or other technical assistance provider) to develop a comprehensive plan for reforming the total instructional program in the school. Statute requires one year of planning unless the external technical assistance provider signs off that a lesser, but appropriate, amount of planning time has met the requirements

High-quality technical assistance and school support team services are available to the school through the regional education service centers.

It is important to recognize that it is a campus's decision as to whether it will or will not choose to operate a schoolwide program.

Question 30: What are the basic components of a schoolwide program?

The ten components are as follows:

1. A comprehensive needs assessment of the entire school (including taking into account the needs of migratory children) that is based on information on the performance of children in relation to the state content and student performance standards.
2. Schoolwide reform strategies that—
    - provide opportunities for all children to meet the state's proficient and advanced levels of student performance;
    - use effective methods and instructional strategies that are based on scientifically based research that—

        –strengthen the core academic program in the school;

–increase the amount and quality of learning time, such as providing an extended school year, before- and after-school and summer programs, and help provide an enriched and accelerated curriculum; and

–include strategies for meeting the educational needs of historically underserved populations.

- include strategies to address the needs of all children in the school, but particularly the needs of children of low-achieving children and those at risk of not meeting the state student academic achievement standards who are members of the target population of any program that is included in the schoolwide program, which may include—

  – counseling, pupil services, and mentoring services;

  – college and career awareness and preparation, such as college and career guidance, personal finance education, and innovative teaching methods, which may include applied learning and team-teaching strategies; and

  – the integration of vocational and technical education programs; and

  address how the campus will determine if such needs have been met; and

- are consistent with, and are designed to implement, the state and local improvement plans, if any.

3. Instruction by highly qualified teachers.
4. High-quality, ongoing **professional development** for teachers, principals, and paraprofessionals and, if appropriate, pupil services personnel, parents, and other staff to enable all children in the school to meet the state's student academic achievement standards.
5. Strategies to attract high-quality highly qualified teachers to high-need schools.
6. Strategies to increase **parental involvement** in accordance with Section 1118, such as family literacy services.
7. Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, Early Reading First, or a state-run preschool program, to local elementary school programs.
8. Measures to include teachers in the decisions regarding the use of academic assessments described in section 1111(b)(3) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.
9. Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards shall be provided with effective, timely additional assistance, which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.
10. Coordination and integration occurs between federal, state, and local services and programs, including programs under NCLB, violence prevention programs, nutrition

programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

Final regulations group the schoolwide components into four primary categories:

- Schoolwide reform strategies
- Instruction by highly qualified teachers
- Parent involvement
- Additional support

Transition is a fifth category if the campus has an early childhood program.

Regulations also specify that LEAs are required to address the needs of all children in the school but particularly the needs of students furthest away from demonstrating proficiency.

Question 31: Is it a requirement that Title I, Part A pay for implementing the ten components in a schoolwide program?

No. A campus with a schoolwide program must include these components in its school. The campus may design the schoolwide program it wants without targeting a specific fund source to a program-specific activity. As long as the campus as a whole includes the ten components, it can spend the federal resources for any allowable costs associated with improving student academic performance.

Despite the seemingly equal weight of each of the ten components, schools should not forget the purpose of a schoolwide program. Professional development, active and involved parents, and transitional services are strategies that can help a schoolwide meet its core purpose, but should not obscure the overall purpose—identifying and implementing those instructional strategies that can increase the quality and amount of learning time for all children to enable them to achieve challenging academic standards.

Question 32: May a schoolwide program school combine funds it receives under the Individuals with Disabilities Education Act (IDEA)?

Yes. Consistent with section 613(a)(2)(D) of the IDEA and 34 CFR 200.29(c)(3), a school that operates as a schoolwide program may consolidate funds received under Part B of the IDEA. However, the amount of funds consolidated may not exceed the amount received by the LEA under Part B of the IDEA for that fiscal year, divided by the number of children with disabilities in the jurisdiction of the LEA, and multiplied by the number of children with disabilities participating in the schoolwide program. A school may also consolidate funds it receives for students with disabilities under section 8003(d) of the ESEA. A school that consolidates funds under Part B of the IDEA or section 8003(d) of the ESEA may use those funds in its schoolwide program for any activities under its schoolwide program plan but must comply with all other requirements of Part B of the IDEA to the same extent as it would if it did not consolidate funds under Part B of the IDEA or section 8003(d) of the ESEA in the schoolwide program.

Question 33: What happens if a Schoolwide campus chooses to consolidate funds from some of its federal programs in its schoolwide program, but does not want to combine funds from other federal programs?

If the campus, in consultation with the LEA, decides not to consolidate a specific federal fund source, such as Migrant Education funds, on its Schoolwide campus, the campus must then restrict the use of the non-consolidated program (Migrant) funds to the non-consolidated program (Migrant) activities. The LEA must track the program activities and expenditures to the non-consolidated program (Migrant) in order to show both program and fiscal compliance as it would on a Targeted Assistance campus.

Question 34: If a schoolwide program campus is not required to identify particular children, how can the school determine whether it is meeting the needs of the intended beneficiaries of the federal education programs whose funds it has combined?

A schoolwide program campus is not required to identify particular children as eligible to participate in a schoolwide program because it is not required to focus federal education funds on particular children. All children are eligible to participate in all aspects of the schoolwide program, as appropriate. However, the schoolwide program must include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the state student academic achievement standards who are members of the target population of any program that is included in the schoolwide program.

Question 35: How can a schoolwide program campus demonstrate that it supplements, not supplants state and local funds for free public education?

The supplement, not supplant requirement as it applies to a campus operating a schoolwide program requires the campus to use Title I, Part A funds and other federal education program funds included in the schoolwide program only to supplement the total amount of funds that would, in the absence of the federal funds, be made available from non-federal sources for that campus, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. Generally, it would be an LEA's responsibility, not the campus's, to ensure that a schoolwide program campus receives all the state and local funds it would have received had it not been a Title I, Part A schoolwide program campus. State and local funds may not be diverted because Title I, Part A funds are available. In other words, an LEA may not discriminate against a schoolwide program campus in the distribution of state and local funds and resources because it is receiving federal funds to operate a schoolwide program. Through its regular procedures for distributing funds and resources or other records, an LEA should be able to demonstrate that it has distributed state and local funds fairly and equitably to all its campuses—including schoolwide program campuses—without regard to whether those campuses are receiving federal education funds.

Schoolwide Programs—A campus participating in a schoolwide program shall use Title I, Part A funds only to supplement the amount of funds available from non-federal sources for the campus including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. A schoolwide campus does not have to demonstrate that activities are supplemental. The school is not required to identify particular children or to provide supplemental services to identified children. Other funds may be used on a schoolwide campus in combination with Title I, Part A to upgrade the entire educational program, but the funds must not be commingled. Such schoolwide programs are exempt from statutory or regulatory requirements of other federal education programs, provided that the intent and purposes of each such programs are met and the needs of the intended beneficiaries of the federal fund sources combined are met. The effectiveness of the program is measured by student performance.

Question 36: What record keeping requirements apply to an LEA with respect to federal education funds that are combined in a schoolwide program?

An LEA must show the amount of funds from each federal education program for each grant year that the LEA allocated to a schoolwide program. In addition, an LEA must show that the federal funds were expended by the schoolwide program to satisfy federal reporting requirements and cash management and availability of funds requirements. Neither an LEA nor a schoolwide program campus is required to assign specific costs to federal funds combined in the schoolwide in general or to particular federal programs. In other words, federal funds combined in a schoolwide program lose their specific program identity and may be used for any allowable costs associated with improving student academic performance. Thus, to demonstrate that the federal funds in a schoolwide program have been expended, the LEA may use any reasonable method. For example, the LEA could allocate expenditures of federal funds in a schoolwide program campus in proportion to the federal funds provided to the campus.

Question 37: What documentation is needed for employees in a schoolwide program school?

Under Office of Management and Budget (OMB) Circular A-87, Attachment B.11.h.(3) and (4), charges for wages and salaries of employees who work solely on a single federal award or cost objective must be supported by periodic certifications that the employees worked solely on that program. Individual Programmatic waivers provide LEAs and campuses the flexibility in the use of federal program funds based on the barriers preventing student achievement. If employees work on multiple activities or cost objectives, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation.

Staff who are paid 100% with federal funds that are combined on a schoolwide program campus are not required to keep time and effort. An LEA must still keep in mind the standards for general payroll documentation described in Circular A-87, Attachment B11.a, b, and c.

Records described in OMB Circular A-87, Attachment B.11.h. (4), (5), and (6), respectively, would be necessary if there are employees in the schoolwide program who work on multiple cost objectives or who are paid, in whole or in part, by federal programs that have NOT been combined in the schoolwide program.

See the following excerpt from USDE's latest Schoolwide Guidance.

Schoolwide Excerpt

NON-REGULATORY GUIDANCE

TITLE I FISCAL ISSUES:

MAINTENANCE OF EFFORT

COMPARABILITY

SUPPLEMENT, NOT SUPPLANT

CARRYOVER

CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS

GRANTBACK REQUIREMENTS

REVISED

February 2008

E. CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS

Introduction

Section 1114 of Title I of the ESEA allows a school in which 40 percent or more of its students are from low-income families to use its Title I funds, along with other Federal, State, and local funds, to operate a schoolwide program to upgrade the entire educational program in the school to improve the academic performance of all students, particularly the lowest-achieving students. [Section 1114(a)(1)] To operate a schoolwide program, a school must conduct a comprehensive needs assessment of the entire school and, using data from the needs assessment, develop a comprehensive plan that meets the requirements of the ESEA and §200.27 of the Title I regulations. [Section 1114(b); 34 CFR 200.27] A school operating a schoolwide program is not required to identify specific students as eligible to participate in the schoolwide program, or to demonstrate that the services provided with Title I funds are supplemental to services that would otherwise be provided. [Section 1114(a)(2)] This is in contrast to a targeted assistance program, in which Title I funds may be used only for supplementary educational services for children identified as being most at risk of not meeting State standards. [Section 1115(a)]

The underlying purpose of the schoolwide approach is to enable schools with high numbers of at-risk children to integrate the services they provide to their children from Federal, State, and local resources. A growing body of evidence shows that it is possible to create schools where all of the students achieve high standards even when most are poor or disadvantaged. Such schools are most likely to be effective if they can make significant changes in the way they deliver services. By making systemic changes that knit together services funded from all sources into a comprehensive framework, schools will have a better chance of increasing the academic success of all their students.

A schoolwide program school may consolidate funds from Federal, State, and local sources to implement the school's comprehensive plan to upgrade its entire educational program. [Section 1114(a)(1)] In consolidating State and local funds with funds from Title I, Part A and most other Federal elementary and secondary programs administered by the Department, a schoolwide program school does not need to meet most of the statutory and regulatory requirements of the Federal programs included in the consolidation as long as it meets the intent and purposes of those programs. [Section 1114(a)(3)(A)-(B)] Moreover, the school is not required to maintain separate fiscal accounting records by program that identify the specific activities supported by those particular funds in order to demonstrate that the activities are allowable under the program. [Section 1114(a)(3)(C)] Each school, however, must identify the specific programs being consolidated, and the amount each program contributes to the consolidation [Section 1114(b)(2)(A)(iii)], and maintain records that demonstrate that the schoolwide program addresses the intent and purposes of each of the Federal programs whose funds are being consolidated to support the schoolwide program. [Section 1114(a)(3)(C)] Each SEA must encourage schools to consolidate funds from Federal, State, and local sources in their schoolwide programs and must eliminate State fiscal and accounting barriers so that these funds can be more easily consolidated. [Section 1111(c)(9)-(10); see generally 34 CFR 200.29]

Questions and Answers on Consolidating Funds in Schoolwide Programs

Consolidating Funds

E-1. What are the purpose and benefits of consolidating Federal, State, and local funds in a schoolwide program?

The purpose of consolidating funds is to help a schoolwide program school effectively design and implement a comprehensive plan to upgrade the entire educational program in the school based on the school's needs identified through its comprehensive needs assessment. (See "Designing Schoolwide Programs" non-regulatory guidance at http://www.ed.gov/policy/elsec/guid/designingswpguid.doc for information on conducting a comprehensive needs assessment, designing quality plans, and annually evaluating the program's success.) By consolidating funds from Federal, State, and local sources, a schoolwide program school can address its needs using all of the resources available to it. This gives a school more flexibility in how it uses available resources to meet the specifically identified needs of its students.

Consolidating Federal funds in a schoolwide program has other advantages, too.

- *Consolidating Federal funds eases the requirements for accounting for funds from each specific program separately, because a schoolwide school is not required to distinguish among funds received from different sources when accounting for their use. Therefore, a school is not required to maintain separate fiscal accounting records, by Federal program, that identify the specific activities supported by each program's funds in order to demonstrate that those activities are allowable under the program. [Section 1114(a)(3)(C)]*

- *A school that consolidates Federal funds in its schoolwide program is not required to meet most of the statutory and regulatory requirements of the specific Federal programs included in the consolidation. However, the school must ensure that it meets the intent and purposes of the Federal programs included in the consolidation so that the needs of the intended beneficiaries are met. (See E-8 through E-10.) [Section 1114(a)(3); 34 CFR 200.29(a), (b), (d)]*

E-2 What does it mean to consolidate funds, including Title I, Part A funds, in a schoolwide program?

Consolidating funds in a schoolwide program means that a school treats the funds it is consolidating like they are a single "pool" of funds. In other words, the funds from the contributing programs in the school lose their individual identity and the school has one flexible pool of funds. The school uses funds from this consolidated schoolwide pool to support any activity of the schoolwide program without regard to which program contributed the specific funds used for a particular activity. A schoolwide school must identify in its schoolwide plan which programs are included in its consolidation and the amount each program contributes to the consolidated schoolwide pool. [Section 1114(b)(2)(A)(iii)]

Keep in mind that an LEA must ensure that such a school meets the supplement not supplant requirement as it relates to a schoolwide program, i.e. each school operating a schoolwide program must receive all the State and local funds it would otherwise receive to operate its educational program in the absence of Title I, Part A or other Federal education funds. (See E-17.) [Section 1114(a)(2)(B)]

E-4 May a schoolwide program school consolidate only its Federal funds?

Yes, although this practice may not be as effective as when a school consolidates Federal, State, and local funds because it does not give the school the flexibility to use all of its available resources to meet the identified needs of its students.

In this situation, the school would consolidate its Title I, Part A funds and funds from other Federal education programs included in its comprehensive schoolwide program plan into a single Federal consolidated schoolwide pool. From an accounting perspective, the funds from the contributing Federal programs lose their individual identity when they become part of a consolidated schoolwide pool and would be accounted for as part of that pool rather than by the individual programs that contribute to the consolidated schoolwide pool. Practices similar to those illustrated in E-3 may be used to account for funds consolidated into a Federal consolidated schoolwide pool. When Federal funds are consolidated, the schoolwide program school does not need to meet most of the statutory and regulatory requirements of the Federal programs included in the consolidation as long as it meets the intent and purposes of those programs. The school and LEA must be able to demonstrate, however, that the intent and purposes of the Federal programs whose funds are consolidated are met. [Section 1114(a)(3)(A) and (C)]

E-5 On what activities in a schoolwide program may consolidated Federal funds, including Title I , Part A funds, be used?

According to the purpose of a schoolwide program, Title I, Part A funds, as well as other Federal, State, and local funds, may be used to upgrade the "educational program" of the school. [Section 1114(a)(1)] The school's comprehensive schoolwide program plan must describe how it will upgrade its educational program based on data derived from its comprehensive needs assessment regarding the achievement of children in the school relative to the State's academic content and achievement standards. Strategies for upgrading a school's educational program must include instructional strategies based on scientifically based research that strengthen the core academic program, increase the amount and quality of learning time, and address the needs of the lowest-achieving children as well as strategies to attract and retain highly qualified teachers, to provide high-quality professional development, and to increase parental involvement. [Section 1114(b)] Accordingly, Title I, Part A funds and other consolidated Federal funds must be used to address the specific educational needs of the school identified by the needs assessment and articulated in the comprehensive plan. Use of those funds is governed by the cost principles in Office of Management and Budget (OMB) Circular A-87 available at http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html.

E-6 If all the Title I, Part A schools in an LEA operate schoolwide programs, may the LEA consolidate funds it is required to reserve under Title I, Part A and other Federal programs into one district-wide pool?

No. Consolidation of funds in schoolwide programs applies only to programs at the school building level in accordance with a school's schoolwide plan. An LEA must, therefore, still set aside Title I, Part A funds specifically required for homeless children, children in locally operated institutions for neglected children, parental involvement, choice-related transportation and supplemental educational services, and professional development as required by law and must account for the Title I funds it spends on those activities. The LEA must then allocate the remaining funds to schools in accordance with section 1113 of the ESEA and §200.78 of the Title I regulations.

E-7 If a school operating a schoolwide program does not consolidate its Title I, Part A funds with other Federal, State, and local funds, what activities may Part A funds support?

As discussed in E-5, the purpose of a schoolwide program is to upgrade the "educational program" of a school as reflected in a comprehensive schoolwide program plan based on data from a comprehensive needs assessment. [Section 1114(a)(1)] Accordingly, Part A funds must be used to address specific educational needs of the school identified by the needs assessment and articulated in the plan. All children in the school may participate in activities funded with Title I, Part A funds (consistent with the school's comprehensive schoolwide program plan), and the school does not need to demonstrate that those activities are supplemental to ones that would otherwise be provided by the school. [Section 1114(a)(2)(A)] Use of Title I, Part A funds in this situation would be governed by the cost principles in OMB Circular A-87. Because Title I, Part A funds are not consolidated with other Federal, State, and local funds, the school and LEA must account for and track the Title I, Part A funds separately, identifying the activities that the Part A funds support.

E-8 May Title I, Part A funds in a schoolwide program school be used for basic operational expenses such as building maintenance and repairs, landscaping, and custodial services?

As discussed in E-5, Title I, Part A funds (as well as consolidated Federal funds) must be used to address the educational needs of a school identified by the needs assessment and articulated in the comprehensive plan. [Section 1114(a)(1)] Accordingly, they may not be used for non-educational activities such as building maintenance and repairs, landscaping, and custodial services.

When Title I, Part A funds are consolidated with State and local funds as described in E-2 and E-3, they lose their identity; thus, it is impossible to know on what specific activities Part A funds are spent. However, to meet the supplement not supplant requirement as it relates to a schoolwide program, an LEA must ensure that each school operating a schoolwide program receives all the State and local funds it would otherwise need to operate in the absence of Federal funds [Section 1114(a)(2)(B)], including State and local funds necessary to provide for routine operating expenses such as building maintenance and repairs, landscaping and custodial services. Thus, even though Title I, Part A funds are included in the consolidated pool of resources available to the school that may support, for example, building maintenance and repair, landscaping, or custodial services, there must

also be sufficient State and local funds in that consolidated pool to cover non-educational activities.

E-9. Which Federal education program funds may be consolidated in a schoolwide program?

Except as noted below, the Secretary has authorized a schoolwide program school to consolidate funds from any Federal education program administered by the Secretary whose funds can be used to carry out activities that support students enrolled in a public elementary or secondary school. (See 69 FR 40360-64 (July 2, 2004), Notice of authorization and exemption of schoolwide programs. The notice is available on ED's website at ***http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html****.) This authority also extends to services, materials, and equipment purchased with those funds and provided to a schoolwide program school.*

A school that operates a schoolwide program may ***NOT*** *consolidate funds under Subpart 1 of Part B of Title I of the ESEA (Reading First), which establishes reading programs for students in kindergarten through grade 3.*

Within the general schoolwide consolidation authority, a schoolwide program school may consolidate funds received under the following programs only as outlined below:

- *Migrant Education. Consistent with section 1306(b)(4) of Title I and 34 CFR 200.29(c)(1), before a school operating as a schoolwide program consolidates funds received under Part C of Title I, of the ESEA for the education of migratory children, the school, in consultation with parents of migratory children or organizations representing those parents, or both, must first meet the unique educational needs of migratory children that result from the effects of their migratory lifestyle and those other needs that are necessary to permit those students to participate effectively in school, and must document that these needs have been met.*

- *Indian Education. Consistent with section 7115(c) of the ESEA and 34 CFR 200.29(c)(2), a school operating as a schoolwide program may consolidate Indian education funds received under Subpart 1 of Part A of Title VII of the ESEA only if the parent committee established by the LEA to help develop the Indian education program under section 7114(c)(4) of the ESEA approves the inclusion of those funds.*

- *Individuals with Disabilities Education Act. See response to E-10.*

E-10. May a schoolwide program school consolidate funds it receives under the Individuals with Disabilities Education Act (IDEA)?

Yes. Consistent with section 613(a)(2)(D) of the IDEA and 34 CFR 200.29(c)(3), a school that operates as a schoolwide program may consolidate funds received under Part B of the IDEA. However, the amount of funds consolidated may not exceed the amount received by the LEA under Part B of the IDEA for that fiscal year, divided by the number of children with disabilities in the jurisdiction of the LEA, and multiplied by the number of children with disabilities participating in the schoolwide program. A school may also consolidate funds it

receives for students with disabilities under section 8003(d) of the ESEA. A school that consolidates funds under Part B of the IDEA or section 8003(d) of the ESEA may use those funds in its schoolwide program for any activities under its schoolwide program plan but must comply with all other requirements of Part B of the IDEA to the same extent as it would if it did not consolidate funds under Part B of the IDEA or section 8003(d) of the ESEA in the schoolwide program.

E-11 May individual schools operating schoolwide programs in an LEA include different programs in their schoolwide consolidations?

Yes. The programs included in a school's schoolwide plan may vary from school to school depending on the content of the school's schoolwide plan and the specific Federal funds an LEA actually allocates to the school.

E-12. May a schoolwide program school consolidate funds it receives from discretionary grant programs?

In general, a schoolwide program school may consolidate funds it receives from discretionary (competitive) grants as well as from formula grants, except for Reading First. (See 69 FR 40360-64 (July 2, 2004).) However, if a school operating a schoolwide program consolidates funds from discretionary grant programs, the school must still carry out the activities described in the application under which the funds were awarded. However, a schoolwide program school does not need to account separately for specific expenditures of the consolidated discretionary grant funds.

Although not required, it is preferable that the applicant LEA or school indicate in its application for discretionary funds that some or all of the funds would be used to support a schoolwide program and describe its activities accordingly. Moreover, if authorized by the program statute, the Department or an SEA could include in its selection criteria for a particular program extra points for conducting activities in a schoolwide program school. For example, an SEA could include such points when awarding subgrants under the Even Start Family Literacy program, which requires an SEA to give priority to applicants that target services to families in need of family literacy services residing in areas with high levels of poverty, illiteracy, or other such need-related factors, including projects that would serve a high percentage of children who reside in participating areas under Part A.

Specific examples illustrating how schoolwide program schools could consolidate and use discretionary grant funds by carrying out the activities described in the application under which the funds were awarded are provided in 69 FR 40360-64 (July 2, 2004), Notice of authorization and exemption of schoolwide programs. This notice is available on ED's website at ***http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html****.*

E-13. The July 2, 2004 Federal Register notice states that it is permissible for a schoolwide program school to consolidate the Title I, Part D (prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk) funds it receives. Part D consists of two programs. Subpart 1 authorizes the State Agency Neglected and Delinquent program, and Subpart 2 authorizes the Local Agency program. Which of these programs may a schoolwide program school consolidate with other Federal, State, and local funds?

Title I, Part D, Subpart 2 funds support the operation of programs in LEAs with high numbers or percentages of children and youth residing in locally operated correctional facilities for children and youth, including facilities involved in community day programs designed to—

- *Carry out high-quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;*
- *Provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and*
- *Operate programs in local schools for children and youth returning from correctional facilities, and programs that may serve at-risk children and youth. [Section 1421]*

If a schoolwide program school receives these funds, it may consolidate them with other Federal funds.

The Title I, Part D, Subpart 1 (State Agency Neglected and Delinquent) funds are distributed to State agencies and are, therefore, not subject to consolidation in a schoolwide program. Section 1416 of Title I, Part D, Subpart 1, however, provides for a State agency to operate institution-wide projects.

Meeting Intent and Purposes

E-14. How may a school that is operating a schoolwide program meet the intent and purposes of the programs for which it consolidates funds?

A school that consolidates and uses, in a schoolwide program, funds from any other Federal education program administered by the Secretary, except Reading First, is not required to meet most statutory or regulatory requirements of the program applicable at the school level, but must meet the intent and purposes of that program to ensure that the needs of the intended beneficiaries are met. The school must be able to demonstrate that its schoolwide program contains sufficient resources and activities to reasonably address the intent of the included programs, particularly as they relate to the lowest-performing students. [Section 1114(a)(3)(C); 34 CFR 200.29(a) and (b)]

For specific examples of how a schoolwide program school may meet the intent and purposes of certain Federal programs see 69 Fed. Reg. 40360-64 (July 2, 2004), Notice of authorization and exemption of schoolwide programs, available at http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html.

Record Keeping

E-15. What fiscal record-keeping requirements apply to an LEA or a school with respect to Federal funds that are consolidated in a schoolwide program?

A school operating a schoolwide program that consolidates, in a consolidated schoolwide pool, funds from Federal education programs administered by the Secretary, including Title I, Part A, with State and local funds is not required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those program funds. The school must, however, maintain records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal education programs whose funds were consolidated to support it. [Section 1114(a)(3)(C)]

There may be reasons why an LEA would want or need to know the amount of funds from a given Federal education program that was expended under the single consolidated schoolwide pool. For example, Title I, Part A and Title IV, Part A have limitations on the amount of funds that may be carried over to the succeeding fiscal year. (See E-21.) Similarly, an SEA may want to recoup any unexpended State funds to demonstrate that Federal funds in a consolidated schoolwide pool have been expended. For example, the LEA could allocate expenditures of Federal funds consolidated in a schoolwide program school in proportion to the amount of funds allocated to the school under a given Federal program.

If an LEA only consolidates Federal funds, including Title I, Part A funds, in a consolidated schoolwide pool, the LEA must keep records that demonstrate that the Federal funds, including Title I, Part A funds, are used to support activities that address specific educational needs of the school identified by the school's comprehensive needs assessment and are articulated in the schoolwide program plan. (See E-5.) These records do not need to identify, by program, the specific activities supported by those program funds. However, the LEA must be able to demonstrate that each schoolwide program contains sufficient resources and activities to reasonably address the intent and purposes of each of the consolidated Federal programs, particularly as they relate to the lowest-performing students. (See E-14.) [Section 1114(a)(3)(C)]

If an LEA includes Title I, Part A funds without consolidating them, it must maintain records to demonstrate that the Title I, Part A funds are used to support activities that address specific educational needs of the school identified by the school's comprehensive needs assessment and that are articulated in the schoolwide program plan. (See E-5.) [Section 1114(a)(1)] The LEA, however, does not need to demonstrate that those activities benefit specific students or that the activities are supplementary to those the schoolwide program school would otherwise provide. [Section 1114(a)(2)(A)]

E-16. If an LEA consolidates Federal, State, and local funds into a consolidated schoolwide pool, and the LEA, for example, must return unspent State funds, how would the LEA distinguish unspent State funds that remain at the end of the year from Federal funds that have been combined in a consolidated schoolwide pool?

In a school that has consolidated funds, it is important that an LEA maintain records that enable it to know the amounts of funds from Federal, State, and local sources that the LEA allocates to the school and that are combined in the consolidated schoolwide pool. The LEA could then apportion any unspent funds at the end of the year based on the percent of funds contributed to the pool from each source.

E-17. How does an LEA document employee time and effort in schools that operate schoolwide programs?

Generally, Attachment B.8.h(3) of OMB Circular A-87, which contains government-wide cost principles that apply to the use of Federal funds by State and local governments and Federally recognized Indian tribal governments, provides that charges for the wages or salary of an employee who works solely on a single Federal program or cost objective must be supported by periodic certifications that the employee worked solely on that program or cost objective. These certifications must be prepared at least semi-annually and must be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee. If an employee works on multiple activities or cost objectives, Attachment B.8.h(4), (5), and (6) require the employee to prepare personnel activity reports or equivalent documentation to support a distribution of his or her salary or wages among the Federal programs or cost objectives.

Application of the OMB Circular A-87 requirements to employees in a school operating a schoolwide program varies under different circumstances. For example:

1. *If a school operating a schoolwide program consolidates Federal, State, and local funds under section 1114(a)(3) in a consolidated schoolwide pool (see E-2), an employee who is paid with funds from that pool is not required to file a semi-annual certification. Because Federal funds are consolidated with State and local funds in a single consolidated schoolwide pool, there is no distinction between staff paid with Federal funds and staff paid with State or local funds.*

2. *If a school operating a schoolwide program does not consolidate Federal funds with State and local funds in a consolidated schoolwide pool, an employee who works, in whole or in part, on a Federal program or cost objective must meet the OMB Circular A-87 requirements as follows:*
   (a) *An employee who works solely on a single cost objective (i.e., a single Federal program whose funds have not been consolidated or Federal programs whose funds have been consolidated but not with State and local funds) must furnish a semi-annual certification that he/she has been engaged solely in activities supported by the applicable source in accordance with OMB Circular A-87, Attachment B, paragraph 8.h(3).*
   (b) *An employee who works on multiple activities or cost objectives (i.e., in part on a Federal program whose funds have not been consolidated in a consolidated schoolwide pool and in part on Federal programs supported with funds that have been consolidated in a pool or on activities funded from other revenue sources) must maintain time and effort distribution records in accordance with*

OMB Circular A-87, Attachment B, paragraph 8.h(4), (5) and (6). The employee must document the portion of time and effort dedicated to:

(1) The Federal program; and

(2) Each program or other cost objective supported by either consolidated Federal funds or other revenue sources.

General Fiscal Questions

E-18. How can a schoolwide program demonstrate that it supplements, and does not supplant, State and local funds?

In a schoolwide program, Title I, Part A funds and other Federal education program funds may be used only to supplement the total amount of funds that would, in the absence of Federal funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. [Section 1114(a)(2)(B)]

It is generally an LEA's responsibility, and not a school's, to ensure that the "supplement not supplant" requirement is met and that a schoolwide program school receives all the State and local funds it would receive were it not a Title I schoolwide program school. In other words, an LEA may not reduce its allocation of State and local funds and resources to a schoolwide program school because the school receives Federal funds to operate a schoolwide program. An LEA should be able to demonstrate, through its regular procedures for distributing funds and resources, that it distributes State and local funds fairly and equitably to all its schools–including schoolwide program schools–without regard to whether those schools are receiving Federal education funds.

A schoolwide program school is not expected to keep records of the particular services paid for with Federal education funds that are used in the schoolwide program, nor is it required to demonstrate that any particular service supplements the services regularly provided in that school. [Section 1114(a)(2)(A)]

E-19. How can an LEA determine whether a school operating a schoolwide program is comparable with non-Title I schools when staff and funding resources from State and local sources are combined with Federal resources and there is no requirement to track Federal funds separately?

See the response to B-6 in the comparability section on page 33 of this guidance at http://www.ed.gov/programs/titleiparta/fiscalguid.doc .

E-20. When an LEA calculates whether it has maintained fiscal effort, it excludes expenditures from Federal funds. If a schoolwide program can consolidate Federal education funds, and those funds "lose their program identity," how can the LEA determine the amount of Federal expenditures to exclude in calculating maintenance of effort?

In calculating whether it has maintained effort, an LEA could allocate expenditures of Federal funds in a schoolwide program in proportion to the amount of Federal funds

provided to the schoolwide program. For example, if Federal programs contributed 25 percent of the funds in a schoolwide program, the LEA would consider 25 percent of the funds expended in the schoolwide program to be Federal funds that the LEA would then exclude from its maintenance of effort determination. An LEA may also use other reasonable methods.

E-21. Some programs have limitations on the use of funds for certain activities within the program. For example, section 4115(c)(1) of Title IV (Safe and Drug-Free Schools) limits expenditures for certain activities (supporting "safe zones of passage," acquiring and installing metal detectors, and hiring security personnel) to not more than 40 percent of the funds made available to an LEA under Part A, Subpart 1 of Title IV. How does this limitation apply in the following scenarios?

(a) <u>Calculating the amount of the cap</u>. If some Title IV funds are consolidated in a schoolwide program and, therefore, lose their identity as Title IV funds, are those funds included in the base on which the LEA calculates the 40 percent cap?

Yes. Section 4115(c)(1) of Title IV limits the expenditure of funds for the activities described above to not more than 40 percent of the funds made available to the LEA under Title IV, Part A, Subpart 1 in a given fiscal year. We interpret this language to mean the allocation of Title IV, Part A, Subpart 1 funds an LEA receives from the Federal appropriation for that program in a given fiscal year. Thus, the amount of the 40 percent cap is calculated on the basis of an LEA's full Title IV, Part A, Subpart 1 allocation, regardless of whether Title IV funds are being used in a schoolwide program or in a categorical drug-free program.

(b) <u>Exceeding the cap</u>. If Title IV funds are consolidated in a schoolwide program and the schoolwide program school spends funds for the activities described above, are those expenditures considered in determining whether the Title IV cap has been exceeded?

No. Title IV funds lose their specific program identity when they are consolidated in a schoolwide program.

E-22. At least two Federal education programs limit the amount of funds that may be carried over to the subsequent fiscal year. Section 1127(a) of Title I prohibits an LEA from carrying over more than 15 percent of the amount of funds allocated to it for any fiscal year under Part A. Similarly, section 4114(a)(3)(B) of Title IV (Safe and Drug-Free Schools) prohibits an LEA from carrying over more than 25 percent of the allocation it receives under Title IV for that fiscal year unless approval to carry over a greater amount is given by the SEA. How are the amounts of these caps calculated in the following scenarios?

(a) If funds from other Federal education programs are consolidated in a schoolwide program, are those funds included in the base on which Title I, Part A's 15 percent carryover cap is calculated?

No. The 15 percent cap on carryover funds under Title I, Part A is calculated only on the allocation an LEA receives under Part A in a given fiscal year.

(b) If funds from a program with a cap on carryover (e.g., Title I, Part A and Title IV, Subpart 1) are consolidated in a schoolwide program, are those funds still included in the base on which the respective cap is calculated?

Yes. Under section 1127 of Title I of the ESEA, an LEA may carry over not more than 15 percent of the funds allocated to the LEA under Part A, subpart 2. Thus, all Part A, Subpart 2 funds an LEA receives, whether used in schoolwide or targeted assistance schools, would be included in the base for calculating the 15 percent cap. Similarly, under section 4114(a)(3)(B) of Title IV, Title IV funds combined in a schoolwide program would be included in the base in calculating the 25 percent cap on carryover, because they would be part of the Title IV allocation an LEA receives.

E-23. An SEA must exclude expenditures by its LEAs of Federal funds under Title I and Title V, Part A of the ESEA in calculating "current expenditures" for the purpose of determining the State per pupil expenditure (SPPE). If a schoolwide program school consolidates Title I and Title V, Part A funds and they thus lose their specific program identity, how can the LEA determine its expenditures of those funds so that the SEA may exclude them in calculating SPPE?

To determine its expenditures under Title I and Title V, Part A in a schoolwide program school, an LEA could calculate the percentage of funds that Title I and Title V, Part A contributed to the schoolwide program, and then apply those percentages to the total expenditures in the schoolwide program. For example, if Title I, Part A contributed 20 percent of the funds in the schoolwide program and Title V, Part A contributed 5 percent, the LEA would attribute 20 percent of the funds expended in the schoolwide program school to Title I, Part A and 5 percent to Title V, Part A. The SEA in calculating current expenditures would then exclude these amounts.

E-24. What is an SEA's responsibility regarding the consolidation of funds at the school level for schools operating schoolwide programs?

Each SEA must--

- *Encourage schools to consolidate funds from Federal, State, and local sources in their schoolwide programs; and*
- *Modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from Federal, State, and local sources in their schoolwide programs.* *[Section 1111(c)(9) and (10); 34 CFR 200.29(c)]*

E-25. What are an SEA's and LEA's responsibilities to ensure that schoolwide plans are administered in accordance with the statute?

Under the statute, schoolwide plans are developed at the school level with input from the LEA. However, both the SEA and LEA have significant authority to ensure that schoolwide plans and associated budgets are implemented in accordance with the statute and regulations and in ways that are most likely to get good results. For example, in a school

operating a schoolwide program, an LEA must identify in its schoolwide plan the specific programs being consolidated and the amount each program contributes to the consolidated schoolwide pool. *[Section 1114(b)(2)(A)(iii)]* *In a State or LEA with a single planning process that incorporates the Title I school improvement and schoolwide plan components, an LEA must review the entire plan, including the schoolwide components, as part of the required school improvement plan peer review.* *[Section 1116(b)(3)(E); 34 CFR 200.41]*

At the SEA level, monitoring protocols should include both a programmatic and budget review for a school operating a schoolwide program. The programmatic monitoring should include a review of the proposed activities, how these activities address issues identified in the needs assessment through the required plan components, and the research base that indicates these activities will lead to improved student achievement. The budget monitoring for a school operating a schoolwide program that is consolidating only Federal education funds, including Title I, Part A, should ensure these funds are being used only to address instructional needs that are identified in the schoolwide plan and directly linked to the school's needs assessment. (See E-4 and E-5.)

USDE's complete Title I Fiscal Guidance document, including the Schoolwide section, is available at http://www.ed.gov/programs/titleiparta/fiscalguid.doc.

Targeted Assistance Programs

Question 38: What is a Targeted Assistance Program?

A targeted assistance campus is one that receives Title I, Part A funds yet is ineligible or has chosen not to operate a Title I, Part A schoolwide program. The term "targeted assistance" signifies that the services are provided to a select group of children—those identified as failing, or most at risk of failing, to meet the State's challenging content and student performance standards—rather than for overall school improvement, as in schoolwide programs. Like schoolwide program schools, the goal of a targeted assistance school is to improve teaching and learning to enable Title I, Part A participants to meet the challenging State performance standards that all children are expected to master.

A targeted assistance school differs from a schoolwide program school in several significant respects:

- Title I, Part A funds may be used in targeted assistance schools only for programs that provide services to eligible children identified as having the greatest need for special assistance.
- Title I, Part A funds must be used for services that supplement, and do not supplant, the services that would be provided, in the absence of the Title I, Part A funds, from non-Federal sources.
- Records must be maintained that document that Title I, Part A funds are spent on activities and services for only Title I, Part A participating students.

Question 39: Who is eligible for Title I, Part A Services on a Targeted Assistance campus?

One of the primary differences between schoolwide program schools and targeted assistance schools is the requirement that the latter may use Title I, Part A funds only for programs that provide supplemental services to eligible children identified as having the greatest need for special assistance. Targeted assistance schools, therefore, may not provide services to all children in the school or in particular grades.

Campuses play the key role in selecting children to participate in Title I, Part A. As described below, an LEA establishes multiple, educationally related, objective criteria to determine which children are eligible to participate in Title I, Part A. Each targeted assistance campus may supplement these criteria and selects, from among its eligible children, those who are in greatest need for Title I, Part A assistance.

In general, the eligible population for Title I, Part A services on a Targeted Assistance campus includes—

- children not older than age 21 who are entitled to a free public education through grade 12; and
- children who are not yet at a grade level at which the local educational agency provides a free public education.

From the population described above, eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student academic achievement standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected

solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

Children included—

- In general, children who are economically disadvantaged, children with disabilities, migrant children, or limited English proficient children, are eligible for services on the same basis as other children selected to receive Title I, Part A services.
- Early childhood—A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start, Even Start, or Early Reading First program, or in Title I, Part A preschool services, is eligible for Title I, Part A services.
- Migrant children—A child who, at any time in the 2 years preceding the year for which the determination is made, received services under Title I, Part C is eligible for Title I, Part A services.
- Neglected or Delinquent Children—A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for Title I, Part A services.
- Homeless Children—A child who is homeless and attending any school served by the local educational agency is eligible for Title I, Part A services.

From the universe of eligible children in a targeted assistance school, the school must rank students according to need and select those children who have the greatest need for additional assistance to receive Title I, Part A services. Because it is likely that a school will not have sufficient Title I, Part A resources to provide services to all eligible children, the school must obviously make some informed choices concerning which children to serve. These choices are difficult because they inevitably result in some children being selected before other children who may also have significant needs. School staff, in consultation with the LEA and based on a review of all the information available about the performance of eligible children, must use their best professional judgment in making these choices. It is not so simple as merely selecting a cut-off score on an assessment measure. School staff will necessarily need to balance the needs of different populations. For example, most schools will likely need to concentrate Title I, Part A resources in certain grades or in certain subjects to the exclusion of children in the grades or subjects not being served. Similarly, a school may decide that some children who are homeless have greater needs because, for instance, homeless children may likely face problems of attendance and homework completion due to recurrent moves and, therefore, may be at greater risk of failure than some other children who are not faced with the disruption associated with homelessness. Furthermore, schools and LEAs that focus strongly on family literacy, for example, may add the additional educationally-related criterion of the educational level of parents when selecting those children who are most in need of Title I, Part A assistance from the eligible pool of students to be served.

Other target populations, such as children with disabilities and LEP children, present similar choices. Those children are eligible for Title I, Part A services on the same basis as other eligible children. However, they are also entitled to non-Title I, Part A services required by law because of their disability or their limited proficiency in English. A school may decide that the non-Title I, Part A services those children are receiving are sufficient to enable them to meet the State's challenging standards.

However, children with disabilities or limited-English proficiency who are performing more poorly than other Title I-eligible children, even with the benefit of the non-Title I services they receive, may still be among those in greatest need and thus should receive Title I, Part A services also.

Question 40: How does the LEA identify students for a Title I, Part A Targeted Assistance Program?

Students must be identified on the basis of **multiple, educationally related, objective** criteria established by the LEA and supplemented by the school. The LEA's criteria for identifying students for Title I, Part A services must be clearly defined in the LEA's District Improvement Plan and in the Campus Improvement Plan. Any supplemental criteria established at the campus level must also be described in the Campus Improvement Plan. The LEA must have criteria for every grade that receives services under Title I, Part A Targeted Assistance programs.

Children from preschool ages through Grade 2 shall be selected solely on the basis of such criteria as:

- teacher judgment;
- interviews with parents; and
- developmentally appropriate measures.

Question 41: May an LEA and school use Part A funds to identify at-risk students?

No. It is the responsibility of the LEA and school to identify at-risk students from State or local sources. After eligible children are identified, Part A funds may be used to identify those most in need or to identify their specific educational needs.

Question 42: May a school provide services to particular children for less than a full school year?

A school may serve students who are in greatest need of assistance for only a particular skill for the period of time it takes the student to master the skill. In other words, if not necessary, a student need not be a participant for an entire school year.

Question 43: What are the components of a Targeted Assistance program?

To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's challenging student academic achievement standards, each Title I, Part A Targeted Assistance program includes eight required components. Each Targeted Assistance program shall—

- use such program's resources under this part to help participating children meet such State's challenging student academic achievement standards expected for all children;
- ensure that planning for students served under this part is incorporated into existing school planning;
- use effective methods and instructional strategies that are based on scientifically based research that strengthens the core academic program of the school and that —
  - give primary consideration to providing extended learning time, such as an extended school year, before- and after-school, and summer programs and opportunities;
  - help provide an accelerated, high-quality curriculum, including applied learning; and

  - minimize removing children from the regular classroom during regular school hours for instruction provided under this part;
- coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or State-run preschool programs to elementary school programs;
- provide instruction by highly qualified teachers;
- in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and paraprofessionals, including, if appropriate, pupil services personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education program;
- provide strategies to increase parental involvement in accordance with section 1118, such as family literacy services; and
- coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

Question 44: How may Title I, Part A funds be used on a Targeted Assistance campus?

Title I, Part A funds may only be used to supplement the amount of funds that would, in the absence of Title I, Part A funds, be made available from state and local sources. Title I, Part A funds may not supplant or replace state and local funds.

Title I, Part A funds **cannot** be used to provide services that are required by law to be provided to children with disabilities, migrant children, limited English proficient children, or economically disadvantaged children, but they may be used to coordinate or supplement those required services.

Question 45: Must the Title I, Part A program only provide services to identified Title I, Part A students?

Because of the instructional method, setting, or time of a particular Title I, Part A service, it is not always reasonable or desirable for a school to serve only children who have been selected to participate in a Title I, Part A program. This may be particularly true if a school is providing Title I, Part A services in the regular classroom. A school may provide, <u>on an incidental basis</u>, Title I, Part A services to children who have not been selected to participate in the Title I, Part A program. This would be allowable **only** if—

- The Title I, Part A program is designed to meet the special educational needs of the children who are failing, or most at risk of failing, to meet the State's challenging student performance standards and is focused on those children; and
- The inclusion of non-Title I, Part A children does not—
  - Decrease the amount, duration, or quality of Title I, Part A services for Title I, Part A children;
  - Increase the cost of providing the services; or
  - Result in the exclusion of children who would otherwise receive Title I, Part A services.

Parent Involvement

An LEA may receive Title I, Part A funds only if the LEA implements programs, activities, and procedures for the involvement of parents in Title I, Part A programs consistent with Section 1118. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

In carrying out the parental involvement requirements of Title I, Part A, LEAs and campuses, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 1111 in a format and, to the extent practicable, in a language such parents understand.

Question 46: What are the new requirements for written policies or procedures related to parental involvement?

Each LEA that receives Title I, Part A funds shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the LEA's plan developed under Section 1112, establish the LEA's expectations for parent involvement, and describe how the LEA will —

- involve parents in the joint development of the plan under Section 1112, and the process of school review and improvement under Section 1116;
- provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;
- build the schools' and parents' capacity for strong parental involvement as described in Section 1118(e);
- coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as the Head Start program, Reading First program, Early Reading First program, Even Start program, Parents as Teachers program, and Home Instruction Program for Preschool Youngsters, and State-run preschool programs;
- conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under Title I, Part A, including identifying barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background), and use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in Section 1118; and
- involve parents in the activities of the schools served under Title I, Part A.

Question 47: Is the LEA required to reserve any funds to implement the parental involvement requirements?

NCLB requires an LEA with a Title I, Part A entitlement exceeding $500,000 to reserve at least 1% of that entitlement to carry out the Title I, Part A parent involvement activities, including promoting family literacy and parenting skills.

Parents of children who receive Title I, Part A services must be involved in the decisions regarding how these funds are allotted for parental involvement activities. Not less than 95% (of the 1% reservation) of the Title I, Part A funds for parental involvement must be distributed to Title I, Part A campuses, and must be in addition to the campus's regular Title I, Part A campus allocation.

Question 48: What are the campus-level requirements for involving parents?

Each Title I, Part A campus must—

- convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation in Title I, Part A and to explain the Title I, Part A requirements and the right of the parents to be involved;
- offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with Title I, Part A funds, transportation, child care, or home visits, as such services relate to parental involvement;
- involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of Title I, Part A programs, including the planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b)(2), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;
- provide parents of participating children —
  - timely information about Title I, Part A programs;
  - a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and
  - if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and
- if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the LEA.

Question 49: What must be included in the school-parent compact?

As a component of the school-level parental involvement policy, each school served under Title I, Part A shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall —

- describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under Title I, Part A to meet the State's student academic achievement standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and
- address the importance of communication between teachers and parents on an ongoing basis through, at a minimum —
  - parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;
  - frequent reports to parents on their children's progress; and
  - reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

Question 50: What responsibilities do LEAs and campuses have for building their capacity for parental involvement?

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each campus and LEA assisted under Title I, Part A must—

- provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the State's academic content standards and State student academic achievement standards, State and local academic assessments, the Title I, Part A requirements, and how to monitor a child's progress and work with educators to improve the achievement of their children;
- provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;
- educate teachers, pupil services personnel, principals, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;
- to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public

preschool and other programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

- ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;
- provide such other reasonable support for Title I, Part A parental involvement activities as parents may request.

Question 51: Are parent notification documents required to be provided in languages other than English?

Notification and information provided to parents must be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

Question 52: How have the new Parental Involvement requirements under Title I, Part A empowered parents?

The new NCLB statute has greatly strengthened parents' right-to-know and to be informed on several topics, including the following:

- professional qualifications of their child's teachers;
- achievement level of their child in each of the state's academic assessments; and
- timely notice that their child has been assigned to or has been taught for four or more consecutive weeks by a teacher who is not highly qualified as defined by NCLB.

In addition to these areas, parents must be included in the planning processes for (1) Title I, Part A Schoolwide and Targeted Assistance programs, (2) the LEA's and campus's written parent involvement policies, and (3) school-parent compacts.

LEAs that have Title I, Part A campuses identified for School Improvement must also provide parents with an explanation of what the identification means, why the campus was so identified, what the campus and LEA are doing to address the problem of low achievement, and what the parents' options are related to school choice and transportation, and, if applicable, Supplemental Educational Services.

The current TAAS/TAKS Confidential Student Report meets the requirement to notify parents of the achievement level of their child in each of the state's academic assessments.

Question 53: What information must the LEA notify parents is available upon request?

At the beginning of each school year, an LEA receiving Title I, Part A funds <u>must</u> notify the parents of each student attending any Title I, Part A campus that the LEA will provide the parents in a timely manner upon request by the parent, information regarding the professional qualifications of the student's classroom teachers.

Question 54: What specific teacher qualifications are to be provided upon request?

At a minimum, the following qualifications of the student's classroom teachers must be provided:

- Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
- Whether the teacher is teaching under emergency or other provisional status though which state qualifications or licensing criteria have been waived.
- The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

Question 55: Is the LEA required to notify parents of any paraprofessionals' qualifications?

The LEA is required to notify the parents, that the parent has the right to request information concerning whether their child is provided services by paraprofessionals, and, if so, their qualifications.

Question 56: How does the federal requirement for parent notification impact the state requirement for parent notification?

There are three types of parental notification requirements related to teacher qualifications.

Type 1:
At the beginning of each school year, an LEA receiving Title I, Part A funds must notify the parents of each student attending any Title I, Part A campus that the LEA will provide to the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including at a minimum, the following information:

- Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
- Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
- The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
- Whether the child is provided services by paraprofessionals and, if so, their qualifications.

The notice and information provided to parents must be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

Type 2:
Any campus that receives Title I, Part A funds must provide to each individual parent timely notice in the event that the parent's child has been assigned, or has been taught for four or more consecutive weeks by a teacher who is currently required to meet the "highly qualified" requirements but who is not yet "highly qualified" (i.e. teachers who were hired after the first day of instruction of the 2002-2003 school year to teach a core academic subject in a Title I program). The notice and information provided to parents must be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

Type 3: This parent notification required under the Texas Education Code §21.057 is very different from the notification related to "highly qualified" teachers. However, state legislation eliminated the need for duplicate notifications concerning the same teacher. If the teacher falls under the NCLB requirements (i.e., is teaching in a Title I program), the state notification requirements under TEC §21.057 do not apply. However, for teachers at non-Title I campuses and for teachers at Title I targeted assistance campuses who are not paid with Title I funds, the state notification requirements under TEC §21.057 DO apply (except that TEC §21.057 does not apply to charter schools). The text of TEC §21.057 is provided below.

TEC §21.057 Parental Notification
[NOTE: This notification is only for teachers who are not covered by the parental notification requirements related to "highly qualified" teachers under NCLB. This section of TEC does NOT apply to charter schools.]

(a) A school district that assigns an inappropriately certified or uncertified teacher to the same classroom for more than 30 consecutive instructional days during the same school year shall provide written notice of the assignment to a parent or guardian of each student in that classroom.

(b) The superintendent of the school district shall provide the notice required by Subsection (a) not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher.

(c) The school district shall:
- *(1) make a good-faith effort to ensure that the notice required by this section is provided in a bilingual form to any parent or guardian whose primary language is not English;*
- *(2) retain a copy of any notice provided under this section; and*
- *(3) make information relating to teacher certification available to the public on request.*

(d) For purposes of this section, "inappropriately certified or uncertified teacher":
- *(1) includes:*
  - *(A) an individual serving on an emergency certificate issued under Section 21.041(b)(2); or*
  - *(B) an individual who does not hold any certificate or permit issued under this chapter and is not employed as specified by Subdivision (2)(E); and*
- *(2) does not include an individual:*
  - *(A) who is a certified teacher assigned to teach a class or classes outside his or her area of certification, as determined by rules proposed by the board in specifying the certificate required for each assignment;*
  - *(B) serving on a certificate issued due to a hearing impairment under Section 21.048;*
  - *(C) serving on a certificate issued pursuant to enrollment in an approved alternative certification program under Section 21.049;*
  - *(D) certified by another state or country and serving on a certificate issued under Section 21.052;*
  - *(E) serving on a school district teaching permit issued under Section 21.055; or*
  - *(F) employed under a waiver granted by the commissioner pursuant to Section 7.056.*

(e) This section does not apply if a school is required in accordance with Section 1111(h)(6)(B)(ii), No Child Left Behind Act of 2001 (20 U.S.C. Section 6311), and its subsequent amendments, to provide notice to a parent or guardian regarding a teacher who is not highly qualified, provided the school provides notice as required by that Act.

Highly Qualified Teachers and Paraprofessional Qualifications

Please see the complete Guidance for Implementation of NCLB Highly Qualified Teacher Requirements at http://www.tea.state.tx.us/index2.aspx?id=4650.

Question 57: What funds are available to assist teachers in meeting these new teacher quality requirements?

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The major formula program fund sources that may be used by LEAs include, but are not limited to—

- Title I, Part A statute requires the LEA to reserve not less than 5%, unless a lesser amount is needed, for assisting teachers to meet the highly qualified definition.
- Title II, Part A funds may be used for recruiting, hiring, and retaining highly qualified teachers, principals, and core academic specialists. Title II, Part A funds may also be used for teacher professional development or assisting teachers to meet the teacher quality requirements under section 1119.

Question 58: What if all or most of the LEA's teachers already meet the definition of highly qualified, is the district still required to reserve the full amount?

If all teachers and paraprofessionals meet the qualifications in Section 1119, funds do not need to be reserved.

If an LEA has teachers or paraprofessionals who do not meet the qualifications in Section 1119, the LEA must reserve the 5% required by statute, unless a lesser amount is needed, to provide professional development activities to ensure teachers are "highly qualified" as defined by NCLB and paraprofessionals meet the qualifications required by statute. These professional development activities are to be designed to meet the identified needs of individual teachers and paraprofessionals for meeting the requirements of Section 1119. Other professional development activities may be paid from Title I, Part A funds but are not included in the 5% reserved for meeting the requirements of Section 1119.

Question 59: Can additional Title I, Part A funds be used for meeting the requirements of section 1119 if needed?

After the LEA has reserved 5% for districtwide activities for teachers and paraprofessionals to meet the qualifications in Section 1119, a campus may use additional funds if needed to assist the teachers and paraprofessionals on the campus to meet the Section 1119 requirements.

Question 60: Does a long-term substitute have to meet the definition of "highly qualified"?

See the Highly Qualified Teacher guidance at http://www.tea.state.tx.us/index2.aspx?id=4650 .

Title I, Part A Paraprofessional Requirements

Please see the complete Title I, Part A Paraprofessional Guidance at http://www.tea.state.tx.us/index2.aspx?id=4670.

Question 61: What qualifications must paraprofessionals meet under NCLB?

NCLB requires that paraprofessionals hired by an LEA after January 8, 2002, meet one of the following qualifications if the paraprofessional will perform instructional duties in a Title I, Part A program:

- have completed at least two years of study at an institution of higher education [defined as completion of 48 semester hours (or equivalent trimester hours) of college coursework or an applicable number of semester hours as defined by the institution of higher education attended, whichever is less]; or
- have obtained an associate's (or higher) degree; or
- have met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment—
  - knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
  - knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

NCLB requires existing paraprofessionals to meet one of these qualifications by January 8, 2006; however, Assistant Secretary of Education Ray Simon has extended this deadline to the end of the 2005-06 school year to be consistent with the highly qualified teacher requirements.

Paraprofessionals whose duties consist solely of parental involvement activities or translation services are exempt from the qualification requirement.

Question 62: How is "paraprofessional" defined for these requirements?

For the purposes of Title I, Part A USDE guidance defines a paraprofessional as an employee of an LEA who provides instructional support in a program supported with Title I, Part A funds.

"Paraprofessionals who provide instructional support," includes those who (1) provide one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher, (2) assist with classroom management, such as by organizing instructional materials, (3) provide instructional assistance in a computer laboratory, (4) conduct parental involvement activities, (5) provide instructional support in a library or media center, (6) act as a translator, or (7) provide instructional support services under the direct supervision of a highly qualified teacher. *[Title I, Section 1119(g)(2)]*

Because paraprofessionals provide instructional support, they should not be providing planned direct instruction, or introducing to students new skills, concepts, or academic content.

Individuals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar positions are not considered paraprofessionals under Title I, Part A.

Uses of Funds

An LEA may use Title I, Part A funds to conduct Schoolwide Programs or Targeted Assistance Programs.

Schoolwide Programs—On schoolwide program campuses, an LEA may use Title I, Part A funds for activities that are part of the Campus Improvement Plan to improve student performance and upgrade the entire educational program.

There are three ways to consolidate funds on a Title I Schoolwide program based on USDE's latest guidance on implementing schoolwide programs.

1. Full consolidation of federal, state, and local funds in SWP budget:
    - Expenditures for any cost on the campus are allowable from the SWP budget.
2. Federal consolidation—only combining federal funds in SWP budget:
    - Expenditures for only educational (instructional, as defined by USDE staff) costs on the campus are allowable from the SWP budget.
3. No consolidation—only Title I, Part A funds in SWP budget:
    - Expenditures for only educational (instructional, as defined by USDE staff) costs on the campus are allowable from the SWP budget, and
    - LEA must track Title I, Part A funds to allowable Title I activity.

Targeted Assistance Programs—In targeted assistance schools, an LEA may only use Title I, Part A funds to meet the needs of children identified as being in greatest need of services.

Regardless of which type(s) of Title I, Part A program the LEA operates, it is possible that some Title I, Part A administrative, professional development, parental involvement, or even some instructional activities are conducted through the central office.

Question 63: Must homeless students be served with Title I, Part A funds, even if they do not attend a Title I, Part A campus?

Yes. Title I, Part A statute requires participating LEAs to reserve such funds as are necessary to provide services comparable to those provided in Title I, Part A campuses to serve homeless students who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live.

Question 64: May Title I, Part A funds be used to pay for employee benefits such as pension plans, unemployment insurance coverage, health insurance, severance pay, and life insurance?

Yes. Employers' contributions for employee benefits such as these are an allowable use of Title I, Part A funds provided the benefits are granted under approved plans and the costs are distributed equitably to the Title I, Part A grant and to other activities.

Question 65: May Title I, Part A funds be used to pay the salary costs for employees during periods of authorized absences such as annual leave, sick leave, and sabbatical leave?

Yes. Employee benefits in the form of compensation paid during reasonable authorized absences from the job are an allowable use of Title I, Part A funds if the benefits are provided under an established leave system and the costs are equitably allocated to all related activities, including the Title I, Part A program.

Question 66: May Title I, Part A funds be used to pay the cost of renting or leasing privately owned facilities for instructional purposes or office space?

The cost to rent or lease space in privately owned buildings is allowable only if the space is necessary for the success of the program and space in publicly owned buildings is not available to the grantee.

Question 67: Are maintenance and operation costs such as janitorial services and utility costs allowable charges?

Maintenance and operation costs are allowable charges to Title I, Part A only to the extent that the costs are not otherwise included in rent or other charges for space, are reasonable and necessary for the success of the program, and are distributed on an equitable basis.

Question 68: May Title I, Part A funds be used to construct or acquire real property?

No. The Title I, Part A statute does not authorize the use of Title I, Part A funds for construction or acquisition of real property.

Question 69: May Title I, Part A funds be used to buy mobile vans or portable building or to install wiring for vans or computers?

These are permissible uses of Title I, Part A funds. A mobile van or portable building is a piece of equipment, not real property. Items such as wiring that, for example, make a van operational are part of the equipment.

Question 70: May Title I, Part A funds be used to provide training/professional development for instructional and pupil services personnel not paid with Title I, Part A funds?

The cost of training personnel not paid with Title I, Part A funds is an allowable charge if the training is specifically related to the Title I, Part A program and designed to meet the specific educational needs of Title I, Part A participants and supplements, rather than supplants, state and local training.

Question 71: May equipment be purchased with Title I, Part A funds?

Yes. An LEA must, however, determine and document that—

1) the equipment is reasonable and necessary to effectively operate its Title I, Part A programs;
2) existing equipment it already has will not be sufficient; and
3) the costs are reasonable.

Question 72: May Title I, Part A funds be used to pay the interest on lease-purchase agreements for the purchase of, for example, computer equipment?

Interest paid or incurred during the grant period for equipment is allowable subject to the following conditions.

1) The financing is provided (from other than tax or user fee sources) by a bona fide third party external to the LEA;
2) The assets are used in support of federal awards;
3) Earnings on debt service reserve funds or interest earned on borrowed funds pending payment of the construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.
4) LEAs will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowance, and contributions) exceed the LEA's cash payments and other contributions attributable to that portion of real property used for federal awards.

Interest paid in a prior grant period cannot be charged retroactively to the current grant period.

Question 73: What procedures govern disposition of equipment purchased with Title I, Part A funds?

A state's procedures govern the disposition of Title I, Part A equipment and real property. Texas applies the provision in 34 CFR 80.32(e) as its state procedures:

When equipment purchased with federal program funds can no longer be used for the originally authorized purpose or for other activities currently or previously supported by the federal government, disposition of the equipment will be as follows:

For equipment (including portable buildings)—

- Unit-cost less than $5,000—Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold, or otherwise disposed of without special authorization from the TEA.
- Unit-cost $5,000 or more—Items of equipment with a current per-unit fair market value of $5,000 or more may be retained or sold. If the LEA elects to retain the equipment, it shall purchase the equipment for use in nonfederal programmatic activities and make an operating transfer to the appropriate federal program fund and sub-object code(s) for revenues, expenditures, other revenues and/or other uses, as appropriate, in the amount of the fair market value of the equipment. Market value may be determined by an independent appraiser, e.g., a vendor for the equipment. If the LEA elects to sell the equipment, the equipment may be sold according to the district policies for disposing of surplus property and 34 CFR 80.32. In either case, the proceeds from the purchase/sale may be credited to the appropriate federal program fund and sub-object codes for revenues, expenditures, other revenues and/or other uses, as appropriate, and be used to expand the program(s) at the LEA. If the LEA does not wish to use the proceeds in that program, the proceeds will be refunded to TEA.

For Real Property (including permanent buildings)—

When buildings purchased with Title I, Part A funds are no longer needed for the originally authorized purpose, the LEA will request disposition instructions from the Division of Formula Funding at the Texas Education Agency. The instructions will provide for one of the following alternatives:

- Retention of title—After determining the market value of the building, the LEA may purchase the building for its market value. Market value shall be determined by an independent appraiser. The proceeds of the purchase may be credited to the Title I, Part A fund and sub-object codes for revenues, expenditures, other revenues and/or other uses, as appropriate, and be used to expand the current Title I, Part A program at the LEA. If the LEA does not wish to use the proceeds in the current Title I, Part A program, the proceeds will be refunded to TEA.
- Sale of the building—If the LEA wishes to sell the property, it shall follow the requirements in TEC 11.154 and 45.082, Local Government Code 272.001, and 34 CFR 80.31, including providing for competitive bid to the extent practicable and result in the best bid. The proceeds from the sale of the building may be credited to the Title I, Part A fund and sub-object codes for revenues, expenditures, other revenues and/or other uses, as appropriate, and be used to expand the current Title I, Part A program at the LEA. If the LEA does not wish to use the proceeds in the current Title I, Part A program, the proceeds will be refunded to TEA.

Question 74: What options does an LEA have to make maximum use of equipment purchased, in whole or in part, with Title I, Part A funds.

An LEA has several options to increase flexibility in using Title I, Part A equipment. When an LEA purchases equipment with Title I, Part A funds, for example, it may share the cost with other federal, state, or local programs that will also make use of the equipment on a proportional basis. Likewise, an LEA that wishes to use Title I, Part A equipment in non-Title I, Part A activities may pay a reasonable user fee to the Title I, Part A program for the portion of time the equipment is used in non-Title I, Part A activities. Further, an LEA may use Title I, Part A equipment in non-Title I, Part A activities without paying a user fee or sharing costs in accordance with the standards described in the answer to the question, below. Additionally, an LEA may take into consideration when it decides its equipment needs under Title I, Part A whether other equipment—e.g., LEA-funded adult education equipment used at night—would be available for Title I, Part A use during the day.

Question 75: Are there circumstances under which Title I, Part A equipment may be used in non-Title I, Part A activities without paying a user fee or sharing costs?

Yes, subject to the following standards. Any equipment purchased with Title I, Part A funds must be reasonable and necessary to implement a properly designed program for Title I, Part A participants. The USDE recognizes, however, that under some circumstances, equipment purchased as part of a properly designed Title I, Part A program may, without constituting an improper expenditure, be used on an occasional basis. If that equipment could be made available for other educational uses without interfering with its use in the Title I, Part A program or significantly shortening its useful life, the USDE would have no objection to the non-Title I, Part A use, given the fact that the equipment would otherwise be idle.

Adequate Yearly Progress (AYP)

Question 76: What type of accountability system does NCLB require?

Under NCLB, each state is required demonstrate in its State Plan that it has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall--

- be based on the academic standards and academic assessments adopted under Section 1111(b)(1) and (3), and other academic indicators consistent with Section 1111(b)(2)(C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;
- be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under Title I, Part A are not subject to the requirements of Section 1116; and
- include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under Section 1111(b)(2)(B) and (C).

Question 77: What are the statutory requirements for defining Adequate Yearly Progress?

Each State must demonstrate, based on academic assessments required by NCLB, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, LEAs, and campuses.

Adequate yearly must be defined by the State in a manner that--

(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

(ii) is statistically valid and reliable;

(iii) results in continuous and substantial academic improvement for all students;

(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments required by NCLB;

(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

(I) The achievement of all public elementary school and secondary school students.

(II) The achievement of economically disadvantaged students; students from major racial and ethnic groups; students with disabilities; and students with limited English proficiency; and

(vi) includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students.

Question 78: What are the components of AYP?

A state's definition of AYP must include all of the following:

- a timeline in accordance with 34 CFR 200.15;
- starting points in accordance with 34 CFR 200.16;
- intermediate goals in accordance with 34 CFR 200.17;
- annual measurable objectives in accordance with 34 CFR 200.18; and
- other academic indicators in accordance with 34 CFR 200.19.

Question 79: What do each of these components entail?

Timeline: The state must establish a timeline for making AYP that ensures that, not later than the 2013-2014 school year, all students in each group described in 34 CFR 200.13(b)(7) will meet or exceed the state's proficient level of academic achievement.

Starting Points: The state must establish starting points in reading/language arts and in mathematics for measuring the percentage of students meeting or exceeding the state's proficient level of academic achievement.

Intermediate Goals: The intermediate goals must increase in equal increments; provide for the first increase to occur in not more than 2 years; and provide for each following increase to occur in not more than 3 years.

Annual Measurable Objectives: The annual measurable objective must—

- identify for each year a minimum percentage of students that must meet or exceed the proficient level of academic achievement on the state's academic assessments; and
- ensure that all students meet or exceed the state's proficient level of academic achievement within the timeline.

The objectives must be the same throughout the state for each school, each LEA, and each group of students, and may be the same for more than one year, consistent with the state's intermediate goals.

Other Academic Indicators: Each state must include the following in its definition of AYP—

- Graduation rate;

- At least one academic indicator for elementary schools and at least one academic indicator for middle schools, such as—
  - additional state or local assessments not included in the state assessment system;
  - grade-to-grade retention rates;
  - attendance rates;
  - percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

Question 80: How does Texas define AYP?

See the AYP Guide at http://www.tea.state.tx.us/ayp/. .

Question 81: What are the academic assessments required under NCLB?

NCLB requires the State to implement a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science.

Beginning with the School Year 2005-06, the reading/language arts and mathematics assessments were required to be administered in each of grades 3-8 and a minimum of once in grades 10 through 12. Beginning in 2007-08, the science assessment was added.

Question 82: How does AYP impact a Title I, Part A LEA or campus?

A Title I, Part A LEA or campus that does not meet AYP for two or more consecutive years will enter School Improvement status under NCLB. Depending on the number of years the campus or district has failed to make AYP, a particular set of requirements becomes effective. For more details, see the guidance on Title I School Improvement at http://ritter.tea.state.tx.us/nclb/titleia/sip/2009-2010/sipD.html.

Participation of Eligible Children In Private Nonprofit Schools

Under Title I, Part A, LEAs are required to provide services for eligible private school students, as well as eligible public school students. In particular, Public Law 107-110, Section 1120 NCLB requires a participating LEA to provide eligible children attending private nonprofit elementary and secondary schools, their teachers, and their families with Title I services or other benefits that are equitable to those provided to eligible public school children, their teachers, and their families.

The Title I services for private school students must be developed in consultation with officials of the private nonprofit schools. The NCLB strengthened these requirements by, among other things, requiring meetings with private school officials and a written affirmation signed by private school officials that the required consultation has occurred.

The amount of Title I funds allocated to each participating public school attendance area is determined mainly on the basis of the total number of low-income students—both public and private--residing in each area. Expenditures for private school students in each area generally are determined based on the proportion of students from low-income families residing in that area who attend private school.

The Title I services provided by the LEA for private school participants are designed to meet their educational needs and supplement the educational services provided by the private school. These services may be provided by the LEA, or by a contractor who is independent of the private school and any religious organization. Title I services or benefits must be secular, neutral, and nonideological.

Note: All references in this guidance to Title I services to "private school" students are specifically only allowable for serving private nonprofit schools.

Question 83: Which private school children are eligible for Title I, Part A services?

Eligible private school children are children who—

- reside in participating public school attendance areas of the LEA, regardless of whether the private nonprofit school they attend is located in the LEA; and
- are identified as failing, or most at risk of failing, to meet the state's student academic achievement standards on the basis of multiple, educationally related, objective criteria established by the LEA. As with Targeted Assistance campuses, children from preschool through grade 2 must be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures. Certain children would be eligible by virtue of their status: for example, homeless children and children who in the preceding two years participated in Head Start; Even Start; Title I, Part A preschool services; or Title I, Part C services. However, the criterion that a student is failing, or most at risk of failing, to meet the identified academic achievement standards is, for the majority of private school children, likely to be the criterion by which eligibility for Title I, Part A services will be determined.

NOTE: If an LEA elects to "skip" a public school campus, the LEA is still required to provide the eligible private school children who reside within the boundaries of the "Skipped" campus's attendance area the opportunity to receive Title I, Part A services.

In consultation with private school officials, an LEA must establish criteria to determine which private school children are eligible and, within the eligible group, which children will be served. To the extent appropriate, the LEA must select private school children who are failing, or most at risk of failing, to meet the identified academic achievement standards that are comparable to those required by the state's academic content and student academic achievement standards.

After students are selected, the LEA, in consultation with private school officials, determines what Title I, Part A services are to be provided. The private school students' needs will determine what Title I, Part A services are appropriate, and services may be provided in subject areas or grade levels that are different from those provided to public school students. The type of services provided must give reasonable promise that the students will make adequate progress toward achieving the identified academic achievement standards.

Question 84: Must the private school have nonprofit status in order for the students to be considered for Title I, Part A services?

Yes. The private school must have official nonprofit status in order for students to be considered for Title I, Part A services. The school will have a tax-exempt identification number if it has been granted nonprofit status. The LEA may verify a school's nonprofit status by telephoning the Internal Revenue Service at 1-800-829-1040 and asking for verification of the school's tax-exempt identification number.

Question 85: Is a home school considered a private school?

Yes. A home school is considered a private school. However, in order for its students to be considered for Title I, Part A services, the home school must have official nonprofit status (i.e., have a tax-exempt identification number).

Question 86: What documentation must the LEA maintain with regard to private schools?

LEAs must maintain in its records, and provide to the Texas Education Agency on request, a written affirmation, signed by officials of each private school with participating children that the required consultation has occurred.

If a private school declines Title I, Part A services for its eligible students, the LEA must maintain documentation that the LEA offered the opportunity to participate in a timely manner.

The LEA must also maintain documentation to demonstrate how the number of low-income children attending the private school was determined and that the Title I, Part A services offered to eligible children were equitable.

Question 113: What is consultation?

The requirements for consultation are in §1120(b) of the Title I statute and §200.63 of the Title I regulations. Consultation involves discussions between public and private school officials on key issues that affect the ability of eligible private school students to participate equitably in Title I programs. Effective consultation provides a genuine opportunity for all parties to express their views and to have those views considered. Successful consultation establishes positive and productive working

relationships that make planning easier and ensure that the Title I services provided meet the needs of eligible students.

A unilateral offer of services by an LEA with no opportunity for discussion is not adequate consultation. Only after discussing key issues relating to the provision of Title I services should the LEA make its final decisions with respect to the Title I services to be provided to eligible private school children, their teachers, and their families.

Question 114: How do LEAs begin the consultation process?

Annually an LEA must contact officials of private nonprofit schools with children who reside in the LEA regardless of whether the private nonprofit school they attend is located in the LEA. One way to accomplish this is for the LEA to extend an invitation to officials of the private schools and convene a meeting with them at which LEA officials explain the intent of Title I and the roles of public and private school officials and provide opportunities for the private school officials to ask questions. It is not adequate consultation merely to send a letter to officials of the private schools explaining the intent of Title I.

Question 115: When does an LEA consult with private school officials?

Consultation by an LEA must include meetings between the LEA and appropriate private school officials and must occur before the LEA makes any decision that affects the opportunity for eligible private school children, their teachers, and their families to participate in Title I programs. For example, if the LEA signs teacher contracts or orders supplies and equipment for the Title I program in the spring, the LEA must consult with the appropriate private school officials before signing those teacher contracts with Title I teachers or ordering supplies and equipment to provide Title I services for private school students.

Question 116: Who participates in the consultation process?

Consultation includes appropriate public school officials and representatives of private schools and their central administrative offices, if appropriate. Private school officials can facilitate consultation by informing the LEA of which private school officials should be included in the consultation process and their roles and authority.

Question 117: How long does consultation continue?

An LEA must meet with appropriate private school officials throughout the implementation and assessment of Title I services. This consultation must include early discussions to prepare for the next school year so that there is a timely start of the Title I program at the beginning of each school year, and throughout its implementation and assessment of services.

Question 118: What are the requirements for consultation?

Under §200.63 of the Title I regulations consultation must, at a minimum, address the following issues:

- How the LEA will identify the needs of eligible private school children.
- What services the LEA will offer to eligible private school children.
- How and when the LEA will make decisions about the delivery of services.
- How, where, and by whom the LEA will provide services to eligible private school children.

- How the LEA will assess academically the services to private school children in accordance with §200.10 of the Title I regulations, and how the LEA will use the results of that assessment to improve Title I services.
- The size and scope of the equitable services that the LEA will provide to eligible private school children and, consistent with §200.64 of the Title I regulations, the proportion of its Title I funds that the LEA will allocate for these services and the amount of funds that the LEA reserves from its Title I allocation for the purposes listed in §200.77 of the Title I regulations.
- The method, or the sources of data, that the LEA will use (under §200.78 of the Title I regulations) to determine the number of private school children from low-income families residing in participating public school attendance areas, including whether the LEA will extrapolate data if a survey is used.
- The services the LEA will provide to teachers and families of participating private school children.

Consultation must also include –

- Discussion of service delivery mechanisms the LEA will use to provide services; and
- Thorough consideration and analysis of the views of the private school officials on whether the LEA should contract with a third-party provider. If the LEA disagrees with the views of the private school officials on that issue, the LEA must provide in writing to those officials the reasons why the LEA has chosen not to use a third-party contractor.

Question 119: What records on consultation must an LEA maintain?

Each LEA must maintain and provide to the TEA upon request a written affirmation, signed by officials of each private school with participating children or appropriate representatives of the private school officials, that the required consultation has occurred.

Question 120: Because consultation is an on-going process, when should private school officials or their representative(s) sign the required written affirmation that appropriate consultation has taken place?

The affirmation should be signed when consultation on the planning and design of the next year's program has been completed. The exact timing of signing the affirmation should be a consultation topic. After the affirmation is obtained, consultation continues through the implementation and assessment of services.

Question 121: Do private school officials have the right to complain?

Private school officials have the right to complain to the TEA if they believe that an LEA did not engage in timely and meaningful consultation or did not consider their views.

Question 122: Must an LEA provide a copy of its Title I application if a private school official requests it?

Yes. An LEA must provide a copy of its Title I sections of the NCLB Consolidated application when a private school official requests it.

Question 123: Once the participating public school attendance areas have been established, how does an LEA allocate funds for Title I services under §1113(c) of the Title I statute for participating private school students?

Once the participating public school attendance areas have been established, under §1113(c) of Title I, an LEA calculates the per-pupil allocation (PPA) for each participating public school attendance area. Then, based on the total number of children from low-income families residing in each attendance area attending either public or private schools, the LEA calculates the total amount of funds for each area. From this amount, the LEA reserves an amount of funds for the private school children (equal to the PPA multiplied by the number of low-income private school students in the area) to provide equitable services to eligible private school participants.

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

Public school attendance area	Column A Per pupil allocation (PPA) by attendance area	Column B Number of public school low-income children by attendance area	Column C Number of private school low-income children by attendance area	Column D Total allocation for each public school [Col. A multiplied by Col. B]	Column E Amount available for Title I services to private school children [Col. A multiplied by Col. C]
A	$800	500	130	$400,000	$104,000
B	$700	300	8	$210,000	$ 5,600
C	$600	200	3	$120,000	$ 1,800
D	$500	400	17	$200,000	$ 8,500

In this example, eligible public school attendance areas are identified and ranked on the basis of the number of children from low-income families attending public schools.

Question 124: How does an LEA collect poverty data on private school children?

Section 1120(c)(1) of the Title I statute and §200.78(2) of the regulations allow an LEA to calculate the number of children who are from low-income families and attend private schools in several ways:

1. Using the same measure of poverty. If available, an LEA should use the same measure of poverty used to count public school children, e.g., free and reduced price lunch data.

2. Using comparable poverty data from a survey and allowing such survey results to be extrapolated when complete actual data are unavailable.

   a. In order to obtain the number of private school children from low-income families, an LEA may use a survey to obtain poverty data comparable to those used for public school students. To the extent possible, the survey must protect the identity of families of private school students. The only information necessary for an LEA to collect in such a survey of private school children is- -
      (1) geographic information verifying residence in a participating public school attendance area;
      (2) grade level of each child; and
      (3) income level of parents.

      An LEA should never require that the private school officials give the names of low-income families.

   b. After obtaining income data from a representative sample of families with children in private school, an LEA may extrapolate those data to the entire private school student population if complete actual data are unavailable. The LEA should take care to ensure that the data are truly representative of the private school students in the district.

EXAMPLES OF REPRESENTATIVE SAMPLE AND EXTRAPOLATION:

Column 1	Column 2	Column 3	Column 4	Column 5
Public school attendance area	# of resident private school children	# of private school children submitting surveys	# of low-income private school children from survey	extrapolated # of low-income private school children
A	150	115	100	130
B	20	10	4	8

CALCULATIONS:

Col. 5 (extrapolated number of low-income children) =

$$\frac{\text{Col. 4 (\# of low-income on survey) multiplied by Col. 2 (\# resident private school children)}}{\text{Col. 3 (total submitted surveys)}}$$

Or $\frac{100 \text{ times } 150}{115} = 130$ $\frac{4 \text{ times } 20}{10} = 8$

3. Using comparable poverty data from a different source. If data from the same source used for public school children are not available, an LEA may use poverty data for private school children that are from a different source than the data it uses for public school children so long as the income threshold in both sources is generally the same.

   For example, an LEA uses free and reduced price lunch data but private school children do not participate in the free lunch program; however, private school officials are able to provide an LEA with a count of children who are from low-income families using other sources of poverty data such as Temporary Assistance to Needy Families (TANF) or tuition scholarship programs. If the different sources use different definitions of low-income, an LEA would need to adjust the results accordingly.

4. Using proportionality. An LEA may apply the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area. To do this, an LEA will need the addresses and grade levels of those students attending private schools.

EXAMPLE OF PROPORTIONALITY CALCULATIONS:

An LEA calculates the percent of poverty of a public school attendance area to be 60 percent. The LEA then applies the poverty percentage of the public school attendance area to the number of private school children residing in that public school attendance area. For example, if the number of private school children residing in the public school attendance area is 50, then 60 percent of 50 children or 30 children are considered to be from low-income families. The LEA calculates the per-pupil amount on this number (30 children). .

5. Using an equated measure. An LEA may use an equated measure of low-income by correlating sources of data—that is, determining the proportional relationship between two sources of data on public school children and applying that ratio to a known source of data on private school children. For example, an LEA uses free and reduced-price lunch data, but those data are not available for private school students. However, if TANF data are available, the LEA could determine an equated measure of poor students in private schools based on free and reduced-price lunch data by correlating the two sets of data as follows: TANF in the public school is to free and reduced price-lunch as TANF in private schools is to "X."

   $$\frac{\text{TANF (public)}}{\text{Free \& reduced price lunch (public)}} = \frac{\text{TANF (private)}}{\text{X (private)}}$$

   In this example, the LEA may then use the equated number of private school students based on free and reduced-price lunch data ("X") as the number of poor private school students.

Question 125: How does an LEA determine if it should collect the poverty data annually versus biennially (every two years) and must the collection of poverty data be uniform across the district?

Section 1120(a)(4) of the Title I statute permits an LEA to determine the number of children from low-income families who attend private schools "each year or every 2 years."

This provision was included to reduce the burden of annually collecting poverty data from private schools, particularly if those private schools do not otherwise maintain poverty data and so have to obtain those data through a survey. An LEA should consult with appropriate private school officials about the availability of poverty data on private school students and by this process determine whether it would be more feasible to collect annually or biennially. It is not necessary that an LEA adopt a uniform procedure with regard to all private schools. For example, if some private schools have free and reduced price lunch data available, the LEA could collect those data annually. For other private schools that rely on a survey, the LEA could collect data biennially. If data are collected from different years, the LEA should ensure that the data for the district, taken as a whole, appropriately and consistently represent concentrations of low-income students.

Question 126: If an LEA does not collect the names of low-income families, how do LEA officials or auditors determine that the poverty numbers provided by the private school officials are accurate?

Private school officials should maintain the poverty data in their files. If LEA officials or auditors wish to review the poverty data, they may review the data at the private schools.

Question 127: Is there a preferred method for collecting poverty data?

If the same data source is available for public and private schools, then that is the preferred method for determining the number of public and private school children from low-income families because of comparable data. However, if the data used for public school children are not available for the private school children, then, after consultation with the appropriate private school officials, the other methods described above may be used to collect poverty data for private school students.

Question 128: May an LEA use more than one method of collecting poverty data?

Yes. Since some private schools within an LEA do not participate in the free and reduced price lunch program, it may be necessary for an LEA, after consultation with appropriate private school officials, to use more than one method of collecting data on children living in poverty. However, the LEA must ensure that there are no duplicate counts and the methods used have comparable income levels.

Question 129: May an LEA reserve funds off the top of its Title I allocation before it allocates funds to participating public school attendance areas?

Yes. The provisions for allocating Title I funds are in §200.77 of the Title I regulations. Before allocating Title I funds to participating public school attendance areas, an LEA must reserve a portion of its Title I allocation off the top, as needed, to administer Title I programs for public and private school children, including paying any special capital expenses.

Question 130: What are the requirements if an LEA reserves Title I funds off the top for district-wide instructional programs for public elementary and secondary schools?

If an LEA reserves funds off the top of its Title I allocation for district-wide instructional programs for public elementary and secondary school students, the LEA must also provide from these funds, as applicable, equitable services to eligible private school children. The amount of funds available to provide equitable services from the applicable reserved funds must be proportional to the number of private school children from low-income families residing in participating public school attendance areas.

EXAMPLE OF EQUITABLE CALCULATIONS FOR DISTRICT–WIDE ACTIVITIES:

An LEA reserves $500,000 for a district-wide reading initiative. The number of public and private school children from low-income families residing in participating Title I attendance areas is 25,000. Five percent of the 25,000 children from low-income families attend private schools; thus five percent of the $500,000 reservation, or $25,000, is available for equitable services for private school participants. Thus, the LEA has $475,000 for its public school district-wide reading initiative and $25,000 for Title I services to private school participants. The Title I program funded with this $25,000 must meet the needs of the private school participants but does not have to be identical to the district-wide reading initiative. The LEA must consult with appropriate private school officials to determine how these funds will be used to benefit private school participants.

Question 131: How does the LEA determine equal expenditures?

Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

In the aggregate, funds reserved by an LEA under Title I, Part A for services to eligible private school children must be equal to the amount of funds generated by private school children from low-income families. In reserving funds off the top of its allocation, if the LEA reserves funds for instructional activities for public elementary or secondary school students at the district level, the LEA must provide equitable services to eligible private school children. The LEA must base equitable services from these reserved funds on the proportion of private school children from low-income families residing in participating public school attendance areas.

Question 132: How does the LEA determine services on an equitable basis?

The services that an LEA provides to eligible private school children must be equitable in comparison to the services and other benefits that the LEA provides to public school children participating Title I, Part A.

Services are equitable if the LEA—

- Addresses and assesses the specific needs and educational progress of eligible private school children on a comparable basis as public school children;
- Meets the equal expenditure requirements; and

- Provides private school children with an opportunity to participate that—
  - Is equitable to the opportunity provided to public school children; and
  - Provides reasonable promise of the private school children achieving the high levels called for by the State's student academic achievement standards.

The LEA must provide services to eligible private school children either directly or through arrangements with another LEA or a third-party provider.

The LEA makes the final decision with respect to the services it will provide to eligible private school children.

Question 133: Does the equitable services requirement in §1120(a) of the Title I statute apply to LEA set-asides for preschool programs?

The equitable services requirement applies only to children who attend private elementary and secondary schools and does not apply to children attending private preschool programs.

Question 134: Does the equitable services requirement in §1120(a) apply if the LEA takes funds off the top of its Title I allocation for summer school programs?

Since a Title I summer school program provides instructional services, §200.64(a)(2)(i)(A) of the Title I regulations would apply and would require the LEA to provide equitable services to eligible private school children. The LEA must base equitable services supported with the reserved funds on the proportion of private school children from low-income families residing in participating public school attendance areas.

Question 135: If funds are transferred into the Title I program from other ESEA programs under the transferability or REAP authority, do the requirements relating to the equitable participation of private school students apply to these funds?

Yes. With respect to any funds transferred into the Title I program, the LEA must provide equitable services for private school students.

Question 136: May an LEA transfer funds into the Title I program solely to provide services for private school students?

No. The LEA may not transfer to the Title I program only the portion of funds available for services for private school students from one or more of the programs whose funds may be transferred. Rather, before it transfers any funds, the LEA must engage in timely and meaningful consultation with appropriate private school officials. Assuming the LEA decides to transfer funds, it provides services to public and private school students and teachers under the program(s) to which the funds are transferred.

Question 137: What are the options available for using funds for instructional services to private school participants?

In consultation, the LEA and private school officials may choose one or both of the following options for using the funds reserved for instructional services for eligible private school children.

(1) On a School-by-School Basis: Provide equitable services to eligible children in each private school with the funds allocated for the children who reside in participating public school attendance areas and attend that private school.

(2) Pooling Option: Combine funds allocated for private school children in all participating areas to create a pool of funds from which the LEA provides equitable services to eligible private school children who are in the greatest educational need of those services and reside in participating public school attendance areas. If it pursues this option, the LEA, in consultation with officials from the private schools, must establish criteria to determine the eligible private school students in greatest educational need who should receive services. Under this option, the services provided to eligible children attending a particular private school do not depend on the amount of funds allocated for children in that school.

Question 138: If an LEA, in consultation with private school officials, decides to pool funds allocated for private school children and, later, eligible low-achieving children in some schools choose not to participate in the Title I programs, do the funds allocated for children in these private schools remain in the pool?

Yes. An LEA allocates Title I funds to participating public school attendance areas using data on the number of low-income children, both public and private, who reside in that public school attendance area. Once funds are allocated, if a particular private school with eligible low-achieving children does not wish to have its students participate in the Title I program, any funds allocated for children in that private school remain in the pool.

Question 139: If there are no children from low-income families attending a private school, and so no funds are allocated for Title I services, do the private school children who meet the educational criteria obtain Title I services?

No, since there are no children from low-income families to warrant the allocation of instructional funds and the LEA is not pooling the funds, then children in that private school do not receive Title I services because there are no funds available to provide services.

If the LEA were pooling funds, then eligible low-achieving children who meet the educational criteria and attend private schools with no children from low-income families may receive Title I services.

Question 140: When an LEA elects not to serve an eligible public school attendance area, as permitted under §1113(b)(1)(D) of the Title I statute, what are the procedures for serving the private school children who reside in that attendance area?

An LEA may elect not to serve ("skip") an eligible public school attendance area or school that has a higher percentage of children from low-income families than other schools it elects to serve if:
(1) the school meets the comparability requirements,
(2) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of either §§1114 or 1115, and
(3) the funds expended from such other sources equal or exceed the amount that would be provided under Part A.

Eligible private school children who reside in a "skipped" attendance area, however, must be provided Title I services even though the public school attendance area is skipped.

In implementing this provision, therefore, an LEA must determine which school attendance areas would have received Title I funds absent any skipping and what the per-pupil allocations for those areas would have been. The LEA must then determine the amount of funds that would have been allocated for private school children residing in those school attendance areas. This amount is included in the funds available for serving eligible private school children residing in the LEA. If the LEA skips one or more of its higher-ranked school attendance areas, enabling the LEA to use Title I funds to serve additional lower-ranked areas, low-income private school children residing in those additional areas would not warrant the allocation of funds.

Question 141: How are private school children to be identified as residing in a participating public school attendance area if an LEA is operating under an open enrollment, desegregation, or magnet plan?

If an LEA identifies a public school as eligible on the basis of enrollment, rather than serving an eligible school attendance area, the LEA must, in consultation with private school officials, determine an equitable way to identify eligible private school children. For example, the LEA may assign a private school child to the public school attendance area in which the child resides or to the public school that the child would have attended if not enrolled in a private school.

Question 142: What private school students are eligible for Title I services

To be eligible for Title I services, a private school child must reside in a participating public school attendance area and must meet the requirements in §1115(b) of Title I, which requires the LEA to use multiple, educationally related, objective criteria in selecting children to participate in the Title I program. Under that section, certain children may be identified as eligible solely by virtue of their status: for example, homeless children and children who in the preceding two years had participated in Head Start, Even Start, Early Reading First, a Title I preschool program, or a Title I, Part C (Migrant Education) program. (See question 110 above.)

Question 143: What are the criteria for selecting private school children from preschool through grade 2?

Children from preschool through grade 2 are selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

Question 144: Are private school children from low-income families automatically eligible for Title I services?

No. Student eligibility for Title I services for private school children is determined by (1) residence in a participating public school attendance area, and (2) educational need. Poverty is not a criterion.

Question 145: How are the criteria determined?

In consultation with private school officials, an LEA must establish multiple, educationally related, objective criteria to determine which private school children are eligible for Title I services, and, within

the eligible group, which children will be served. To the extent appropriate, the LEA must select private school children who are failing, or most at risk of failing, to meet high student academic achievement standards

Question 146: May Title I funds be used to identify eligible private school students?

Title I funds may not be used to identify private school children who are eligible to participate. Title I funds, however, may be used to select participants from among those who are eligible and to determine the specific educational needs of those children.

Question 147: May an LEA require private school officials to verify that students attending their school reside in a Title I public school attendance area?

It is an LEA's responsibility to verify that the eligible private school children reside in participating public school attendance areas. The officials of the private school may help with this determination if they wish. However, the LEA cannot require private school officials to do this verification.

Question 148: Once participants are selected, how does an LEA determine what Title I services are to be provided?

An LEA, in consultation with appropriate private school officials, determines the appropriate Title I services based on the needs of the private school students. Title I services may be provided in subject areas or at grade levels that are different from those provided public school students, as long as these services are provided in the same grade-span as the services provided to public school children. These services must hold reasonable promise that the academic performance of private school participants will improve.

Question 149: Must the number of private school children served be equal to the number of private school students from low-income families?

No. The needs of eligible private school children and the amount of funds available determine who is served and what services are provided.

Question 150: If a school in the attendance area in which private school students reside is operating a schoolwide program, may private school students be offered a schoolwide program also?

No. Since private schools are not eligible for Title I services, schoolwide programs may not be operated in private schools. However, eligible private school children residing in an area served by a schoolwide public school program must be offered equitable services.

Question 151: If after receiving an offer of equitable services, the private school officials or parents choose to have the children participate in only some of the services, may the LEA provide only those services?

Yes. The statute requires that an LEA offer equitable services to private school children, but not that private school children accept or participate in all those services. An LEA meets its responsibility to provide services even if the services are wholly or partially refused by private school officials or parents.

The LEA must continue to offer equitable services each year and cannot presume to reduce the services offered based on what was offered or accepted in the past.

Question 152: When a child who is most at risk of failing resides in a Title I attendance area in one LEA and attends a private school in another LEA, which LEA is responsible for serving the child?

The LEA in which the child resides is responsible for providing services to the child, but it may arrange to have services provided by another LEA and reimburse that LEA for costs.

Question 153: May an LEA establish a minimum number of private school children selected for the program in order to establish a Title I program in the private school? If so, what is the LEA's responsibility to serve children attending private schools with fewer than that minimum number?

Section 1120(a) of Title I requires that LEAs provide for the participation, on an equitable basis, of eligible children enrolled in private schools. The requirement applies regardless of the number of children attending a private school; there is no minimum number.

However, when the number of eligible children at one location is very small, the cost of establishing certain types of programs to serve them may be prohibitive, especially when these children may be from different grades or have different educational needs. In this case, the LEAs should consider other options. If feasible and equitable, they might adopt methods that are cost-effective for serving small numbers, such as take-home computer programs, individual tutoring programs, professional development activities with the classroom teachers of Title I participants, or other strategies.

Question 154: If the funds allocated for private school children are not sufficient to provide instructional services, may the funds be used to provide other services, such as professional development or counseling?

Yes. After consultation with private school officials, an LEA may provide Title I services other than direct instruction if the provision of services, such as counseling, staff development, and parental involvement is appropriate to assist those children identified as failing or most at risk of failing to meet high student academic achievement standards. The LEA must measure the effect of the services on the academic achievement of participating children.

Note: Simply providing the private school with instructional materials and supplies is NOT an option available to the LEA because it is neither a proper Title I program implemented by the LEA nor meets the equitability requirement.

Question 155: Who is responsible for planning and designing the Title I program?

After consultation with appropriate private school officials, the LEA must design a Title I program that meets the needs of private school participants. The LEA is responsible for planning, designing, and implementing the Title I program and may not delegate that responsibility to the private schools or their officials.

Question 156: How does an LEA design a Title I program?

Consistent with §1115(c) of the Title I statute, the LEA provides a Title I program to private school children, employing methods and instructional strategies for improving academic achievement that have been shown to be effective through scientifically based research. The LEA must also give primary consideration to providing extended learning time and a high-quality curriculum.

Based on the needs of the children to be served, the LEA must provide an instructional program that not only supplements but also is well coordinated with the instruction that the private school children are receiving in their regular classrooms. This program should complement classroom instruction and should not be a separate instructional program.

Question 157: What types of services are available for private school participants?

Services for participating private school children include, but are not limited to, the following:

- Instructional services provided by public school employees or third-party contractors.
- Extended-day services.
- Family literacy programs.
- Counseling programs.
- Computer-assisted instruction (CAI).
- Home tutoring.
- Instruction using take–home computers.

Question 158: For Title I services, may an LEA just provide a private school with instructional materials and supplies paid with Title I funds?

No. Simply providing the private school with instructional materials and supplies is NOT an option available to the LEA because it is neither a proper Title I program implemented by the LEA nor meets the equitability requirement.

Question 159: May private school officials order or purchase materials and supplies needed for the Title I program and be reimbursed by an LEA?

No. Private school officials have no authority to obligate or receive Title I funds. The statute clearly states that the LEA must maintain control of Title I funds, materials, equipment, and property. No Title I funds may be paid to a private school.

Question 160: When should Title I services for private school participants begin?

Under the equitable services provision of the Title I statute, the Title I program for private school participants must begin at the same time as the Title I program for public school participants. Therefore, the required consultation should begin early enough so that Title I teachers can be hired and materials ordered in order for the Title I program to start at the beginning of each school year.

Question 161: What are the obligations of an LEA that does not start the Title I program for private school participants at the same time it starts the Title I program for public school students?

An LEA is obligated to provide Title I services on an equitable basis, and the expectation is that Title I services start at the beginning of each school year. If the LEA begins the Title I program late in the school year, in order to comply with applicable requirements, the LEA should provide additional services during the remainder of the year and carry over any unspent funds that should have been used to provide equitable services for private school students and add them to the instructional funds for the private school participants for the next school year.

Question 162: Where may Title I services take place?

Title I services for private school participants may be provided at various locations, including the private school, neutral sites, or public schools. LEA officials must consult with private school officials before any decision is made about the location of Title I services. If appropriate space is available, the least disruptive and least expensive location will be the private school that the participating children attend.

Question 163: Title I services be provided in religiously affiliated private schools?

Yes. In the 1997 case of Agostini v. Felton, the U.S. Supreme Court decided that Title I instructional services may be provided by public school employees in religiously affiliated private schools without violating the Establishment Clause of the United States Constitution.

Question 164: Must an LEA require the removal of religious symbols in private school classrooms in which Title I services are provided?

No, the USDE believes that the constitutionality of Title I instructional services provided in a private school will depend on consideration of the program's safeguards viewed as a whole, not of any one factor, such as whether or not there are religious symbols in the space used for that instruction. The USDE does believe, however, that a valid program must contain safeguards to ensure that public employees do not promote religion in the course of carrying out their Title I duties.

Question 165: May space used for Title I instruction in a private school be used for non-Title I purposes at other times?

Yes. The LEA should have the exclusive use and control of the Title I space during the time when Title I services are being conducted, but the space may be used for other purposes at other times.

Question 166: Are private schools required to make space available in their schools for Title I services?

No. If space is not available in a private school, or if the private school chooses not to make its facilities available to the LEA for this purpose, Title I services must be provided in another location. The LEA still has the responsibility of providing equitable Title I services for private school children under these circumstances, although the services would be at a location outside the private school. The extra costs of providing services at a location outside the private school would be taken “off-the-top” of the LEA’s

Title I allocation before funds are allocated for instructional services for public and private school children.

Question 167: May the Title I teacher use the same textbooks as those used by the private school students in their regular classroom?

Yes. The Title I teacher may use the same textbooks and materials as those used in the regular private school classroom so long as the textbooks and materials are secular, neutral, and nonideological, and the instructional services supplement and do not replace the instructional program in the participants' regular classrooms.

Question 168: Who provides the Title I services to private school participants?

Section 1120(d)(2) of the statute requires that Title I services be provided by either an employee of a public agency (LEA) or through a contract by the public agency (LEA) with an individual, association, agency, or organization. These employees, individuals, associations, agencies, or organizations must be independent of the private school and any religious organization in the provision of those services and such employment or contract must be under the control and supervision of the public agency (LEA).

Question 169: Must teachers and paraprofessionals hired by an LEA to provide Title I services to private school participants meet the teacher and paraprofessional qualification requirements in §1119?

Yes. Such teachers and paraprofessionals who provide Title I services to private school participants and are employees of an LEA must meet the qualification requirements within the timeframes specified in §1119 of the statute.

Question 170: After consultation with the appropriate private school officials, may an LEA employ a third-party contractor to provide Title I services to private school participants?

Yes. An LEA may provide Title I services directly or indirectly through contracts with public and private agencies, organizations, and institutions so long as those entities are independent of the private school and of any religious organization in the provision of those services. The services may be provided in a private school under the same conditions, and subject to the same limitations, as if the LEA provided the services. It is the LEA's decision who provides the equitable services to the eligible private school students.

Question 171: If an LEA contracts with a third-party provider, must the third-party provider employ Title I teachers and paraprofessionals that meet the qualification requirements in §1119 of Title I?

No. The highly qualified personnel requirements only apply to those teachers and paraprofessionals who are directly employed by the LEA.

Question 172: May an LEA hire a private school teacher to provide Title I services to private school participants?

Yes, as long as the private school teacher meets the highly qualified teacher standards required in §1119 of the Title I statute and is independent of the private school in the provision of Title I services. The private school teacher can only be employed for Title I purposes outside of the time he or she is employed by the private school and the private school teacher must be under the direct supervision of the LEA with respect to all Title I activities.

Question 173: How does the requirement in §1119 of the Title I statute that paraprofessionals employed by an LEA work under the direct supervision of a public school teacher apply to the Title I program for private school participants?

Paraprofessionals providing instructional support must work under the direct supervision of a public school teacher. A paraprofessional works under the direct supervision of a teacher if (1) the teacher prepares the lessons and plans the instructional support activities that the paraprofessional carries out, and (2) the paraprofessional works in close and frequent proximity to the teacher. As a result, a Title I program for private school participants staffed entirely by paraprofessionals is not permitted.

Moreover, Title I-paid paraprofessionals may not work under the supervision of private school teachers.

Question 174: May an LEA reserve funds for administering programs for private school children?

Yes. An LEA may reserve an amount that is reasonable and necessary to administer Title I programs for both public and private school children, including special capital expense costs. This reservation for administration, including funds needed to administer Title I programs for private school students, is taken "off-the-top" of the LEA's allocation and not from the funds allocated for Title I services for private school children. Funds for instructional services are allocated <u>after</u> administrative and other “off-the-top” costs are determined.

Question 175: May third-party contractors incur administrative costs?

A third-party contractor hired by an LEA to provide services to private school participants may incur administrative costs. These costs must come off the top of the LEA’s Title I allocation as administrative costs. The LEA may not charge a third-party contractor’s administrative costs to the funds allocated for private school children for instructional services. To facilitate this determination, the parties should identify in the contract the portion of the costs that are administrative, and the LEA should use funds taken “off-the-top” of its allocation to pay this portion of the contract.

Question 176: May Title I funds be used to purchase furniture for a Title I classroom?

Yes. Title I funds may be used to purchase furniture for a Title I classroom if that cost is reasonable and necessary for the operation of the Title I program; however, the cost of the furniture must be charged to administrative costs. If an LEA purchases furniture with Title I funds, only Title I participants may use it.

Question 177: What are special capital expenses?

Special capital expenses refer to expenditures for noninstructional goods and services that were or are still being incurred as a result of implementing alternative delivery systems such as the following:

- Purchase or lease of real and personal property (including mobile educational units and neutral sites).
- Insurance and maintenance costs.
- Transportation between a private school and another site.
- Buy-out leases for mobile vans or neutral space or other costs relating to terminating arrangements for providing Title I services to private school children outside of their private school.
- Other comparable goods and services, which include costs to escort children to and from instructional areas and, in the case of computer-assisted instruction, costs to install equipment and pay for noninstructional computer technicians. (Note: Technicians perform non-instructional duties, such as operating and maintaining computer equipment and keeping order in a Title I CAI classroom. Whether employees should be considered Title I instructional personnel or noninstructional technicians depends on the functions performed by the employees in addition to their job titles or classifications.).

Under §200.77(f) of the Title I regulations, these special capital expenses costs must be considered administrative costs and taken off the top of the LEA's total Title I allocation.

Question 178: May Title I funds be used to renovate the private school site?

No.

Question 179: Are the costs of computer equipment and software considered to be special capital expenses?

No. Costs for computers and software are considered to be instructional costs and are paid from the funds allocated for instructional services for private school children.

Question 180: Who is responsible for providing transportation for private school children from the private school to another site to be served by the Title I program?

If private school children eligible to receive equitable Title I services need to be transported from their private school to another site, the LEA, as the provider of equitable services, has the responsibility of providing that transportation. It is not the responsibility of the private school officials or the participants' parents to provide the necessary transportation. The cost of such transportation is an administrative cost and should not be charged to the instructional funds allocated for private school children.

Question 181: How does an LEA determine the amount of funds to be used for parental involvement activities for parents of participating private school students?

Section 1118 of Title I requires an LEA to reserve funds off the top of its Title I allocation to carry out required Title I parental involvement activities. Section 200.65 of the regulations requires the LEA to calculate the amount of funds available for parental involvement activities from the reserved funds based on the proportion of private school children from low-income families residing in participating public school attendance areas.

EXAMPLE OF EQUITABLE SERVICES FOR FAMILIES:

An LEA reserves one percent ($60,000) of its Title I allocation of $6,000,000 for parental involvement activities. The number of public and private school children from low-income families residing in participating Title I attendance areas is 25,000. Five percent of the 25,000 children attend private schools; thus five percent of the $60,000 reservation, or $3,000, is available for equitable services for parents of private school participants. The parent involvement program funded by Title I must meet the needs of the parents of private school participants. After consultation with the appropriate private school officials, the LEA may conduct these activities independently or in conjunction with the LEA's regular parent involvement activities.

Question 182: How does an LEA provide equitable services for parents of private school students participating in the Title I program?

An LEA must provide equitable services to parents of private school participants from the funds set aside for this purpose. Activities for the parents of private school participants must be planned and implemented after meaningful consultation with private school officials and parents. Activities that LEAs can provide parents that will assist private school students in achieving high academic standards include a written agreement between the LEA and parents of private school participants regarding the responsibilities of the LEA and parents in the Title I program, parent meetings, communication between the Title I teachers and parents on students' academic progress, parent-teacher conferences, and parent education.

Question 183: How does an LEA meet the equitability requirement for professional development?

If an LEA reserves funds under §1119 off the top of its Title I allocation for carrying out Title I professional development activities, the LEA must provide equitable services to teachers of private school participants from this set-aside. As required under §200.65 of the regulations, an LEA calculates these equitable services from the reserved funds in the proportion to the number of private school children from low-income families residing in participating public school attendance areas. Activities for the teachers of private school participants must be planned and implemented with meaningful consultation with private school officials and teachers.

EXAMPLE OF ALLOCATING FUNDS FOR EQUITABLE SERVICES FOR PRIVATE SCHOOL TEACHERS:

An LEA reserves six percent ($360,000) of its Title I allocation of $6 million for professional development as required under §1119. The number of public and private school children from low-income families residing in participating Title I attendance areas is 25,000. Five percent of the 25,000 children attend private schools; thus five percent of the $360,000 reservation ($18,000) is available for equitable services for the teachers of private school participants. The professional development activities funded by Title I must meet the needs of the teachers of private school participants. After consultation with the appropriate private school officials, the LEA may conduct these activities independently or in conjunction with the LEA's professional development activities.

Question 184: How may the funds reserved for professional development for teachers of private school participants be used?

The professional development activities for private school teachers should address how those teachers can serve Title I students better, such as by providing information on research-based reading and mathematics instruction. It is inappropriate to use these funds to upgrade the instructional program in the regular classroom of the private school.

Question 185: May the private school officials arrange for professional development services for teachers of Title I participants and submit the invoice to the LEA for payment?

No. Private school officials are not authorized to obligate or receive Title I funds. The statute clearly states that the LEA must maintain control of Title I funds. No Title I funds may be paid to the private school.

Question 186: May Title I funds be used to pay stipends to private school teachers of Title I participants who participate in a Title I professional development program?

Yes. Title I funds may be used to pay for stipends for private school teachers, if 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.

Question 187: May Title I funds be used to pay for substitute teachers who replace private school teachers in their regular classroom while they attend Title I professional development activities?

No. Title I funds may not be used to hire substitute private school teachers. After consultation, the LEA should offer professional development activities at a time and place that is convenient for the teachers of private school participants.

Question 188: How is the LEA required to assess private school students receiving Title I services?

Public school students who participate in Title I programs must be held to the same challenging content and student achievement standards that a State expects all public school students to meet. Private school students who participate in Title I programs must also be held to high standards. In some

instances, however, it may not be appropriate to expect private school children to meet the State's TAKS standards, if, for example, those standards are not aligned with the curriculum of the private school.

If the LEA, in consultation with private school officials, determines that it would be inappropriate to measure the achievement of participating private school children in relation to the State's TAKS standards, the LEA must use alternative standards that reasonably promise that the services provided will enable the private school participants to achieve the high levels called for by the State's student achievement standards

An LEA must annually assess the progress of the Title I program toward enabling private school Title I participants to meet the agreed-upon standards. The LEA may use the State's TAKS assessment system (under §1111(b)(3) of Title I) or other assessment measures that more accurately reflect the progress of the private school participating students toward meeting the standards that the LEA, in consultation with private school officials, has determined is appropriate. Every year the LEA and private school officials must consult on what constitutes annual progress for the Title I program. In measuring annual progress, the LEA has the flexibility to group children in a manner that will provide the most accurate information about their progress. For example, the LEA may decide to group children by instructional method, grade level, school, or other appropriate basis. If the Title I program for the private school participants does not make the expected annual progress, the LEA must annually make modifications to the Title I program.

While LEAs are required to assess progress of Title I students annually, they should also consult with private school officials/teachers regularly about the progress the Title I private school participants are making in their regular classrooms.

Question 189: In what subjects does an LEA assess private school children?

An LEA normally would assess private school children in the subjects in which the LEA provides Title I services to those children.

Question 190: May Title I funds be used to assess private school children?

Yes. Title I funds may be used to assess private school children if the assessment is used only for Title I purposes. To the extent, however, that an assessment is conducted for other purposes, it may not be paid for from Title I funds. If private school children, in general, are included in the State assessment, Title I funds may not be used to pay for the assessment of those private school children participating in Title I.

Question 191: May an LEA use the private school's assessment data to determine progress of the LEA's Title I program?

Yes. Officials of the private schools may provide the LEA with the assessment data on Title I participants that the private school has collected as part of its testing program. However, private school officials are not obligated to do this, and refusal by private school officials to provide these data does not release the LEA from its obligation to provide services and assess the progress of the private school participants in the Title I program.

Question 192: May an LEA pay a private school for the assessment data of Title I participants?

No.

Question 193: May Title I, Part A instructional services be provided in private nonprofit schools before and after regular school hours and during the summer?

Yes. These are additional, permissible options for providing services for private school children so long as the equitability and consultation requirements are met. These options may be useful particularly in situations where there is no space available in the private nonprofit school during the regular school day.

Question 194: May Title I, Part A services be provided in the regular private school classrooms through aides or joint teaching efforts?

The USDE recommends that LEAs not provide these types of services. In holding that Title I, Part A instruction may be provided in private nonprofit schools, the Supreme Court in *Agostini* emphasized that the Title I, Part A program was totally separate from the private nonprofit school's educational program and under the sole control of the LEA. Providing Title I, Part A instruction as a part of private school classes raises significantly different issues that increase the risk that the services would be held unconstitutional.

Question 195: Is it permissible for Title I, Part A teachers to use private nonprofit school facilities other than the Title I, Part A classroom, such as the restroom, teachers' lounge, cafeteria, or parking lot?

Yes. There is no prohibition against reasonable use of private nonprofit school facilities by a Title I, Part A teacher or other Title I, Part A personnel.

Question 196: May Title I, Part A teachers and other public school personnel meet or have discussions with private school teachers and administrators?

Yes. Consultation and communication are essential to implementing an effective Title I, Part A program. Therefore, Title I, Part A personnel may have necessary discussions or meetings with private school officials concerning the design and development of the Title I, Part A program, as well as communications concerning the needs and progress of individual children.

Question 197: Are the costs of technicians to assist in Title I, Part A Computer-Assisted Instruction (CAI) part of an LEA's reservation of funds?

Yes. The cost of technicians who perform non-instructional duties such as operating and maintaining CAI equipment and keeping order in the Title I, Part A CAI classroom are considered administrative costs. In light of the Court's decision, however, Title I, Part A personnel now may provide instruction in conjunction with CAI in the private nonprofit schools. The costs of these instructional personnel are program costs, not administrative, and would therefore not come from reserved Title I, Part A administrative funds. Whether employees should be considered instructional personnel or non-instructional technicians depends on the functions performed by the employees, in addition to their job titles, job description, or classifications.

Question 198: Does the Supreme Court's decision in *Agostini* apply to other federal education programs?

The Supreme Court's decision directly dealt with the issue of the constitutionality of providing instructional services under the Title I, Part A program in private nonprofit schools. However, the implication of the Court's ruling is that there is no constitutional bar to public school employees providing educational services in private nonprofit schools under other federal programs under similar circumstances.