

Title V, Part A

Innovative Programs

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Title V, Part A—Innovative Programs

Purpose

The purposes of the Title V, Part A program are to:

- Support local education reform efforts that are consistent with and support statewide education reform efforts.
- Implement promising educational reform programs and school improvement programs based on scientifically based research.
- Provide a continuing source of innovation and educational improvement, including support for programs to provide library services and instructional and media materials.
- Meet the educational needs of all students, including at-risk youth.
- Develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

Program Administration

Question 1: What is the role of LEAs in implementing Title V, Part A?

The primary role of LEAs under Title V, Part A is to carry out programs under one or more of the 27 authorized innovative assistance program areas listed in the statute. Title V, Part A provides LEAs with flexibility in carrying out this role. LEAs have complete discretion in determining how to divide funds among one or more of the 27 innovative assistance program areas in a manner that meets both the purposes of Title V, Part A and the needs of the students within the LEAs [Section 5133(d)]. Moreover, LEAs and school personnel have the primary responsibility for the design and implementation of programs [Section 5101(b)].

Question 2: Is the LEA required to conduct a needs assessment relative to the purposes of Title V, Part A and to the innovative assisted programs authorized under Title V, Part A?

Yes. Section 5133(b)(1) and (2) require that a needs assessment be conducted and that funds be allocated among the innovative assistance program areas based on those identified needs, even if the specific needs are not required to be described in the consolidated LEA application submitted to TEA.

Question 3: Who must the LEA consult with in the planning, design, and implementation of the Title V, Part A program?

The LEA must systematically consult in the design, planning, and implementation of Title V, Part A programs (**prior to submittal of the application and during program implementation**) with parents of children attending elementary and secondary schools, **both public and private nonprofit**, in the area served by the LEA. In addition, the LEA must consult with teachers and administrative personnel in these schools and with other groups involved in the implementation of the program, such as librarians, school counselors, and other pupil services personnel, as may be considered appropriate by the LEA.

Question 4: How are funds distributed to LEAs?

Funds are distributed to LEAs by formula, based on public school enrollment and enrollment of participating private schools. LEAs that have "high-cost" students (children from low-income families) in **excess** of the average statewide number or percentage are eligible to receive additional funds based on the enrollment of those students.

Funding and Fiscal Requirements

Question 5: Must an LEA use the additional funds generated by children whose education creates a higher than average cost to provide Title V, Part A services only to those children?

No, an LEA does not have to use the additional Title V, Part A funds that it receives under its adjusted allocation to provide services only to the children who generated those funds. It may use the additional funds generated by these children to provide services to any children in public and private, nonprofit schools within the LEA without regard to whether those children generated the additional funds [Section 5112(d)(2)(C)]. LEAs should note that, in such a case, they may not take into account the extent to which the number of children in private, nonprofit schools have generated a portion of the adjusted allocation in providing services to private school children. Rather, as generally required under the equitable participation provisions of Title V, Part A, the LEA must spend equal per-pupil amounts for services to public and private school students.

However, an LEA does have the discretion to use the additional funds generated by children whose education imposes a higher cost to provide services only to children enrolled in those schools – both public and private -- in which children who generated the additional funds are enrolled [Section 5112(d)(2)(A)]. Under this option, the LEA must use all funds received under its adjusted allocation (i.e., all of the additional funds generated by the "high-cost" children) in this manner and must use in each school the amount generated by the "high-cost" children enrolled in that school [Section 5112(d)(2)(B)].

Question 6: Is there a “supplement, not supplant” requirement under Title V, Part A?

Yes. Section 5144 provides that Title V, Part A funds shall be used to supplement, and not supplant, any other federal, state, or local education funds.

Question 7: May Title V, Part A funds be used for State-mandated activities?

The ability of an LEA to use Title V, Part A funds to carry out activities required by a state-mandated program depends upon whether non-Federal funds are already available to carry out activities under the State-mandated plan. Presumably, in the absence of Title V, Part A funds, the LEA would use State or local funds to carry out a State-mandated plan. To use Title V, Part A funds in connection with that plan would therefore violate the supplement, not supplant requirement. However, in certain instances, an LEA may overcome the presumption that supplanting will result if Title V, Part A funds are used in connection with a State-mandated program or activity. In those instances, the LEA should be able to demonstrate through written documentation (e.g., State or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the program or activity and that the program or activity would not be carried out in the absence of the Title V, Part A funds.

Question 8: What should an LEA consider to ensure that its use of Title V, Part A funds does not result in supplanting?

In general, an LEA should determine what educational activities it would support if no Title V, Part A funds were available. If the result of this determination is that no state or local funds remain available to fund certain activities that are supplemental in nature, then the LEA may be able to use Title V, Part A funds for

those activities. In no event, however, may an LEA decrease state local funds for particular activities because Title V, Part A funds are available.

Question 9: Does a maintenance-of-effort requirement apply to the Title V, Part A program?

Yes, but only at the state level.

Uses of Funds

Question 10: How may LEAs use Title V, Part A funds?

LEAs have the flexibility to design and implement innovative projects and activities within one or more of the 27 innovative program areas to serve educational needs that they have identified. The projects and activities that LEAs implement must meet three statutory requirements.

They must be—

- tied to promoting challenging academic achievement standards,
- used to improve student academic achievement, and
- part of an overall education reform strategy. *[Section 5131].*

In planning for the use of their Title V, Part A funds, as well as for the annual program evaluation that LEAs are required to conduct, it may be helpful to recognize the relationships between or among some of the 27 innovative program areas. An LEA may find that its proposed use of funds to carry out a project or activity under one program area will also address another program area. To assist LEAs in planning for the use of their Title V, Part A funds and in evaluating their programs at the end of each year, the Title V, Part A innovative program areas have been grouped into the following categories.

Education Reform and School Improvement

- Promising education reform projects, including magnet schools *[Section 5131(a)(4)].*
- School improvement programs or activities under sections 1116 and 1117 of the ESEA *[Section 5131(a)(9)].*
- Programs to establish smaller learning communities *[Section 5131(a)(19)].*
- Activities that encourage and expand improvements throughout the area served by the LEA that are designed to advance student academic achievement *[Section 5131(a)(20)].*
- Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching *[Section 5131(a)(22)].*
- Programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels *[Section 5131(a)(26)].*
- Supplemental educational services as defined for Title I, Part A School Improvement *[Section 5131(a)(27)].*

Teacher Quality, Professional Development, and Class-Size Reduction

- Programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with Title II, Part A of the ESEA, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards *[Section 5131(a)(1)]*

Parental Options

- The planning, design, and initial implementation of charter schools as described in Title V, Part B of the ESEA *[Section 5131(a)(8)]*.
- Activities to promote, implement, or expand public school choice *[Section 5131(a)(12)]*.
- Programs to provide same-gender schools and classrooms (consistent with applicable law and the USDE's guidelines on Single Sex Classes and Schools) *[Section 5131(a)(23)]*.
- School safety programs, including programs to implement the unsafe school choice policy described in section 9532 of the ESEA, and that may include payment of reasonable transportation costs and tuition costs for students who transfer to a different school under the policy *[Section 5131(a)(25)]*.

Technology and Educational Materials

- Technology activities related to the implementation of school-based reform programs, including professional development to assist teachers and other school personnel (including school library media personnel) regarding how to use technology effectively in the classrooms and the school library media centers involved *[Section 5131(a)(2)]*.
- Programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student achievement, and that are part of an overall education reform program *[Section 5131(a)(3)]*.

Students with Special Needs

- Programs to improve the academic achievement of educationally disadvantaged elementary and secondary school students, including activities to prevent students from dropping out of school *[Section 5131(a)(5)]*.
- Programs to provide for the educational needs of gifted and talented children *[Section 5131(a)(7)]*.
- Alternative educational programs for students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs *[Section 5131(a)(15)]*.
- Academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment, and counseling programs conducted during the school day (including during extended school day or extended school year programs), for students most at risk of not meeting challenging State academic achievement standards or not completing secondary school *[Section 5131(a)(17)]*.

Literacy, Early Childhood Education, and Adult Education

- Programs to improve the literacy skills of adults, especially the parents of children served by the LEA, including adult education and family literacy programs *[Section 5131(a)(6)]*.
- Activities to promote consumer, economic, and personal finance education, such as disseminating information on and encouraging use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of financial management skills (including the basic principles involved with earning, spending, saving, and investing) *[Section 5131(a)(11)]*.
- Activities to establish or enhance prekindergarten programs for children *[Section 5131(a)(16)]*.

Community Service and Community Involvement

- Community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage *[Section 5131(a)(10)]*.
- Initiatives to generate, maintain, and strengthen parental and community involvement *[Section 5131(a)(21)]*.
- Service learning activities *[Section 5131(a)(24)]*.

Health Services

- Programs to hire and support school nurses *[Section 5131(a)(13)]*.
- Expansion and improvement of school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents, and school personnel by qualified school-based mental health services personnel *[Section 5131(a)(14)]*.
- Programs for cardiopulmonary resuscitation (CPR) training in schools *[Section 5131(a)(18)]*.

Question 11: May an LEA use funds for personnel?

LEA personnel who carry out activities under Title V, Part A may be paid with Title V, Part A funds to the extent that their duties are authorized under Title V, Part A. If an employee works part-time on Title V, Part A or splits time among Title V, Part A and other local, State or Federal programs, the LEA must ensure that the employee keeps time distribution records so that Title V, Part A funds are used to pay only for that portion of the employee's salary attributable to Title V, Part A.

Question 12: May an LEA use funds for direct administrative costs?

An LEA may use Title V, Part A funds to pay only reasonable and necessary direct administrative costs associated with the operation of its Title V, Part A program. These costs may include the costs of "systematic consultation" with parents, teachers, and administrative personnel and the costs associated with the provision of services for private school children.

Participation of Children Enrolled in Private Nonprofit Schools

Question 13: How may private school children receive services under Title V, Part A?

An LEA must provide Title V, Part A services to children enrolled in a private, nonprofit school within the LEA if, after consultation with private school officials, the officials of the private school indicate that they wish the children in that school to participate. The LEA must contact the private schools within the LEA annually to determine which schools wish their children to participate. The LEA must consult with the officials of interested private schools in a timely and meaningful manner to determine the needs of the children, the types of Title V, Part A services that will be provided, and how those services will be provided.

Question 14: Must expenditures for services to private school students be equal to expenditures for public school students?

Yes. The expenditures for Title V, Part A services must be equal (consistent with the number of children served) to Title V, Part A services provided to public school children. In determining equal expenditures, the LEA may take into account the needs of the children and other factors that relate to such expenditures. The LEA's accounting records must reflect equal expenditures for private nonprofit school children. LEAs pay the cost of administering Title V, Part A services for public and private school students from the reserved amount of their allocations, before calculating how much of the Title V, Part A funds are to be made available for services for public and private school students. *[Section 5142(a) and (b)]*.

Question 15: What if the needs of the private school children are different from the needs of the public school children?

If the needs of children enrolled in participating private nonprofit schools are the **same** as the needs of the children in public schools, the services extended to private nonprofit school children may be the same as those provided to children enrolled in public schools when the LEA concentrates its funds on special programs for children with special needs at a particular grade level or age group.

If the needs of children enrolled in participating private nonprofit schools are **different** from the needs of participating public school children, an LEA must provide different services for the private nonprofit school children which address their particular needs. The LEA will spend a different amount on program benefits for participating private nonprofit school students if the cost of meeting the needs of those students is different from the cost of meeting the needs of participating public school students.

Question 16: Must the participating private nonprofit school be in compliance with Civil Rights requirements in order to receive Title V, Part A funds?

Yes. In order for students and teachers of private nonprofit schools to receive Title V, Part A benefits, the private nonprofit school must be in compliance with—

- Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the implementing regulations in 34 CFR Part 100;
- Title IX of the Education Amendments of 1972, as amended (prohibition of sex discrimination), and the implementing regulations in 34 CFR Part 106;

- Section 504 of the Rehabilitation Act of 1973, as amended (prohibition of discrimination on the basis of handicapping condition), and the implementing regulations in 34 CFR Part 104; and the
- Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age) and the implementing regulations in 34 CFR Part 110.

Question 17: What administrative requirements apply regarding the provision of services to private school children?

The services, materials, and equipment that an LEA provides for the benefit of participating private school students must be secular, neutral, and non-ideological. The control of Title V, Part A funds and the title to any equipment and materials purchased with those funds must remain in a public agency (usually the LEA). No Title V, Part A funds may be paid to any private school, and the title to equipment and materials may not be transferred to any private school. Title V, Part A services must be provided by a public agency either directly or through a contractor. Any contractor must be a person or an association, agency, or corporation who or that, in the provision of the Title V, Part A services, is independent of the private school and any religious organization. A public agency must supervise and have ultimate control over any contractor hired to provide Title V, Part A services. Finally, Title V, Part A services for private school students must supplement, and in no case supplant, the level of services that would be available to participating students and educational personnel in the private schools in the absence of the Title V, Part A funds [*Sections 5142(a)(1)(A) and (c)*].

Question 18: How may an LEA ensure that Title V, Part A services are provided in a proper manner for the benefit of private school students and personnel?

LEAs should implement safeguards and procedures to ensure that Title V, Part A funds are used properly for private school children.

First, private school officials should be fully informed of and agree to the limitations on the use of any equipment and materials located in the private school. LEAs should obtain from the appropriate private school official a written assurance that any equipment and materials placed in the private school will be used only for secular, neutral, and nonideological purposes; that private school personnel will be informed as to these limitations; and that the equipment and materials will supplement, and in no case supplant, the equipment and materials that, in the absence of the Title V, Part A program, would have been made available for the participating students.

Second, the LEA is responsible for ensuring that any equipment and materials placed in the private school are used only for proper purposes. The LEA should determine that any Title V, Part A materials, such as library books and computer software, are secular, neutral, and nonideological. A good benchmark for this review is that the equipment and materials would be appropriate for use in public schools. The LEA should mark all equipment and materials purchased with Title V, Part A funds so that they are clearly identifiable as Title V, Part A property of the LEA. The LEA also should maintain an up-to-date inventory of all Title V, Part A equipment and materials provided for the benefit of private school students. It is also a helpful practice for private schools to maintain logs to document the use of Title V, Part A equipment and materials located in their schools. The LEA also should perform periodic on-site monitoring of the use of the equipment and materials. The monitoring could include on-the-spot checks of the use of the equipment and materials, discussions with private school officials, and a review of any logs maintained.

Third, the LEA should designate one public school official to oversee Title V, Part A services for private school students and ensure that services, materials and equipment provided for these students are secular, neutral, and non-ideological. The designated official also should be responsible for receiving and handling any complaints or allegations that Title V, Part A funds are being used for improper activities for private school students.

Finally, LEAs need to ensure that if any violations occur, they are corrected at once. An LEA must remove materials and equipment from a private school immediately if removal is needed to avoid an unauthorized use.

Question 19: May private school children and personnel receive services under any Title V, Part A innovative program area?

If Title V, Part A funds are used to provide services for children enrolled in private, nonprofit schools, these services must primarily benefit the children, not the private schools. This means that the funds must be used to meet specific needs of students enrolled in the private schools, rather than the needs of the private schools themselves or the general needs of the students enrolled in the private schools. See section 76.658 of the Education Department General Administrative Regulations (EDGAR).

In working with private schools to decide what Title V, Part A programs and activities will be carried out for children and personnel in those schools, LEAs must ensure that the programs and activities are supplemental in nature and will meet the specific needs of the children enrolled in the schools. For example, LEAs may not use funds for class-size reduction purposes in a private school [*Section 5131(a)(1)*]. This use of funds, which would involve hiring teachers for private school classrooms, would meet the needs of the private schools themselves, as well as the general needs of the students enrolled in the schools, rather than the specific needs of those students. However, LEAs may use funds to provide professional development activities for teachers in private schools [*Section 5131(a)(2)*].

There are several innovative assistance programs that, by their nature, cannot be carried out in a private school. These include (1) the planning, design, and initial implementation of charter schools [*Section 5131(a)(8)*]; (2) activities to promote, implement, or expand public school choice [*Section 5131(a)(12)*]; and (3) programs to implement the unsafe school choice policy in section 9532 [*Section 5131(a)(25)*].

For all other innovative assistance programs, particularly those involving education reform or school improvement activities, LEAs must evaluate closely whether the activities proposed to be carried out in a private school will primarily benefit the children enrolled in the school or the school itself. If the latter, then the LEA may not permit that activity or program to be implemented in the private school. In some instances, a program or activity that primarily benefits the private school's students (because it addresses specific, rather than general, needs of the students) will also incidentally benefit the school. The LEA may permit a program or activity of this type to be carried out in the private school. Again, under the regulations in EDGAR, the key in determining if particular services may be provided to students in a private school is whether those services will meet specific needs of students enrolled in the school, rather than their general needs or the needs of the school itself. This does not preclude an incidental benefit to the private school. However, LEAs must be careful in this determination and may not authorize any services whose purpose is to benefit the general needs of the private school or its students.

Question 20: What are the obligations of LEAs to private schools that did not participate in Title V, Part A programs in the preceding year?

The LEA has the obligation to contact, on an annual basis, appropriate officials from private, nonprofit schools within the LEA to determine whether such schools desire that their students participate in Title V, Part A programs. This must be done for schools that did and did not participate in the program during the previous year. Once a school agrees on behalf of its students to participate, the enrollment of those students is considered in the calculation of relative enrollment for the LEA for the following year. The method for calculating funds does not diminish the responsibilities of the LEA under section 5142.

Reporting Requirements

Question 21: What reporting responsibilities do LEAs have under Title V, Part A?

The LEA is required to evaluate its Title V, Part A programs annually. The evaluation must describe how Title V, Part A programs within the LEA affected student academic achievement. At a minimum, the evaluation must include information and data on the use of funds, the types of services furnished, and the students served by the programs. However, the evaluation should contain sufficient information for the LEA to make a connection between the services that were provided and the effect on academic achievement. To aid this process, the USDE encourages LEAs to use the needs identification that they are now required to conduct to provide them with a baseline measure of the level of academic achievement or quality of education in the areas in which they want to target Title V, Part A funds. When the LEAs conduct their annual evaluations, they can use the baseline as a reference to see whether there has been any progress as a result of the Title V, Part A programs. LEAs must use the information gleaned from the evaluation to make decisions about appropriate changes in programs for the subsequent year.