



Public School Choice

Non-Regulatory Guidance



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SUMMARY OF MAJOR CHANGES

This guidance updates and expands on the Public School Choice guidance that the Department released on December 4, 2002. It includes a number of new questions that address issues that, in the main, respond to inquiries the Department received from State and local officials on issues subsequent to issuance of the original guidance. Responses to other questions are revised to make them clearer or more responsive to issues that have arisen in the implementation of the Title I choice provisions.

The following are new questions that were not in the original version of the guidance:

- B-5, regarding the provision of choice to students in schools identified as in need of improvement after the beginning of a school year;
- B-8, regarding the provision of choice to a student who changes schools and whose new school is subsequently identified as in need of improvement;
- B-9, regarding the provision of choice to a student who changes schools and who subsequently moves out of the school attendance area of a school identified for improvement;
- B-11, regarding the provision of supplemental educational services to students enrolled in schools in their first year of school improvement status;
- C-2, regarding the determination of whether a student is “enrolled” in a school identified for school improvement and thus is eligible to exercise the choice option;
- C-4, 5, and 6, which provide guidance on the identification of students as coming from low-income families (for the purpose of giving a priority for school choice to the lowest-achieving low-income students);
- E-2, regarding provision of the opportunity to attend “virtual schools” to students eligible to change schools under the Title I provisions;
- E-5, on the issue of whether charter schools may give a priority to students seeking to change schools under the Title I choice provisions;
- E-8, on the range of options that may be available to local educational agencies (LEAs) in creating the capacity to provide all eligible students with choices;
- F-2, on issues that parents of students with disabilities should bear in mind when exercising choice;
- J-4, regarding the amount of funding that an LEA must provide for choice-related transportation, if it is not required or is unable to offer supplemental educational services;
- J-5, on the amount of money that an LEA must expend for choice-related transportation and supplemental educational services if the cost of continuing to provide transportation to students in previous years exceeds 15 percent of its Title I allocation; and
- J-11, on the transportation requirements that apply to an LEA that does not, as a general policy, provide transportation to students.

In addition, the responses to the following questions include significant new information that was not included in the original version:

- B-7, regarding the length of time that students who change schools must be allowed to remain in their new school;
- D-4, regarding the amount of time that parents should be given to select a school for their child;
- E-13, regarding the requirements that apply to an LEA in which it is not possible to offer students a choice to attend another school within the district;
- F-4, on whether the movement of a disabled child to a new school under the Title I choice provisions constitutes a “change of placement” under the Individuals with Disabilities Education Act;
- I-1, on the funding of programs and services for transferring students in their new schools; and
- J-2, on funding for choice-related transportation.

The following questions from the original guidance are not included in the new version (numbering reflects the format of the original guidance). In most cases the information in these items duplicated material available elsewhere in the guidance:

- C-2, on the schools whose students must be provided the opportunity to transfer;
- E-2, on the schools that cannot be made available as transfer options to students seeking to change schools under the Title I provisions;
- E-5, on whether an LEA may limit the choices available to eligible students;
- G-4, on payment of legal costs related to the amendment of school desegregation plans;
- I-1, on the provision permitting LEAs not to implement the Title I choice requirements if doing so would contravene State law;
- I-2, regarding open enrollment policies; and
- J-2, on funding for choice-related transportation.

Public School Choice

INTRODUCTION

When schools do not meet State targets for improving the achievement of all students, parents need to have better options, including the option to send their child to another school. The *No Child Left Behind Act of 2001* (NCLB) responds to that need by giving parents of children enrolled in schools that receive Title I funding and that are identified for “school improvement” the opportunity to transfer their children to a school that has not been so identified. These provisions of the statute, along with other elements that focus new attention and resources on turning around the schools identified for improvement, are critical mechanisms for achieving the vision embodied in NCLB, a high-quality education for all children. It is important that school officials engage energetically both in efforts to improve low-achieving schools and in implementing the public school choice provisions, so that this vision can be achieved.

The No Child Left Behind Act amended the Elementary and Secondary Education Act of 1965 (ESEA) in a number of areas to strengthen parent involvement and choice in education. The most critical amendments, and the subject of this guidance, require LEAs to provide the opportunity to transfer to another school to students enrolled in schools that administer Title I programs and that have been identified for (1) school improvement, (2) corrective action, or (3) restructuring (both in the planning year for restructuring and in any implementation years). For the definitions of these terms, please see Appendix A.

Parents of students enrolled in schools in those three categories may also have the opportunity to obtain, for their children, “supplemental educational services,” which are tutoring and other academic enrichment services provided outside the regular school day and designed to enable children from low-income families to reach academic proficiency. The opportunity to obtain supplemental educational services is another parental choice component of *No Child Left Behind* and is available to eligible students who are enrolled in schools in the second year of school improvement (or undergoing corrective action or restructuring). When both options are available, parents may have the choice of which option they would prefer for their child. (For more information on supplemental services, go to <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>).

This guidance highlights important aspects of the public school choice component of Title I, and provides guidance on its provisions that may be useful in administering and implementing these requirements. States and LEAs may rely on this guidance in administering these provisions. U.S. Department of Education officials, including the Inspector General, will consider recipients that follow approaches contained in this guidance to be in compliance with the applicable Federal requirements that govern this program.

A. GENERAL INFORMATION

A-1. What is the purpose of the public school choice requirement in *No Child Left Behind*?

Public school choice is a critical component of (NCLB because it offers a student enrolled in a Title I school that is in need of improvement an opportunity to attend another school, even as his or her original school is undergoing improvement. The process of turning around a low-performing school typically takes time, and during that time that school's students are at risk of falling further behind if they do not have additional options. Together, the school improvement activities undertaken under Title I and public school choice can provide all students in low-performing Title I schools the opportunity to obtain a high-quality education. When all students – including students with disabilities and English language learners – are provided high-quality educational options, and when parents receive enough information to make intelligent choices among those options, public school choice can increase both equity and quality in education. In addition, expanded parental choice gives schools a greater incentive to undertake reforms and make the changes that are needed to improve student learning and reach academic achievement goals.

A-2. Which schools and local educational agencies (LEAs) are required to offer public school choice?

LEAs receiving funds under Title I are required to make choice available to all students in qualifying schools. Students who are enrolled in Title I schools are eligible to transfer to another school if their school has been identified as in: (1) school improvement; (2) corrective action; or (3) restructuring. (For the definitions of these terms, please see Appendix A.) The LEA is responsible for paying all or a portion of the transportation necessary for students to attend their new schools, subject to the limitations discussed in item J-3.

A-3. What are the key principles that should form the foundation for a quality public school choice plan?

A quality public school choice plan should embody the following principles:

1. Choice is an important opportunity for parents and children.
2. Choice is an important component of the overall district educational improvement plan.
3. An overriding goal is to provide students with access to quality instruction.
4. Communication with parents is timely and thorough.
5. Information on choices is provided to parents and students in a format that is easy to understand.

6. Real choice means giving parents more than one option from which to choose.

A-4. May an existing choice program, such as an open enrollment program, be modified to accommodate the Title I public school choice requirement?

Yes, the Title I public school choice provisions can be accommodated within, and can become a meaningful part of, an open enrollment program, provided that the requirements in Title I are met, including the requirement for LEAs, in implementing the Title I requirements, to give parents timely notice of their choice option, to give priority to the lowest-achieving low-income children and to provide students who change schools under Title I with transportation to their new school (subject to the limitations in Section J).

A-5. What educational choice options are available to students and parents under the Act?

NCLB includes several provisions that increase student and parental choice. Two of them address academic achievement at the school level and one addresses the issue of student safety. LEAs must give students attending schools that have not made adequate yearly progress (AYP) in improving school achievement the options of (1) attending another public school or (1) receiving supplemental educational services, depending on the eligibility and the status of the school. The choice to attend another public school is available to all students enrolled in schools that are in their first year of school improvement status and for subsequent years that the school remains identified for improvement. Supplemental educational services are available to eligible students who are enrolled in a school in its second year of improvement and for subsequent years. When both options are available, parents have the choice of which option they would prefer for their child.

For more information on supplemental educational services, go to <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>.

NCLB also gives students the opportunity to transfer to a new school if the State has identified their school as persistently dangerous, or if they have been a victim of violent crime on school property. For more information on the unsafe school choice option in NCLB, go to: <http://www.ed.gov/policy/elsec/guid/unsafeschoolchoice.doc>.

A-6. Are State educational agencies (SEAs) subject to any reporting requirements regarding Title I public school choice?

Yes. SEAs must include, in their annual Title I State reports to the U.S. Secretary of Education, information on the number of schools that offer choice under the

Title I provisions and the number of students who exercise the option to change schools [Section 1111(h)(4)(F)]. The law also requires that the SEA make the information in this report widely available within the State [Section 1111(h)(4)].

B. TIMING AND DURATION OF CHOICES

B-1. For which students is an LEA required to offer public school choice?

An LEA must offer all students enrolled in Title I schools (that is, schools that operate programs funded under Title I, Part A of the ESEA) the opportunity to transfer to another public school when those schools fall within one of the stages of improvement detailed in the legislation and noted below. Those stages are based upon the number of years in which a school has failed to make adequate yearly progress (AYP). (See Appendix A for definitions.) Beginning with the 2002-2003 school year, LEAs have been required to offer choice to students enrolled in schools in the following categories:

1. Schools that are in their first year of school improvement.
2. Schools that are in the second year of school improvement.
3. Schools that are in corrective action.
4. Schools that are in restructuring (both the planning year for restructuring and any implementation years) [Sections 1116(b)(5)(B), 1116(b)(7), and 1116(b)(8), and 34 C.F.R. Section 200.43(b)(2)].

Under the Title I statute, a school is identified for “school improvement” when it fails to make AYP for two consecutive years. It remains in improvement, and then continues into “corrective action” and then “restructuring” statuses, until it makes AYP for two consecutive years. The Department’s guidance on school and LEA improvement is available at <http://www.ed.gov/policy/elsec/guid/schoolimprovementguid.doc>.

B-2. When must an LEA make public school choice available to eligible students?

An LEA must make choice available for students not later than the first day of the school year following the school year in which the LEA administered the assessments that resulted in the school being identified as in need of school improvement, corrective action, or restructuring [Section 1116(b)(1)(E)]. If possible, an LEA should notify parents about their available choices well before the beginning of the school year in which those choices will be available.

B-3. How should year-round schools meet the requirement to offer school choice by the beginning of the school year?

In the case of year-round schools, choice must be offered before the beginning of the “school year” as that term is defined by the SEA or LEA. Parents of children

attending these schools should be informed of their opportunity to choose another school as early as possible, and before the start of the new school year.

B-4. What is the responsibility of an SEA to ensure that public school choice is available at the start of a new school year?

An SEA must provide student assessment results, as well as lists of schools identified for improvement, corrective action, and restructuring, to each LEA in a timely manner so that the LEA can, before the beginning of the new school year, identify those schools whose students may transfer and inform parents that they may choose a different school for their child.

B-5. If any LEA does not receive from its SEA, prior to the start of the school year, student achievement results or the list of schools identified for improvement, corrective action, and restructuring, when must it offer public school choice?

The law requires SEAs to ensure that the results of State academic assessments are available to LEAs before the beginning of the school year (that is, before the start of the school year that follows the school year in which the assessments were administered) [Section 1116(a)(2)]. It also requires LEAs to offer choice to eligible students prior to the beginning of the school year. While these provisions of the Act have required some States to adjust their assessment and reporting schedules, all States should now be in a position to make available to LEAs the information needed to offer eligible students the opportunity to change schools before the school year commences. If, however, an LEA does not receive the information in time to offer choice before the beginning of the school year, it must make choices available as quickly as possible, so that parents can exercise choice and students can enter new schools before the school year gets well underway.

Under no circumstances should an LEA wait until the next school year before providing the opportunity to transfer to eligible students. For example, an LEA that receives its listing of schools identified for improvement in the fall might offer choice to students immediately or for the second semester [34 C.F.R. Section 200.32(f)].

B6. How long must an LEA continue to offer students in eligible Title I schools the option to attend another public school?

An LEA must offer choice to all students in an eligible Title I school until the school is no longer identified for improvement, corrective action, or restructuring, i.e., until the school makes AYP for two consecutive years.

B-7. How long must students who change schools be allowed to attend the school of their choice?

If an eligible student exercises the option to transfer to another public school, an LEA must permit the student to remain in that school until he or she has completed the highest grade in the school. However, the LEA is no longer obligated to provide transportation for the student after the end of the school year in which the student's school of origin is no longer identified for school improvement, corrective action, or restructuring [34 CF.R. Section 200.44(g)].

In addition, the statute does not require students who change schools to remain in their new school through the highest grade of the school. To the extent feasible, those students should have the opportunity to return to the original school if their parents decide that would be in their educational interest.

In an eligible student has transferred out of a school that is in school improvement status and the student's original school leaves that status after the school year has begun, the LEA must allow the student to continue to attend his or her current school through the final grade of that school, but no longer is required to provide transportation. Since the school year will already be underway, however, the LEA should give parents time to come up with other options rather than immediately terminating the provision of transportation. For example, it might want to continue to provide transportation until the semester break.

B-8. What opportunities for public school choice must an LEA provide to a student who has changed schools under the Title I choice provisions and whose new school is subsequently identified as in need of improvement?

Like other children enrolled in schools identified for improvement, that child must be offered the choice of attending a school that has not been so identified and, subject to the limitations described in Section J, offered the opportunity to receive transportation to such a school. Note, however, that this policy must be read together with the policy set forth in item B-7; if a child's original school is no longer on the State's school improvement list, the LEA is not required to provide transportation to that child.

B-9. If an eligible student changes schools but, in a subsequent year, moves out of the school attendance area for his or her original school and no longer lives in the attendance area of a school identified for improvement (but continues to live in the same school district), must the LEA continue to allow that student to attend the new school and continue to provide transportation?

As with students whose original school is no longer identified as in need of improvement, students who change schools and then move out of the attendance zone served by a school in improvement status must be permitted to continue attending their new school until they have completed the highest grade in that

school. However, once they move, the LEA is no longer obligated to provide for transportation.

B-10. What can an LEA do to plan for public school choice even before assessment results and identifications of schools in need of improvement are available?

An LEA has several options that may facilitate planning for public school choice before assessment results are available. For example, transportation and communication plans can be developed before implementation is required.

An LEA will know in advance many of the schools that must offer choice, since a school in improvement status must make AYP for two consecutive years before it no longer has to offer choice. For schools that will continue to be in improvement status for at least an additional year, plans can be made and parents can be notified well before the end of the school year.

In other instances, an LEA may choose to introduce or expand programs that allow open enrollment, which can then be modified to accommodate students who will be eligible to transfer if their school is identified for improvement.

B-11. May an LEA that is required to offer school choice (but not supplemental educational services) to students enrolled in a particular school offer those students the opportunity to receive supplemental educational services?

An LEA may give students enrolled in schools in their first year of improvement the opportunity to obtain supplemental educational services, so long as they also offer those students the opportunity to change schools. However, because the law requires the provision of choice (but not supplemental educational services) to these students, all students who want to change schools must be able to do so, and their transportation needs must be met (subject to the 20 percent limit discussed in item J-3) before any of these students are given supplemental educational services. LEAs that offer parents of those students the option of having their child change schools or receive supplemental educational services must make it clear to the parents that, depending on the demand for choice (and the cost of transporting students to their new schools), supplemental services might or might not be provided.

In addition, if an LEA has both schools in their first year of improvement and schools in their second year of improvement or undergoing corrective action or restructuring, it must give priority for supplemental educational services to students enrolled in the schools in their second year of improvement or in corrective action or restructuring (the students who, under the statute, are entitled to be given the opportunity to receive those services).

C. ELIGIBLE STUDENTS

C-1. Which students are eligible to change schools under the Title I public school choice provisions?

All students enrolled in Title I schools identified for school improvement, corrective action, or restructuring are eligible to transfer to another public school (which may be a charter school) that is not in school improvement. This requirement applies whether the school in which a child is enrolled administers Title I as a schoolwide program [Section 1114] or as a targeted assistance program [Section 1115]. The only exception applies in the situations discussed in item E-12, when there are no other schools in the district (or outside the district) to which students could transfer.

In the case of a school that operates a targeted assistance program, all students in the school, not just those receiving Title I services, must have the opportunity to change schools.

C-2. Are students who plan to attend, but are not yet “enrolled” in, a school eligible to take advantage of the Title I choice provisions?

The Title I statute requires that choice be made available to all students enrolled in schools identified for improvement (or corrective action or restructuring), but does not define “enrollment.” Therefore, the answer to this question depends on how States and LEAs define that term and how they determine when a student is officially enrolled in a school. The Department believes, however, that students planning to enter a school for the first time, such as entering kindergartners, or students moving from elementary to middle school, or those who have just moved into the school attendance area served by a Title I school, should generally have the same opportunity to exercise choice as students previously enrolled in a school.

C-3. What does the law mean when it says that the LEA shall “give priority to the lowest achieving children from low-income families”?

The LEA must give *all* students in a school identified for improvement the opportunity to transfer to another public school. In implementing this option to transfer, however, there may be circumstances in which the LEA needs to give priority to the lowest-achieving children from low-income families [Section 1116(b)(1)(E)(ii)]. For example, if not all students can attend their first choice of schools, an LEA would give first priority in assigning spaces to the low-achieving low-income students. Similarly, if an LEA does not have sufficient funding to provide transportation to all students who wish to transfer, it would apply this priority in determining which students can receive transportation.

C-4. In applying this priority, how does an LEA determine which students are from low-income families?

The statute requires that LEAs make this determination using the same data that they use in allocating Title I funds to schools [Section 1116(e)(12)(A)].

C-5. May LEAs use information from the National School Lunch Program in determining which students are from low-income families and thus may be eligible for the priority for public school choice?

Because the law requires LEAs, in determining which students are eligible for the priority, to use the same data they use in making Title I allocations, and because most LEAs use school lunch data in calculating those allocations, most LEAs will, in fact, have to use school lunch data in identifying students as eligible for the priority. LEAs should do so, however, in a manner that protects the confidentiality of school lunch data, as provided for in the Richard B. Russell National School Lunch Act. They should establish procedures that allow release of information on school lunch eligibility only to officials who need that information for proper administration and enforcement of the school choice program and should include safeguards to protect family privacy. Additional information on this issue is provided in a December 17, 2002 letter from the Departments of Education and Agriculture (available at <http://www.ed.gov/programs/titleiparta/letter121702.html>).

C-6. How may LEAs that operate school lunch programs under Provisions 2 and 3 of the National School Lunch Act determine which students are from low-income families and thus may be eligible for the priority?

“Provision 2” and “Provision 3” allow schools that offer students lunches at no charge, regardless of the students’ economic status, to certify students as eligible for free or reduced price lunches once every four years and longer, under certain conditions. National School Lunch Program regulations prohibit schools that make use of these alternatives from collecting eligibility data and certifying students on an annual basis for other purposes.

For the purpose of identifying students as eligible for the priority for public school choice under Title I, school officials may deem all students enrolled in Provision 2 and Provision 3 schools as “low-income.” For additional information, see the Department of Education-Department of Agriculture letter on this issue (available at <http://www.ed.gov/programs/titleiparta/22003.html>).

C-7. How does an LEA determine which students are “lowest achieving”?

LEAs have flexibility in determining which students from low-income families are lowest achieving and thus must be given a priority for public school choice. Eligible students might be rank-ordered, based on their achievement levels as

determined using objective educational measures, such as the State assessment administered under ESEA section 1111. (However, students may not be rank-ordered by family income level, because this method would not give priority to the lowest-achieving educational students.)

Alternatively, the LEA might allow all eligible students who receive less than a certain score on State assessments (for instance, all those who score “below basic” in reading or mathematics) to change schools. This method could be used to focus attention on subject areas where the school or LEA did not meet State AYP goals. Another option might be to base the determination on student grades, or on the scores students receive on other tests.

C-8. What if a particular student attends a school that has been identified for improvement, but has been assigned to that school by a court order or for disciplinary reasons?

Although this issue is difficult to answer in general terms, because it is dependent upon the particular circumstances surrounding a student’s placement (and can and should be resolved on a case-by-case basis), some general guidelines may be helpful.

If a student is assigned to a particular school by a family court for child custody reasons and that school has been identified for improvement, the student could be eligible to transfer under the provisions in Title I. However, the student’s parent may not be able to exercise that option without first obtaining permission from the court to move his or her child.

Similarly, a student may be assigned to a particular school -- e.g., an alternative school -- by a juvenile court due to the student’s violent or criminal behavior or for disciplinary reasons sufficiently serious to justify placement in a particular learning environment. In this circumstance, the LEA would likely need to limit or deny the choice option.

For issues related to court-ordered desegregation plans, please see section G.

D. NOTIFICATION OF PARENTS

D-1. When should parents be notified that their children are eligible for public school choice?

Parents should be notified by the LEA well before the beginning of the school year or school term in which choice will be offered. (See item B-2.)

D-2. How must an LEA notify parents that their children are eligible for public school choice?

An LEA must provide an explanation of the choice option to all parents of students enrolled in Title I schools that have been identified for school improvement, corrective action, or restructuring. This notification must be in a comprehensive, easy-to-understand format and, to the extent practicable, in a language the parents can understand. At a minimum, this notification must:

1. Inform parents that their child is eligible to attend another public school due to the identification of the current school as in need of improvement;
2. Identify each public school, which may include charter schools, that the parent can select;
3. Include information on the academic achievement of the schools that the parent may select [34 C.F.R. 200.37(b)(4)].

The LEA should also include an explanation of why the choices made available to parents may have been limited.

An LEA may provide additional information on the schools to which the student may transfer, such as a description of any special academic programs or facilities, the availability of before- or after-school programs, and the professional qualifications of teachers. Such additional information should be presented in an unbiased manner that does not seek to dissuade parents from exercising their opportunity to choose a new school. In addition to mailing notices directly to parents, the LEA must provide information about choice options through broader means, including newspapers, posters, and the Internet.

D-3. What should parents look for when they are given the option of school choice?

Parents should focus on the academic achievement results produced by the schools they are considering. As noted above, when they are notified about the opportunity to choose a different school for their child, parents must receive information regarding student academic achievement at the schools from which they may choose. In addition, parents may want to request more detailed information and to ask to see a school's academic report card, if available.

District officials should urge parents to consult a variety of sources for information about the schools that are available to accept transfer students. These sources of information might include other parents, the local media, school visits and information available on school performance report cards. Parents should match the strengths of a particular school with the needs of their child, so that the child will be able to receive appropriate instruction geared toward improving his or her academic achievement.

Questions parents may wish to ask the schools they are considering include:

1. How do you address the needs of struggling students?
2. What will you do to help my child achieve at higher levels?
3. What is the academic achievement level of your students in reading/language arts/English and math, as well as in other subjects?
4. How has this achievement changed over time?
5. How do you teach reading? Do you follow scientifically based strategies?
6. What percentage of your teachers are highly qualified?
7. Does your school offer challenging coursework or other academic challenges at the middle or high school level?

D-4. How much time should parents have to consider their options?

An LEA might set different timelines for parents to make their decisions on choice, depending on the circumstances in the LEA and its schools. For example, the LEA might permit parents to exercise choice at various times during the school year (e.g., in the spring of the prior school year, at the beginning of the school year, and at the beginning of the second semester). Alternatively, the LEA may establish a “window” during which parents must exercise their choice option. Whatever the case, the LEA must set a reasonable deadline by which parents must apply and ensure that the parents have sufficient time and information to make an informed decision about selecting a school. The LEA should work with parents to ensure that they have ample information and time to take advantage of the opportunity to choose a different public school for their child.

D-5. What procedures should LEAs establish for enabling parents to communicate their choice of school?

An LEA should ensure that its policies for receiving choice-related communications from parents do not impede parents’ opportunities to exercise choice options. For example, parents should not have to appear in person to state their choices. Rather, parents should be able to communicate their choices in a variety of ways, including by standard mail, email, or fax. The LEA should confirm with parents that it has received their communication regarding choice.

D-6. If there are no schools to which students can transfer, must parents still be notified?

Yes, parents must be notified that their child’s school is identified for improvement. Such notification might also inform parents of the option of receiving supplemental educational services for those children who are eligible. (See also item E-13.)

E. SCHOOLS OF CHOICE

E-1. Which schools may be offered to students as transfer options?

Except in the situations described in items E-9 and E-12, students must be given the option to transfer to other public schools, which may be charter schools, within the LEA. The choices made available to students may not include schools identified for improvement (or corrective action or restructuring) under Title I or identified by the State as persistently dangerous. Charter schools that fall within the boundaries of an LEA, but are not authorized by the LEA, may also be included as transfer options, in coordination and with the agreement of the individual charter school. The public schools from which students may choose may be, but are not required to be, public schools that operate Title I programs [34 C.F.R. Section 200.44(a)(3)].

E-2. May a “virtual school” (a school that offers instruction through distance learning technology) be among the schools to which eligible students are offered the opportunity to transfer?

Yes, so long as that school is a public elementary or secondary school (as defined in State law) and has not been identified for school improvement, corrective action, or restructuring. If the “virtual school” is not operated by the LEA, the LEA could enter into a cooperative agreement with the school so that its students can enroll.

E-3. How many choices of schools is an LEA required to offer to students?

If more than one school that meets the requirements outlined in item E-1 is available, the LEA must offer more than one choice to eligible students. LEAs should strive to provide a full menu of choices to students and parents, and must take into account parents’ preferences among the choices offered [34 C.F.R. Section 200(a)(4)(ii)].

E-4. May specialty schools, such as schools for the performing arts, be offered to students as transfer options?

Yes. However, LEAs do not need to disregard entrance requirements when identifying transfer options for students. For example, an LEA may require students wishing to transfer to a fine arts magnet school or to a school for gifted students to meet the normal eligibility requirements for those schools, even if there are no other choices available to eligible students in the district.

E-5. May a charter school that admits students using a lottery give priority to eligible students who wish to transfer to the school under the Title I choice provisions?

In order to be eligible for funding under the Department's Charter Schools Program (CSP), a charter school must admit students on the basis of a lottery, if more students apply for admission than can be accommodated [*Section 5210(1)(H)*]. The Department's program guidance for charter schools (available at <http://www.ed.gov/policy/elsec/guid/cspguidance03.doc>) allows only limited exceptions to the general rule that lotteries must give all students an equal chance to gain admission to a charter school. (See Section C of that guidance.) However, for the limited purpose of providing greater choice to students covered by the Title I choice provisions, a charter school may weight its lottery in favor of those students and still remain in compliance with CSP requirements. For example, a school could provide each student seeking a transfer under the Title I provisions with two or more chances to win the lottery, while all other students would have one chance to win.

E-6. When an LEA offers parents multiple choices of schools, who makes the final decision on which school a child attends, and how is it made?

While the final decision on the school each child will attend is up to the LEA, and while not all parents will necessarily receive their first choice of school, LEAs must take parents' preferences into consideration in making these decisions. In addition, in making final decisions on assignments, LEAs must give priority to the lowest-achieving eligible children. LEAs might allow parents to rank-order their preferences among the schools that are available to receive transfer students. LEAs should respect those preferences, to the extent practicable, when assigning students to schools or when making decisions about transportation.

Once an LEA has made its decision, parents must have the option to decline the opportunity to move their child to the new school identified by the LEA. If the child's current school is subject to both the public school choice and supplemental educational services requirements, some parents, once they understand the transfer options, might elect to have their child remain in his or her original school and receive supplemental educational services.

E-7. Must an LEA that believes it does not have the physical capacity within its schools to accept transferring students implement the Title I public school choice provisions?

An LEA may not use lack of capacity to deny students the option to transfer but may take capacity into consideration in deciding which choices to make available to eligible students [*34 C.F.R. 200.44(d)*].

Note that this is a change from the Title I public school choice policy that applied prior to the enactment of *No Child Left Behind*. The 2001 Appropriations Act provided that, if an LEA demonstrated to the satisfaction of the SEA that it lacked the capacity to provide all students with the option to transfer to another public school, a school choice option could be denied. This language does not appear in the new law.

The bottom line, then, is that every student enrolled in a Title I school in improvement who wishes to transfer to a school that is not in need of improvement must have that opportunity. Moreover, and LEA's provision of a priority to the lowest-achieving eligible children (as described in Items C-3 and C-7) does not diminish the requirement for the LEA to provide choice to *all* students in its Title I schools that are in school improvement status. Thus, if an LEA does not have sufficient capacity in its schools that are not identified for improvement (or as persistently dangerous) to accommodate the demand for transfers by all eligible students, the LEA must create additional capacity or provide choices of other schools.

E-8. If an LEA does not have the physical capacity to offer transfers to all eligible students, how can it create additional capacity?

When capacity is an issue, school officials will need to employ creativity and ingenuity in creating capacity in schools to receive additional students. The range of possible options might include:

- Reconfiguring, as new classrooms, space in receiving schools that is currently not being used for instruction;
- Expanding space in receiving schools, such as by reallocating portable classrooms within the district;
- Redrawing the district's attendance zones, if insufficient capacity is available within the existing zones within which students would ordinarily select schools;
- Creating satellite divisions of receiving schools, that is, classrooms that are under the supervision of the receiving school principal and whose teachers are part of the school faculty but that exist in neighboring buildings;
- Creating new, distinct schools, with separate faculty, within the physical sites of schools identified for improvement;
- Encouraging the creation of new charter schools within the district;

- Developing distance learning programs, or entering into cooperative agreements with “virtual schools”;
- Reshaping long-range capital construction and renovation plans in order to ensure that schools that are likely to receive new students have additional space;
- Modifying either the school calendar or the school day, such as through “shift” or “track” scheduling, in order to expand capacity; and
- Easing capacity by initiating inter-district choice programs with neighboring LEAs or even by establishing programs through which local private schools can absorb some of the LEA’s students.

E-9. What if State laws have the effect of limiting choice?

The only type of State law that can limit or exempt an LEA from implementing the Title I public school choice requirements is a law that specifically prohibits public school choice through restrictions on public school assignments or the transfer of students from one public school to another [34 C.F.R. Section 200.44(b)]. Other laws, such as those that mandate specific student-teacher ratios, may make providing choice options more difficult, but may not be used to prohibit parental choices.

For issues regarding desegregation orders, see section G of this document.

E-10. What if existing local transfer policies prohibit school choice?

The Title I requirements supersede local laws and local school board policies that limit school choice and are inconsistent with the requirement to provide the option to transfer to all students enrolled in schools identified for improvement, corrective action, or restructuring. Unlike the policy in the fiscal year 2001 appropriations act, the statute does not condition the public school choice requirement on consistency with local law or school board policy.

E-11. What if choice might create health or safety problems?

As indicated in the answers to earlier questions, LEAs have broad latitude in determining which transfer options to offer for parental consideration. They may consider health and safety factors in determining the transfer options. However, as indicated in the answer to question E-7, lack of capacity and health and safety concerns -- including overcrowding problems -- do not excuse an LEA from meeting the Title I public school choice requirement. The expectation is that an LEA will need to find ways to provide choice, consistent with its obligations to provide a healthy and safe learning environment. Some of the options described in item E-8 may be useful to LEAs in resolving health and safety issues.

E-12. May an LEA provide eligible students with an option to transfer to schools outside of the district?

Yes. In fact, the law states that if all public schools within an LEA to which a child may transfer are identified for school improvement, corrective action, or restructuring, the LEA must, to the extent practicable, establish a cooperative agreement with other LEAs in the area that are willing to accept its students as transfers. In addition, LEAs that are not in this situation may want to include inter-district transfers in their plans, in order to broaden the range of student choices or mitigate capacity concerns in the district, or both. Further, a State that has an open enrollment policy should use that authority to make choices available to students in LEAs that do not have any schools to which students can transfer under the Title I choice provisions.

E-13. What if providing the option to transfer to another school within the district is not possible?

A limited number of LEAs may have no schools available to which students can transfer. This situation might occur when all schools at a grade level are in school improvement or when the LEA has only a single school at that grade level. It may also occur in some States where an LEA's schools are so remote from one another that choice is impracticable. For example, if the only other elementary school is over 100 miles away, then choice is likely impracticable. On the other hand, if other potential elementary school choices are located outside an LEA-defined attendance zone or internal boundary, these boundaries may not be used to prevent student transfers.

In these cases, the LEA must, to the extent practicable, enter into cooperative agreements with other LEAs in the area (or with charter and "virtual schools" in the State) that can accept its students as transfers [Section 1116(b)(11)]. The LEA may also wish to offer supplemental services to students attending schools in their first year of improvement who cannot be given the opportunity to change schools [34 C.F.R. Section 200.44(h)(2)].

F. SPECIAL EDUCATION AND CHOICE

F-1. What are the responsibilities of the school that receives transfer students with disabilities?

LEAs must ensure that students with disabilities are provided a free appropriate public education (FAPE) consistent with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (ADA Title II) in their schools of choice. A school to which a student transfers may elect to implement

the individualized education program (IEP) or Section 504 plan (for students eligible only under Section 504 and Title II) developed by the prior school, or to convene an IEP team meeting and develop a new IEP in consultation with the parents that meets the student's needs (or, for the Section 504/Title II-only eligible student, determine the regular and special education and related aids and services necessary to meet the student's needs).

Prior to the parents making a final decision on transferring their child to a new school, LEAs should encourage them to discuss their child's specific needs with the prospective school's staff and visit the prospective school so that the parents are aware of the differences in school size, curriculum, faculty, and other factors that that may affect the ways in which the school will provide a free appropriate education to their child. In addition, LEAs must ensure that schools comply with the other provisions of Section 504 and the ADA, including accessibility provisions [34 C.F.R. Section 200.44(j)].

For information on funding for special education, see item I-4.

F-2. What should parents be aware of in transferring their student?

Students with disabilities have special and specific needs. Along with the information suggested in D-3, parents should discuss their child's specific educational and developmental needs with, and visit, the prospective school, so that every parent is aware of the school environment and its mission. While every student with a disability must be provided FAPE consistent with the IDEA, Section 504 and ADA Title II, the implementation and delivery of a free appropriate public education do not have to be identical at each school. When a parent chooses to transfer a child to a different school and prepares to develop or amend an IEP, the parent must recognize that there are different ways to address the needs of their child.

F-3. Must students with disabilities be offered their choice of the same schools as nondisabled students?

School districts must offer students with disabilities and those eligible under Section 504 the opportunity to be educated in a school that has not been identified as in need of school improvement and has not been identified by the State as persistently dangerous, if nondisabled students have that opportunity.

However, an LEA is not required to offer students with disabilities the same choices of schools as it offers to nondisabled students. In determining the choices available to such students, the LEA should match the abilities and needs of a student with disabilities with those schools that have the ability to provide the student FAPE.

F-4. Does the movement of a student with disabilities to a school of choice constitute a “change of placement” under the IDEA?

A change in the location of delivery of services, in and of itself, does not constitute a “change of placement” as defined under the IDEA. The IDEA statute and implementing regulations contain specific requirements regarding “change of placement” provisions, and LEAs must comply with these requirements when they are triggered.

G. DESEGREGATION AND CIVIL RIGHTS ISSUES

G-1. Must an LEA provide the option to transfer if the LEA is complying with a desegregation plan?

Yes. If an LEA is subject to a desegregation plan, whether that plan is voluntary, court-ordered, or required by a Federal or State administrative agency, the LEA is not exempt from offering students the option to transfer [34 C.F.R. Section 200.44(c)(1)].

G-2. What if a desegregation plan limits the opportunity for students to transfer?

The LEA must still implement public school choice under Title I. However, the LEA should take into account the requirements of the plan in determining how to implement the Title I choice option [34 C.F.R. Section 200.44(c)(2)].

G-3. What if the desegregation plan is a court-ordered plan or a plan entered into with the Department’s Office for Civil Rights?

An LEA that is operating under a court-ordered plan should first determine whether it is able to offer choice within the parameters of its plan. If it is not able to do so, the LEA needs to seek court approval for amendments to the plan that permit a transfer option for students enrolled in schools identified for school improvement, corrective action or restructuring. If the LEA is unable to secure changes to the plan that permit a transfer option, the LEA will be out of compliance with Title I. If that occurs, it should notify the SEA and this Department of its request to the court and of the court’s decision [34 C.F.R. Section 200.44(c)(3)].

If the plan has been agreed to with the Department’s Office for Civil Rights (OCR), OCR will work with the LEA to identify permissible amendments to the plan that will enable the LEA to comply with Title I public school choice requirements.

G-4. How do Federal civil rights laws apply to LEAs implementing public school choice?

In providing public school choice, an LEA may not discriminate on the basis of race, color, national origin, sex, disability, or age, consistent with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, ADA Title II, and the Age Discrimination Act of 1975.

See section F concerning the implementation of the Title I choice requirements for students with disabilities.

H. RESPONSIBILITIES OF SCHOOLS RECEIVING TRANSFER STUDENTS

H-1. What are the responsibilities of a school that receives transfer students under this program?

A school that receives students under this program must ensure that transferring students are enrolled in classes and other activities in the school in the same manner as all other students in the school [*Section 1116(b)(1)(F)*]. For instance, students entering a school as a result of the Title I choice provisions must have the same opportunity to select courses, to take part in special programs (such as activities for gifted and talented students), and to participate in extracurricular activities as all other students enrolled in the school.

H-2. May districts prohibit students transferring from a school identified for improvement the opportunity to participate in interscholastic sports in their new school?

If a district has a general policy that requires all students who transfer under any other choice option within the district to “sit out” from interscholastic sports for a specified period of time after the transfer, then the district may apply that policy to students who transfer under Title I. If it does not have such a general policy, it may not impose one on students who enter the school under the Title I provisions. Policies promulgated by an SEA or State athletic association should be applied in the same way.

I. GENERAL FUNDING ISSUES

I-1. Are there any requirements as to how general educational services for transfer students are to be funded by the LEA?

No. The Title I statute and regulations do not require that any local, State, or Federal funds “follow the child” to his or her new school. However, LEAs should

take care to ensure that receiving schools have available the staff, materials, equipment, and other resources needed to accommodate the students who enter the school through the exercise of the Title I choice option.

I-2. If a child transfers out of her or his original school, should an LEA include that child (1) in the count of children used to determine the Title I allocation to the school of residence, or (2) in the count used to determine the Title I allocation to the school of enrollment?

Generally, Title I school eligibility and Title I allocations are based on the count of poor children who reside in the school attendance zone of a given school [Section 1113]. Consistent with this general rule, an LEA would include a transferring child as part of the count of the school of residence. However, LEAs also have the option of using enrollment as the basis for determining Title I eligibility and allocations [Section 1113(b)(1)(B)]. In the case of an LEA that uses enrollment, the transferring student would be counted in the school in which the student is enrolled (the receiving school).

I-3. May Title I funds be used to benefit non-Title I schools that receive students transferring from Title I schools identified for improvement?

As a general rule, Title I dollars and services do not follow a child who transfers from a Title I school identified for improvement to a non-Title I school. However, in subsequent school years, the receiving school may become eligible for Title I funds if a sufficient number of low-income students transfer into it (if the LEA bases its eligibility determinations on enrollment). If the number of students transferring into a receiving school causes that school to be designated as a Title I school, then it will receive Title I funds.

I-4. Does special education funding follow a child with disabilities to the school of his or her choice?

Federal special education funding is distributed to school districts, not individual schools. It is up to the school district to determine how that money is spent and how those funds are distributed among individual schools within the district.

J. TRANSPORTATION FUNDING AND OTHER TRANSPORTATION ISSUES

J-1. Is an LEA required to provide transportation to schools of choice?

Yes, an LEA must pay for or provide transportation to the new school, subject to the limitations described in item J-3 [34 C.F.R. Section 200.44(i)]

J-2. What funds may be used by an LEA to pay for choice-related transportation?

An LEA may use Title I funds, as well as other allowable Federal, State, local, and private resources, to pay for the transportation required to implement the Title I school choice requirements. (See item J-8.)

J-3. How much must an LEA pay to provide choice-related transportation?

The law establishes a joint funding mechanism for choice-related transportation and supplemental educational services [*Section 1116(b)(10)*]. Unless a lesser amount is needed to meet demand for choice-related transportation and to satisfy all requests for supplemental educational services, an LEA must spend an amount equal to 20 percent of its Title I, Part A allocation, before any reservations, on:

1. Choice-related transportation;
2. Supplemental educational services; or
3. A combination of (1) and (2).

Moreover, the 20 percent must be calculated before the LEA takes any reservations “off the top” of its Title I, Part A allocation for parental involvement, private school equitable participation, or other purposes.

This flexible funding approach means that the amount of funding that an LEA must devote to choice-related transportation depends in part on how much it spends on supplemental educational services. However, if the cost of satisfying all requests for supplemental educational services exceeds 5 percent of an LEA’s Title I, Part A allocation, the LEA may not spend less than an amount equal to 5 percent on those services. Similarly, if the demand from parents of eligible students for transportation needed for choice exceeds 5 percent of the allocation, the LEA must spend the equivalent of at least 5 percent on transportation. The LEA has flexibility in allocating the remaining 10 percent between choice-related transportation and supplemental educational services, and in doing so should take into consideration the level of parental demand and the costs of meeting that demand [*34 C.F.R. Section 200.48(a)*].

An LEA may, but is not required to, spend an amount exceeding 20 percent of its Title I, Part A allocation if additional funds are needed to meet all demands for choice-related transportation and supplemental educational services. A school district could also spend State or local funds, if it wishes, to assist in paying for transportation.

J-4. If an LEA is not required or is unable to provide supplemental educational services to eligible students, how much money is it required to spend on choice-related transportation?

Some LEAs, in a given year, will not be required to provide supplemental educational services because they have no schools that are in their second year of improvement or undergoing corrective action or restructuring or will have received a one-year exemption from the SEA from the requirement to provide services [Section 1116(e)(10)]. LEAs in this situation must spend the equivalent of 20 percent of their Title I allocations on choice-related transportation, or a lesser amount that satisfies all the demand from the parents of eligible students for transportation.

J-5. If the cost of continuing to provide choice-related transportation to students who exercised the option to change schools in previous years exceeds 15 percent of an LEA's Title I, Part A allocation, must the LEA use an amount equal to at least 5 percent of its allocation to provide supplemental educational services?

Yes. The statute requires LEAs to permit a student who changes schools, pursuant to the Title I choice provisions, to remain in the new school until he or she has completed the highest grade in that school, and it terminates the obligation of the LEA to provide transportation prior to completion of that grade only if the child's original school is no longer identified for improvement or subject to corrective action or restructuring [Section 1116(b)(13)]. However, this provision does not exempt an LEA subject to the requirement to provide supplemental educational services from having to spend an amount equal to at least 5 percent of its Title I, Part A allocation on those services. LEAs whose costs of providing transportation to students who continue to enroll in their new schools would exceed 15 percent of their allocations may choose to spend more than 20 percent on the combination of choice-related transportation and supplemental educational services or could reduce their spending on transportation in order to free up 5 percent for supplemental educational services.

J-6. What must an LEA do if funds are not sufficient to provide transportation to all students wishing to transfer?

If the funds available are insufficient to provide transportation to each student who requests a transfer, the LEA must give priority to the lowest-achieving students from low-income families. However, LEAs must still offer the opportunity to transfer to all students. (See also item C-3.)

J-7. Must an LEA reserve a portion of its Title I allocation to pay for choice-related transportation?

No. The statutory phrase “an amount equal to” means that the funds required to pay the costs of choice-related transportation and supplemental educational services need not come from Title I allocations, but may be provided from Title I allocations or from other allowable Federal, State, local, or private sources. (See also item J-8.)

For example, if an LEA or State already operates transportation services, the LEA may be able to provide the transportation required by the Title I school choice provision through its existing transportation program. In such a case, the LEA may count, toward the 20 percent requirement, the portion of its transportation costs that is attributable to providing choice to students exercising the Title I choice option.

J-8. What other Federal program dollars may be used to pay for choice-related transportation?

LEAs may use their Title V, Part A Local Innovative Education Program funds to pay for choice-related transportation. LEAs also may use funds transferred to Title I or Title V from other Federal education programs under the ESEA Section 6123 “transferability” authority to pay such costs. Programs under which such transfers may be made include Title II, Part A (Improving Teacher Quality State Grants); Title II, Part D (Educational Technology State Grants); and Title IV, Part A (Safe and Drug-Free Schools and Communities State Grants). Funding from Title V, Part A (State Grants for Innovative Programs) can also be transferred to Title I. An LEA receiving a discretionary grant from its State under Title V, section 5121(3) and using that grant in accordance with section 5131(a)(12) may also be able to use grant funds to pay for choice-related transportation, depending on the terms of the grant award.

An LEA must include any funds transferred into Title I, Part A (under section 6123) in the base used in calculating the “amount equal to 20 percent” of its Title I allocation, to determine required expenditures for choice-related transportation and supplemental educational services.

J-9. Is an LEA required to pay for transportation for students who have left a school in improvement prior to the enactment of *No Child Left Behind*?

No, this is not required.

J-10. If an LEA does not already directly provide for transportation to and from schools, must the district provide transportation for students choosing to transfer under these provisions?

Yes. However, the statute permits an LEA to make alternative arrangements for providing transportation, such as reimbursing parents for the cost of providing transportation or using city transportation. In addition, the LEA would not be required to provide transportation to students who live only a short distance from their new school, as discussed in the next item.

J-11. If an LEA does provide transportation but has a general policy of not providing it to students who live within a certain distance of their schools, would it have to provide transportation to students who elect, under the Title I school choice provisions, to transfer to schools that are within that distance of their homes?

No. For instance, an LEA might have a policy of providing transportation only to students who live more than a mile from the schools they attend. In that situation, the LEA would not be required to provide for transportation to students who elect, under the Title I provisions, to transfer to schools within one mile of their homes.

J-12. May an LEA establish transportation zones within an LEA based on the geographic location of schools?

Yes, an LEA has latitude in deciding which options to provide for eligible students. For example, it might establish transportation zones based upon geographic location and fully fund transportation to different schools within a zone. This option would allow the district to offer more than one choice of school while ensuring that transportation can be reasonably provided or arranged.

Outside the transportation zone, the district could decide to pay for only part of the transportation to the school. Parents might select a school outside of their designated attendance zone, but they would be informed prior to making this decision that they may be responsible for providing or arranging transportation for their children.

If transportation zones are developed, they should be drawn to provide genuine choice and address only issues of geographic distance. LEAs should ensure that there is sufficient capacity to accommodate the demand for choice within each zone. If this cannot be done, students must be given the opportunity to attend schools outside their zone of residence and provided with transportation.

J-13. Does the Title I “supplement, not supplant” requirement apply to transportation funds?

Yes. Title I funds may be used only to supplement the level of funds that, in the absence of the Title I funds, would be made available from non-Federal sources for the transportation of children. For example, if an LEA is required by State or local law to provide transportation to students who choose to transfer to another school under an existing choice plan, it may not use Title I funds to supplant the State or local funds that it otherwise would use to provide transportation, even though transportation costs generally are an allowable use of Title I funds.

APPENDIX A

Definitions

Adequate Yearly Progress: Adequate yearly progress (AYP) is the measure of the extent to which students in a school, taken as a whole and certain groups within the school, demonstrate proficiency in at least reading/language arts and mathematics. It also measures the progress of schools under other academic indicators, such as the graduation or school attendance rate. The same provisions also apply to LEAs. Each State has now developed its own definition of AYP, and these definitions have been approved by the US Department of Education and are available on the Department's website. State definitions must reflect the objective of all students demonstrating proficiency by the end of school year 2013-2014. [Section 1111(b)(2)].

Corrective Action: A school identified for corrective action is a Title I school that has not made AYP for four years [Section 1116(b)(7)].

Eligible Student: For the purposes of the Title I school choice provision, eligible students are all students enrolled in Title I schools that are in their first or second year of school improvement or are in corrective action or restructuring status [Title I, section 1116(b)(1)(E)]. Note that this differs from the eligibility criteria for supplemental educational services, which are available only to students from low-income families who are enrolled in schools in their second year of improvement or in corrective action or restructuring

Restructuring: A school identified for restructuring is a school that has not made AYP for five years [Section 1116(b)(8)]. The first year of restructuring may be used for planning; the plan for the reconstituted school must be implemented no later than the second year.

School improvement: A school is in its first year of "school improvement" when it has not made AYP for two consecutive years. In order to exit school improvement status, it must make AYP for two consecutive years. A school can be identified for a second year of school improvement if it does not make AYP for another year, after initially being identified as in need of improvement [Section 1116(b)(1)(A)].

Schoolwide Program: A schoolwide program is operated in a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or that has a school enrollment of which not less than 40 percent of the children are from such families, and that uses its Title I funds to upgrade the educational program of the entire school, rather than to provide services only to students identified as most at risk of failing to meet State standards [Section 1114].

Targeted Assistance Program: A targeted assistance program is a program in which a school uses its Title I funds to provide services only to the children who have been identified as being most at risk of failing to achieve to challenging academic content and achievement standards [Section 1115].

Supplemental Educational Services: Supplemental educational services are additional academic services designed to increase the academic achievement of low-income students in low-performing schools. These services may include tutoring, remediation, or other educational interventions that are consistent with the content and instruction used by the local educational agency (LEA) and are aligned with the State’s academic content standards. Supplemental educational services must be provided outside of the regular school day. Supplemental educational services must be high quality, research-based, and specifically designed to increase student academic achievement [*Section 1116(e)(12)(C)*]. The Department’s guidance on supplemental educational services is available at <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.pdf>

APPENDIX B

Abbreviations

ADA	Americans with Disabilities Act
AYP	Adequate yearly progress
ESEA	Elementary and Secondary Education Act of 1965
IDEA	Individuals with Disabilities Education Act
LEA	Local educational agency
NCLB	No Child Left Behind Act of 2001
SEA	State educational agency