

# Iowa Department of Education

## TITLE I QUESTIONS AND ANSWERS

### ALLOCATION OF TITLE I FUNDS TO SCHOOL ATTENDANCE AREAS AND SCHOOLS

**Q. How does an LEA handle funds that are carried over from one year into the next when allocating funds to school attendance areas?**

- A. Although an LEA may not use carryover funds to provide services in an ineligible school, an LEA has considerable discretion in handling carryover funds. Some of these options include:
- Allow each school to retain its carryover funds for use in the subsequent year.
  - Add carryover funds to the LEA's subsequent year's allocation and distribute to participating areas and schools in accordance with allocation procedures.
  - Designate carryover funds for particular activities that could best benefit from additional funding. (e.g. parental involvement activities; schools with the highest concentrations of poverty.)

Regardless of the option an LEA elects, the LEA may not carry over more than 15 percent of its allocation from one year to the next. This percentage limitation does not apply to an LEA that receives an allocation of less than \$50,000 under subpart 2 of Part A. A SEA may, once every three years, waive the percentage limitation if it determines that the request of an LEA is reasonable and necessary or if supplemental appropriations become available.

**Q. 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?**

- A. 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. Because 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.

**Q. May an LEA reserve funds from its Part A allocation before distributing funds to school attendance areas?**

- A. Yes. Before allocating funds an LEA must reserve funds to—
- Provide services comparable to those provided to children in participating school attendance areas and schools to serve—
    - ◆ Children in local institutions for neglected children; and
    - ◆ Where appropriate—
      - ⇒ Eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters.
      - ⇒ Children in local institutions for delinquent children.
      - ⇒ Neglected and delinquent children in community day school programs.
  - Meet the requirements for choice-related transportation and supplemental education services in Section 1116(b)(10) and 1116(e)(6) of the Title I statute unless the LEA meets these requirements with non-Title I funds. The Title I statute requires that, unless a lesser amount is needed, an LEA spend an amount equal to 20 percent of its Title I, Part A allocation for this purpose. Of this amount, 5 percent must support choice-related

transportation, 5 percent must support providing supplemental education services, and the remaining 10 percent may support the costs of providing either choice-related transportation or supplemental education services.

- Meet the professional development requirements of—
  - Section 1116(c)(7)(A)(iii) of the Title I statute if the LEA has been identified for improvement. An LEA must reserve at least 10 percent of its Title I, Part A allocation for this purpose; and
  - Section 1119 of the Title I statute to meet the needs of teachers who are not highly qualified. An LEA must reserve an amount for this purpose that ranges from at least 5 percent of its Title I, Part A allocation.
- Meet the requirements for parent involvement. An LEA that receives more than \$500,000 under Title I, Part A subpart 2 must spend at least 1 percent of its allocation for parental involvement activities. The LEA must distribute not less than 95 percent of the amount reserved for parent involvement to schools receiving Title I services.
- Administer Part A programs for public and private school children, 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.
- Conduct other authorized activities such as preschool programs, summer school and intercession programs, additional professional development, school improvement, and coordinated services.

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

An LEA must also ensure that it provides equitable services to private school children from Title I funds reserved “off the top” for district-wide instructional programs.

**Q. Is there a maximum amount that an LEA may reserve?**

- A. No. An LEA must bear in mind, however, that the goal of Part A is to enable participating children to make adequate progress toward meeting the challenging student achievement standards that all children are expected to meet.

**Q. 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 education services, professional development, and parent involvement?**

- A. 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 education services, professional development, and parent involvement.

**Q. How may an LEA reserve funds for activities such as parental involvement and professional development?**

- A. An LEA may reserve funds at the LEA level for activities such as parental involvement and professional development or the LEA may require its Title I schools to carry out these activities from their allocations. For example, an LEA that is required to spend at least 1 percent of its allocation for parental involvement activities may reserve the full 1 percent from its Part A allocation, require each school to spend a requisite amount from its Part A allocation, or use a combination of these approaches.

**Q. May an LEA consider variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to school attendance areas?**

- A. Yes, this is an allowable option for the LEA. The statute requires that Part A funds be allocated to school attendance areas and schools on the basis of the number of children from low-income families in each area or school. This

provision assumes, for example, that two schools with the same number of low-income children need similar amounts of funds to provide comparable educational programs to participating children. An inequity may occur, however, if schools with similar allocations offering similar instructional programs need to spend different amounts because of the salary and fringe benefit costs of the staff providing the instruction. To address this situation, 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 part of the funds allocated to school attendance areas or schools. The LEA would pay the differential salary and fringe benefit costs from its administrative funds taken off the top of the LEA's allocation. This policy would have to be applied consistently to staff serving both public and private school children throughout the LEA.

**Q. Is there any flexibility in how an LEA may count children from low-income families in middle and high schools?**

- A.** 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 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 allows 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 school attendance areas that feed into that school.

When an LEA elects to use the feeder pattern, the LEA determines the district-wide average of poverty based on all of the schools for which the district is using actual poverty data; and uses this district-wide average to rank all of the attendance areas or schools in the LEA. If an LEA serves attendance areas or schools below a 35 percent poverty rate, the LEA's allocation per low-income child must be based on the actual number of low-income children in the feeder schools, and the projected number in the feeder pattern receiving schools.

**Q. How are funds made available to provide services to eligible private school children?**

- A.** Title I continues the requirement that an LEA provide equitable services to eligible children enrolled in private schools. Section 1113[c] of Title I requires an LEA to allocate funds to a participating school attendance area or school on the basis of the total number of children from low-income families, including low-income children attending private schools. Thus, the LEA, in consultation with private school officials, must obtain the best available poverty data on private school children who reside in participating attendance areas. Because private school officials may have access to some sources of poverty information not easily accessible to public school officials, it is very important that public and private school officials cooperate in this effort. An LEA may count private school children from low-income families every year or every two years.

In collecting poverty data on private school children, the Title I statute gives an LEA flexibility to calculate the number of children who are from low-income families and attend private school. To obtain a count of private school children, an LEA may use:

1. The same poverty data it uses to count public school children.
2. Comparable poverty data from a survey of families of private school students that, to the extent possible, protects the families' identity. The LEA may extrapolate data from the survey based on a representative sample if complete actual data are not available.
3. Comparable data from a different source, such as scholarship applications so long as the income level for both sources is generally the same.
4. Proportional data based on the poverty percentage of each public school attendance area applied to the total number of private school children who reside in that area.
5. An equated measure of low income correlated with a measure of low income used to count public school children.

Although funds are allocated based on the number of low-income children, private school children eligible to be served are children who reside in a participating public school attendance area and who are failing, or most at risk of failing, to meet student academic achievement standards based on the criteria in Section 1115(b) of the Title I statute.

To provide equitable services to eligible private school children, an LEA must reserve the amounts generated by low-income private school children who reside in participating public school attendance areas. In consultation with private school officials, an LEA may choose one, or a combination of, the following options for using the funds reserved for private school children:

- Provide equitable services to eligible children in each private school with the funds generated by children from low-income families who reside in participating public school attendance areas and who attend that private school.
- Combine the funds generated by low-income 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 reside in participating public school attendance areas and are in the greatest educational need of those services. Under this option, the services provided to eligible children in a particular private school are not dependent upon the amount of funds generated by low-income children in the school.

#### CARRYOVER FUNDS PROVISIONS

##### **Q. What actions must a SEA take with respect to an LEA that exceeds the 15 percent carryover limitation?**

A. Unless it grants the LEA a waiver of the carryover limitation, a SEA must reduce that LEA's allocation by the exact amount it exceeds its 15 percent carryover limitation.

##### **Q. On what amount is the 15 percent limitation on carryover based?**

A. The percentage limitation is applied to the amount allocated to the LEA for Title I, Part A under Subpart 2 for the current year. It does not include carryover funds from the preceding year, excess funds that the SEA reallocated to the LEA under Section 1126(c) of Title I, school improvement funds received under Section 1003, or funds received under the State Academic Achievement Awards program.

##### **Q. Does an LEA include funds carried over from the previous fiscal year in the current year's allocation base to determine statutory reservations?**

A. No. Title I of the ESEA requires an LEA to reserve certain percentages of its Title I allocation for specific purposes. For example, under Section 1118(a)(3), an LEA must generally reserve at least one percent of its allocation for parent involvement activities. The base for calculating any of the reserves required under Title I is only the current year amount allocated to the LEA for Title I, Part A under Subpart 2. The LEA would not include carryover funds from the preceding year when determining current year reservations.

##### **Q. May a SEA waive the 15 percent limitation on carryover funds?**

A. Yes. Section 1127(b) of Title I provides that a SEA may, once every three years, waive the 15 percent carryover limitation if--

- The SEA determines that the request of an LEA is reasonable and necessary; or
- Supplemental appropriations for Title I, Part A become available.

##### *Q. Does the percentage limitation on carryover funds apply to all LEAs?*

A. No. The percentage limitation does not apply to an LEA that receives an allocation of less than \$50,000 in Title I, Part A, Subpart 2 funds.

##### **Q. What happens to excess funds carried over by an LEA?**

A. If an LEA does not have a waiver of the carryover limitation, the excess funds become available to the SEA to reallocate to other LEAs in accordance with the criteria it has established under Section 1126(c) of Title I.

##### **Q. Does the carryover limitation apply to school improvement funds an LEA may receive from the four percent a SEA reserves under Section 1003 of Title I?**

A. No. The carryover limitation applies only to funds an LEA is allocated under Subpart 2 of Title I, Part A.

##### **Q. How does the carryover provision apply to equitable services to private school children?**

- A. In general, if an LEA provided equitable services for private school students in the first year, any carryover funds would be considered additional funds for the entire Title I program in the subsequent year and would be part of the LEA's Title I resource base in the next year. Those funds would be used, along with any other carryover funds, for serving both public and private school students on an equitable basis. This situation might occur, for example, if private school students did not fully participate in the Federal program in the first year, even though an equitable program was planned and offered for those students.

However, there may be a circumstance in which equitable services were not provided. For example, there was a delay by an LEA in implementing an equitable program for private school children because of consultation and notification issues between private school officials and the LEA. As a result, the LEA could not spend all the funds it had available for providing equitable services to private school children and needed to carry over those funds and use them to provide services to private school children in the following year. These carryover funds would be in addition to funds that the LEA would otherwise be required to use to provide equitable services for private school students out of the LEA's current year allocation.

Under either situation, the LEA retains control of the Federal funds carried over into the following year. No funds are provided directly to private schools.

### COMPARABILITY

Q. *Must an LEA determine comparability every year?*

- A. Yes. Demonstrating comparability is a prerequisite for receiving Title I funds. Because Title I allocations are made annually, comparability is an annual requirement.

Q. *When should comparability be determined?*

- A. The comparability process must enable an LEA to identify, and correct during the current school year, instances in which it has non-comparable schools. An early determination of comparability would allow an LEA to make adjustments with the least amount of disruption.

Q. *Are all LEAs required to make comparability determinations?*

- A. No. The SEA will notify LEAs that are required to complete comparability determinations.

### CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS

Q. *Which Federal education program funds may be consolidated in a Schoolwide program?*

- A. A Schoolwide program school may consolidate funds from any federal education program whose funds can be used to carry out activities in a public elementary or secondary school including services, materials, and equipment purchased with those funds and provided to a Schoolwide program school.

Consistent with Section 1306(b)(4) of Title I, before a school operating as a Schoolwide program consolidates funds received under Part C of Title I, 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 students 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.

Q. *May a Schoolwide program school consolidate funds it receives under the Individuals with Disabilities Education Act (IDEA)?*

- A. Yes. A school that operates as a Schoolwide program may consolidate funds received under Part B of IDEA. However, the amount of funds consolidated may not exceed the amount received by the LEA under Part B of 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 that consolidates funds under Part B of IDEA 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 IDEA to the same extent it would if it did not consolidate funds under Part B of IDEA in the Schoolwide program.

**Q. May a Schoolwide program school consolidate funds it receives from discretionary grant programs?**

A. In general, a Schoolwide program school may consolidate funds it receives from discretionary (competitive) grants as well as from formula grants. 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. Although not required, it is preferable that the applicant LEA or school indicates 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 in a Schoolwide program school. A Schoolwide program school would not need to account separately for specific expenditures of the consolidated federal funds.

**Q. How may a school that is operating a Schoolwide program meet the intent and purposes of the programs for which it consolidates funds?**

A. A school that consolidates and uses, in a Schoolwide program, funds from any other federal education program 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.

**Q. 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. A school operating a Schoolwide program that consolidates in a single account and uses, in a Schoolwide program, funds from other federal education programs 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.

An LEA must be able to show the amount of funds from each federal education program for each grant year that was consolidated in the single Schoolwide program account the LEA allocated to a Schoolwide program school and may use any reasonable method to demonstrate how the federal funds in that Schoolwide program 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 each federal program.

**Q. May a SEA require an LEA to account separately for each federal program whose funds are consolidated in a Schoolwide program?**

A. According to Section 1114(a)(3)(C), a Schoolwide program is not required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds. However, a SEA has the authority to establish necessary accounting procedures to ensure proper use of federal program funds.

*HOLD-HARMLESS PROVISIONS*

**Q. If an LEA loses eligibility for any of the four Title I Part A grants in 2009-2010, does the hold-harmless provision apply?**

A. All four funding formulas provide for a variable hold-harmless guarantee for each LEA of 85, 90, and 95% of the previous year's allocation. The hold-harmless percentage depends on the formula child rate of each LEA.

- To be eligible for a basic grant, an LEA must have at least 10 formula children **and** the number of formula children must be greater than two percent of the LEA's school-age population.
- To be eligible for concentration grants an LEA must have more than 6,500 formula children **or** the number of formula children must exceed 15 percent of the LEA's school-age population.
- To be eligible for targeted grants, the number of formula children counted in an LEA for basic grant purposes must be at least 10 **and** equal or exceed 5% of the LEA's total school-age population. In addition, the funding formula adjusts the number of formula children to give greater weight to those LEAs that have higher numbers or percentages of formula children.

- The eligibility criteria used to determine whether an LEA qualifies for an education finance incentive grant (EFIG) allocation are the same as for targeted grants. The State's EFIG is allocated to LEAs using a weighted formula similar to the targeted grants formula.

For Basic, Targeted, and EFIG, an LEA must meet the eligibility criteria in order for hold-harmless protection to apply. For Concentration Grants under NCLB, the hold-harmless provision applies to an LEA for four consecutive years even if the LEA no longer meets the eligibility criteria.

However, for all Title I Part A grants, the hold-harmless provision only applies as far as funding is available.

**Q. Is there an LEA hold-harmless provision for Concentration Grant funds?**

- A.** Yes, the hold-harmless provision applies to an LEA for four consecutive years even if the LEA no longer meets the eligibility criteria. However, Title I law specifies that if appropriations are insufficient to fully fund all Title I entitlements in any given year, grants will be ratably reduced.

**Q. Is an LEA that received Title I, Part D, Subpart 2 funds in 2010-2011 entitled to receive a hold-harmless allocation for 2011-2012?**

- A.** No. The hold-harmless provisions of Title I, Part A do not apply to subgrants received by LEAs under Part D, Subpart 2.

LEA IDENTIFICATION AND SELECTION OF SCHOOL ATTENDANCE AREAS

**Q. If an LEA applies the “35 percent rule,” must all school attendance areas with at least 35 percent poverty be served?**

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

**Q. Section 1113[b][1][D][ii] allows an LEA to skip an eligible school attendance area or school that has a higher percentage of poverty if the attendance area or school is receiving supplemental funds from other state or local sources that are “spent according to the requirements of Section 1114 or 1115.” What is meant by “according to the requirements of Section 1114 or 1115?”**

- A.** Under 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 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 challenging student academic achievement standards; and
  - Uses the State's assessment system described in 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 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 challenging student academic achievement standards; and
- Uses the State's assessment system described in the Title I regulations to review the effectiveness of the program.

**Q. How may preschool children be served under Part A?**

- A.** There are several ways in which preschool children may be served under Part A. For example—
- A participating school may use part of its Part A funds to operate a preschool program.
  - An LEA may reserve an amount from the LEA's total allocation to operate a Part A preschool program for eligible children in the district as a whole or for a portion of the district.

Children served in the Title I preschool program must qualify educationally. To be eligible, preschool children—like school-aged children—must be failing, or most at risk of failing, to meet the local school district's performance

standards. Preschool children may be selected for Title I services on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures. Children who participate in a Head Start or Even Start program at any time in the two preceding years are automatically eligible for Title I services.

#### LOCAL NEGLECTED CHILDREN

**Q. If an LEA is unable or unwilling to provide services to children in local institutions for neglected children, may it retain the funds that were allocated on the basis of these children?**

A. No. If an LEA is unwilling or unable to provide services to neglected children, the SEA must reduce the LEA's allocation by the amount generated by the neglected children.

**Q. May the SEA transfer these funds to another LEA?**

A. Yes. These funds may be assigned to another state agency or LEA that agrees to assume educational responsibility for the neglected children.

**Q. May the SEA retain these funds?**

A. Yes. If the SEA assumes educational responsibility for the neglected children, it is entitled to the funds generated by these children.

**Q. If neither the SEA nor another agency is willing to assume educational responsibility for neglected children, what happens to the funds?**

A. The SEA must reduce the LEA's allocation by the amount that was based on neglected children. These funds would lapse and not be available for reallocation to other LEAs.

**Q. If an institution closes and the children are transferred to an institution in another LEA, must the SEA transfer the funds to the LEA in which the children now reside?**

A. Yes. The SEA must adjust the allocations of the two LEAs to reflect the transfer.

#### MAINTENANCE OF EFFORT

**Q. When a SEA determines maintenance of effort for its LEAs, must the SEA use the same measure for all its LEAs?**

A. No. For example, a SEA must determine maintenance of effort using the measure most favorable to each LEA. AN LEA has maintained fiscal effort if it meets either of the two tests—aggregate expenditures or expenditures per pupil.

#### PARENT INVOLVEMENT

**Q. Is the Parent Involvement requirement of Title I the same for both Targeted Assistance Programs and Schoolwide Programs?**

A. Yes. The No Child Left Behind Act of 2001 requires that parents are involved in the development of the local LEA's plan for Title I. Other requirements include the following:

1. A written parent involvement policy.
2. A school-parent compact for each participating building. For a Schoolwide program, all students would be included.
3. A parent meeting must be held annually.
4. LEAs receiving allocations of \$500,000 or more must budget at least 1% to support parent involvement activities that may include family literacy and parenting skills.

#### PRIVATE SCHOOL SERVICES - CONTACTS AND ACTIVITIES IN PRIVATE SCHOOLS

**Q. Is it permissible for Title I teachers to use private school facilities other than the Title I classroom, such as the restroom, teachers' lounge, cafeteria, or the parking lot?**

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

**Q. May Title I teachers and other public school personnel meet or have discussions with private school teachers and administrators?**

**A.** Yes. Consultation and communication are essential to implementing an effective Title I program. Therefore, Title I personnel may have necessary discussions or meetings with private school officials concerning the design and development of the Title I program, as well as communications concerning the needs and progress of individual children. (For the Title I requirements regarding consultation with private school officials, see section 1120(b) of the Title I statute.)

*PRIVATE SCHOOL SERVICES - LOCATIONS AND TYPES OF SERVICES*

**Q. Do Title I services have to be provided in private schools?**

**A.** No. However, LEAs are required to provide Title I services for private school children that are equitable in comparison to the services and other benefits provided for public school participants and to consult with private school officials on important issues such as the location of any services.

**Q. May Title I instructional services be provided in private schools before and after regular school hours and during the summer?**

**A.** Yes. These are additional, permissible options for providing services for private school children so long as the equitability and consultation requirements are met. In fact, the Title I statute requires, with respect to public and private school children, that LEAs use effective instructional strategies that give "primary consideration to providing extended learning time." These options may be useful particularly in situations where there is no space available in the private school during the regular school day.

**Q. Do Title I services for private school children need to be in the same subject areas or grade levels as public school students?**

**A.** No. The needs of the private school children determine what Title I service is appropriate. However, because eligibility for services is determined by residence in a participating public school attendance area, private school students being served need to reside in an eligible participating public school attendance area. Therefore, for example, if a public middle school attendance area is not participating in Title I, Title I service may not be provided to private school students in middle school grades who reside in the area.

**Q. Does space used in private schools for Title I instruction need to be free of any religious symbols?**

**A.** In its decision in *Agostini*, in ruling that Title I instructional services can be provided in private schools, the Court relied on the safeguards in New York City's pre-Aguilar program, including the fact that the Title I services were provided in space that had no religious symbols. While the Supreme Court did not specifically indicate whether the removal of religious symbols was required, it is a significant factor a Court is likely to take into account in reviewing the constitutionality of services in private schools and LEAs are strongly encouraged to provide Title I instruction in space that is free of any religious symbols.

**Q. May space used for Title I instruction in a private school be used for non-Title I purposes at other times?**

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

**Q. May Title I service be provided in the regular private school classrooms through aides or joint teaching efforts?**

**A.** It is recommended that LEAs not provide these types of services. In holding that Title I instruction may be provided in private schools, the Court in *Agostini* emphasized that the Title I program was totally separate from the private school's educational program and under the sole control of the LEA. Providing Title I instruction as a part of private

school classes raises significantly different issues that increase the risk that the services would be held unconstitutional.

**Q. Are private schools required to make space available in their schools for Title I services?**

- A. 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 have to 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.

PRIVATE SCHOOL SERVICES - NEW PRIVATE SCHOOL CHILDREN

**Q. Can an LEA serve eligible private school children who previously declined Title I service?**

- A. Yes. An LEA may provide services to these children to the extent possible in the current school year, but the LEA will have met its responsibility to offer equitable services to private school children for the upcoming school year if it contacted representatives of these children on a timely basis in the normal course of designing the Title I program and services were declined. However, we strongly encourage these LEAs to contact representatives of these children to see what arrangements or modifications can be made for the upcoming school year and to make those adjustments unless it would seriously disrupt the already-planned program. With respect to future years, LEAs should make renewed efforts to contact representatives of private school children that may have declined services because they could not be provided in the private school.

PRIVATE SCHOOL SERVICES – "OFF-THE-TOP" REQUIREMENTS

**Q. Does the "off-the-top" requirement apply?**

- A. Yes. Section 200.27 of the Title I regulations requires that LEAs reserve funds as are reasonable and necessary for certain purposes, including administration of programs for public and private school children, before funds are allocated to school attendance areas or schools. Therefore if an LEA continues to provide Title I services, these costs would come "off-the-top" of the LEA's Title I allocation before funds are allocated for instructional services for public and private school children. The "off-the-top" costs of providing Title I services for private school children outside their own schools has been reduced greatly as a result of the Court's decision in Agostini.

**Q. Must an LEA ensure that equitable services to private school children are provided from Title I funds reserved "off-the-top" for district-wide instructional programs?**

- A. Yes. If an LEA reserves Title I funds "off-the-top" for district-wide instructional programs, the equitable services requirement applies. Section 200.64(a)(2)(i)(A) of the Title I regulations requires that, if an 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 bases equitable services from the reserved funds on the proportion of private school children from low-income families residing in participating public school attendance areas.

**Q. How does an LEA determine the amount of funds to be used for parent involvement activities for parents of participating private school students?**

- A. Section 1118 of the Title I statute 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 Title I 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.

**Q. How does an LEA determine the amount of funds to be used for professional development activities for teachers of private school Title I participants?**

- A. If an LEA reserves funds under Section 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 Section 200.65 of the Title I 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.

#### PRIVATE SCHOOL SERVICES - SCHOOLWIDE PROGRAMS

##### **Q. Can Schoolwide programs be operated in private schools?**

- A. No. Schoolwide programs may not be operated in private schools because private schools, as opposed to private school students, are not themselves eligible for Title I service.

#### REALLOCATION

##### **Q. How does a SEA reallocate funds?**

- A. Section 1126[c] of Title I requires that a SEA reallocate Part A funds on a timely basis to LEAs in the State that need additional funds in accordance with criteria established by the SEA. Funds available for reallocation may include:
- Excess Part A funds available from an LEA that: (1) is eligible for a Title I allocation but has chosen not to participate in the Title I program; (2) has had its allocation reduced because it failed to meet the maintenance of effort requirements in Section 14501 of ESEA; (3) has carryover funds that exceed the 15 percent limitation in Section 1127 of Title I; or (4) has excess funds for other reasons; or
  - Funds that a SEA has recovered after determining that an LEA has failed to spend Part A funds in accordance with the law.

#### SUPPLEMENTAL EDUCATION SERVICES

##### *Q. Do public school options include only schools in the same district?*

- A. There may be situations where children in Title I schools have school options outside their own school district. For instance, an LEA may choose to enter into a cooperative agreement with another LEA that would allow their students to transfer into the other LEA's schools. In fact, the law requires that an LEA try "to the extent practicable" to establish such an agreement in the event that all of its schools have been identified as needing improvement, corrective action or restructuring.

##### **Q. Is transportation available for children who exercise their right to attend another school?**

- A. Subject to a funding cap established in the statute, LEAs must provide transportation for all students who exercise their school choice option under Title I and priority must be given to the lowest-achieving children from low-income families.

##### **Q. What are Supplemental Education Services?**

- A. Supplemental Education Services are additional academic instruction designed to increase the academic achievement of students in schools that have not met state targets for increasing student achievement (adequate yearly progress) for three or more years. These services may include tutoring and after-school services. They may be offered through public or private sector providers that are approved by the state, such as public schools, public charter schools, local education agencies, educational service agencies and faith-based organizations. Private sector providers may be either nonprofit or for-profit entities. SEAs must maintain a list of approved providers across the state organized by the school district or districts they serve, from which parents may select. SEAs must also promote maximum participation by Supplemental Education Services providers to ensure that parents have as many choices as possible.

##### **Q. When are children eligible to receive Supplemental Education Services?**

- A. Students from low-income families who remain in Title I schools that fail to meet state standards for at least three years are eligible to receive supplemental education services.

##### **Q. Are parents notified about Supplemental Education Services?**

A. Yes. LEAs are required to provide annual notice to parents of eligible children about the availability of services and information on the approved providers.

**Q. Can parents choose providers for tutoring and other Supplemental Education Services?**

A. Yes, parents of eligible children can choose from the list of State-approved providers. Most states have approved a diverse list of providers. Upon request, the LEA will help parents determine which provider would best fit their child's needs. When parents have made their selection, the LEA must then contract with that provider to deliver the services.

**Q. What action can parents take if their child is eligible for tutoring or other Supplemental Education Services, but their school or LEA does not offer them?**

A. LEAs receiving Title I funds must offer free tutoring and other extra help to eligible students. If eligible students are not being offered these services, parents are encouraged to contact the state Title I office.

**Q. How are Supplemental Education Services providers held accountable?**

A. SEAs must develop and apply objective criteria for evaluating providers and monitor the quality of services that they offer. In addition, Supplemental Education Services providers must give to parents, as well as to the school, information on their children's progress.

*TITLE I FUNDED STAFF*

**Q. Is it allowable for a Title I funded teacher to substitute occasionally for elementary staff?**

A. The Federal guidance states that Title I paid personnel may—  
“Assume **limited duties that are assigned to similar personnel** paid with other funds, including duties beyond classroom instruction or that do not benefit Title I participants, as long as the amount of **time spent** on the limited duties **is the same proportion of total work time as that for similar personnel at the same school.**”

Additionally it states, “The provision **is not meant to result in Title I staff being assigned a disproportionate share of special duties** at a school. In assigning Title I staff to such duties, a school and LEA should **ensure that the Title I program is not harmed.**”

To summarize, it is allowable if it is not on a regular basis, if Title I staff are treated the same as similarly situated personnel, and if it does not impair the Title I program.

**Q. May a Title I funded teacher work with a small group mix of students in the regular classroom as part of our targeted assistance building's new reading program?**

A. As it is stated, no. Please remember that a targeted assistance school differs from a Schoolwide in the following ways:

- Title I funds may be used in targeted assistance buildings only for programs that provide service to eligible children identified as **having the greatest need** for special service.
- Title I funds must be used for services that **supplement, and do not supplant**, the services that would be provided in the absence of Title I funds, from non-federal sources.

Records must be maintained that document that Title I funds are spent on activities and services for only Title I participating students.

