



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF VOCATIONAL AND ADULT EDUCATION

THE ASSISTANT SECRETARY

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PROGRAM MEMORANDUM

TO: State Directors of Career and Technical Education

FROM: Troy R. Justesen, Ed.D. *Troy R. Justesen*

SUBJECT: Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 1.0

I am pleased to send you the first round of questions and answers regarding the implementation of the newly reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV or the Act). These questions were among those generated at the Office of Vocational and Technical Education's (OVAE's) Perkins IV Implementation Kick-off Meeting on October 6, 2006, in Washington, DC. OVAE plans to issue subsequent versions of this document in the coming weeks in order to answer all of the questions received at the October 6 meeting.

It is important to note the following disclaimers as you use this document:

- This document is advisory only and should be regarded as a “work in progress.”
- This document has not been assigned an OMB control number under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) because it is not intended as an information collection instrument. Therefore, you are not required to respond to this memorandum or the attachment as an information collection.
- Unless otherwise noted, all references to Title I in this document refer to Title I basic grant awards under the Perkins IV Act.
- If you have any questions or need additional information about the responses contained in this document, please contact Dale King by phone at (202) 245-7405 or e-mail at dale.king2@ed.gov.

Attachment

**Answers to Questions Generated at the October 6, 2006,
Perkins IV Implementation Kick-Off Meeting – VERSION 1.0**

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A. STATE PLANS

General

A.1 What constitutes an adequate “description” versus an “assurance” in the State plan narrative? How detailed do the descriptions have to be?

A description provides a detailed account of what a State will do or plans to do to meet the various requirements of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV or the Act). Descriptions need to be sufficiently detailed so that individuals who may not be completely familiar with your State or programs (such as federal reviewers or individuals who may attend your State plan hearings) can easily understand how your State intends to implement its career and technical education programs.

An assurance is a written and signed statement that guarantees the State will take certain actions to comply with the Act or Department regulations as appropriate. All assurances that a State is required to submit as part of its State plan are grouped together in section VIII of the draft State plan guide.

A.2 Is there an expectation that each State will have a “secondary-to-postsecondary transition” or even “programs of study” section in its new State plan (and not just separate secondary and postsecondary narratives as was typical in the past)?

Yes. As required under section 122(c)(1)(A) of the Act, and pursuant to the draft State plan guide, each State must describe the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of career and technical education programs of study, that may be adopted by local educational agencies and postsecondary institutions to be offered as an option to students (and their parents as appropriate). If a State has not already developed programs of study, it may want to consider submitting a one-year transition plan in which it would only have to describe its planning process to develop programs of study.

A.3 Can a State indicate in its State plan its intent to allocate funds for a “reserve,” even if it does not yet know precisely how it will use those funds?

Yes. A State may indicate its intent and general plans to allocate funds for a reserve under section 112(c) of Perkins IV in its State plan. If the State plans to use a reserve beginning for program year one (July 1, 2007 – June 30, 2008), the State also would indicate the percent to be allocated for the reserve on the budget forms provided in the draft State plan guide.

Transition Plans

- A.4 What is the Department's rationale for providing fewer requirements of States that opt to submit a one-year transition plan rather than a six-year plan?

The Department proposed to limit the overall number of items required for a one-year transition plan to enable States to focus their time and resources on implementing changes in their State's policies, programs, and accountability systems to fully meet the requirements of the Act.

- A.5 If a State chooses to do a one-year transition plan, could hearings occur as part of that process?

Yes. Nevertheless, section 122(a)(3) of the Act requires a State to hold public hearings on the complete State plan, so a State would have to conduct hearings once the State has developed its remaining five-year State plan.

- A.6 Can a State submit a one-year transition plan that incorporates most of the six-year plan items?

Yes. The draft State plan guide indicates the items that, at a minimum, a State would have to include in a one-year transition plan. A State could include responses to as many other items as it deems appropriate and feasible.

- A.7 If States have a one-year transition plan, do they have to have a new local application ready?

Yes. The draft State plan guide would require each State to submit a copy of its local applications or plans for secondary and postsecondary eligible recipients, which will meet the requirements in section 134(b) of the Act.

Unified Plans

- A.8 Can a State submit a unified plan?

Yes. Under section 122(d)(2) of Perkins IV, a State may choose to submit the postsecondary portion of their new Perkins IV State plan as part of the plan submitted under section 501 of Public Law 105-220. A State also may include the secondary portion of its new Perkins IV State plan only with the prior approval of its State legislature (see section 501(b)(1) of the Workforce Investment Act of 1998). Any State that chooses to submit the postsecondary and/or secondary portion of its new Perkins IV State plan as part of a unified plan must address every item in the draft Perkins IV State plan guide. Any State that wishes to submit a unified plan must follow the instructions and submission requirements as provided in the Training and Employment Guidance Letter (TEGL) that will soon be issued by the Employment and Training Administration, U.S. Department of Labor.

A.9 Can a State submit a one-year transition plan and then a five-year unified plan?

Yes. A State may chose this option and will need to follow the same submission instructions as provided in A.8 above.

Tech Prep Plans

A.10 Does a State need to complete a separate tech prep plan?

No. On the contrary, section 201(c) of the Act requires each eligible agency desiring an allotment under Title II to submit its application for funding as part of its State plan under section 122 of the Act (which establishes the requirements for a State's plan for its Title I basic grant funds).

A.11 Does a State need to specify in its State plan its intent to consolidate all or a portion of its tech prep and basic grant funds?

Yes. A State would indicate the amount of Title II tech prep funds it intends to consolidate with its Title I basic grant funds on the designated budget forms provided in the draft State plan guide. Any State that plans to use all or a portion of its Title II tech prep funds also would complete the designated narrative items in the draft State plan guide.

B. ACCOUNTABILITY

Student Definitions

- B.1 Will the Department issue definitions for a secondary and postsecondary “participant,” “concentrator,” and “completer?” If so, to what extent will OVAE rely on the recommendations from the Data Quality Institutes (DQIs) in determining these definitions?

The Department is reviewing the summary document submitted on behalf of the States by the National Association of State Directors of Career and Technical Education (NASDCTEc) following the Data Quality Institutes and is working on further guidance for student definitions. The review will examine the extent to which the definitions in the summary document are aligned to the requirements of the new Act, including those incorporated from the Elementary and Secondary Education Act of 1965 as amended by the No Child Left Behind Act of 2001 (ESEA or NCLB).

Baseline Data

- B.2 How can baseline data (particularly for postsecondary) mean anything from two years ago (FY 2005-2006) if you have new measures and new definitions in this law, or if you did not collect data on those populations in the past?

The Department, in the draft Perkins State plan guide, would require a State to generate baseline data for each of its core indicators of performance (except for academic attainment and graduation rates) using its *new* student definitions and measurement approaches and *most recent data* available. Baseline data is required in order to provide a sound basis for reaching agreement with a State on performance levels for the first two program years as required under section 113(b)(3)(A)(iii). The Department, in the draft Perkins State plan guide, would not require a State to generate baseline data for its core indicators of performance for academic attainment and graduation rates if a State were to use as its performance levels for these Perkins IV indicators the State’s annual measurable objectives (AMOs) as approved under the NCLB. The Department will further clarify its expectation of States for generating baseline data when it issues its final State plan guide.

- B.3 Can a State use different program years when reporting its baseline data for each of the core indicators (i.e., use Program Year 2005-06 for academic attainment indicators and Program Year 2006-07 for technical skill indicators)?

Yes. A State should use its most recent data available to generate baseline data for each of its core indicators of performance, thereby enabling the State to set realistic performance levels beginning for PY 2007-08. However, as noted above, in the draft Perkins State plan guide, the Department would not require a State to generate

baseline data for its core indicators of performance for academic attainment and graduation rates if a State were to use as its performance levels for these Perkins IV indicators the State's annual measurable objectives (AMOs) as approved under the NCLB.

Core Indicators – General

- B.4 Will the Department issue definitions for each of the core indicators? If so, how much will OVAE rely on the work of the Next Steps Workgroup and Data Quality Institute (DQI) in developing its definitions? When will this information be released?

The Department is reviewing the summary document submitted on behalf of the States by the National Association of State Directors of Career and Technical Education (NASDCTEc) following the Data Quality Institutes and is working on further guidance on valid and reliable definitions for each of the core indicators. The review will examine the extent to which the definitions in the summary document are aligned to the requirements of the new Act, including those incorporated from the NCLB.

- B.5 Why is the Department not taking a proactive stance on what should be the definitions and measures for the core indicators so that reliable and valid data can be gathered and reported?

The Department is examining options for providing guidance to States on definitions and measures for the core indicators to ensure that data are valid and reliable, and consistent across States to the extent possible.

Core Indicators – Academic Attainment

- B.6 Many States choose to administer their Statewide academic assessments under NCLB in 10th grade, but some career and technical education programs do not begin until 11th grade. How does a State identify its career and technical education students when they are not yet concentrators? Is a State supposed to measure “concentrators” or any student who takes a career and technical education course?

The Department will soon issue further guidance on valid and reliable student definitions for the core indicators of performance, including academic attainment.

- B.7 Why is there not a separate measure of academic attainment for career and technical education students “at the end of their programs?”

Section 113(b)(2)(A)(i) of the Act specifically requires a State to measure career and technical education student's attainment of academic standards using the proficient level or above on the academic assessments that a State implemented under section 1111(b)(3) of the ESEA as amended by NCLB.

If a State has another valid and reliable measure of academic assessment (other than its NCLB assessment) that the State administers at the end of a career and technical education student's program (e.g., at the end of 12th grade), then the State may identify this as an "additional indicator" in its State plan (see Section 113(b)(2)(C)).

Core Indicators – Technical Skill Attainment

- B.8 What is the expectation of the Department for how postsecondary technical skills attainment will be assessed? Do States now need to use norm-referenced assessments?

The Department will soon issue further guidance on valid and reliable definitions for each of the core indicators, including postsecondary technical skill attainment.

- B.9 Can a State use the technical skill assessments it used in the past under the Carl D. Perkins Vocational and Technical Education Act (Perkins III)?

Section 113(b)(2)(D) of the Act allows a State to use performance measures that it developed under the previous Perkins statute to meet the new requirements of the Act, provided that those measures are valid and reliable for a particular indicator and otherwise meet the requirements of section 113 of Perkins IV as amended. Therefore, a State may use the technical skill assessments that it used under Perkins III as long as those assessments are valid and reliable measures of student attainment of career and technical skill proficiencies that are aligned to industry-recognized standards, if available and appropriate (see section 113(b)(2)(A)(ii) and (b)(2)(B)(i)).

- B.10 How can a State obtain baseline data for secondary technical skill attainment if it has not used technical skill assessments in the past?

A State that has not used technical skills assessments in the past may want to consider submitting a one-year transition plan, so it could use the first program year under the new Act (July 1, 2007 -- June 30, 2008) as a transition year to develop and/or administer these assessments, as well as generate baseline data. The State may then begin to reach agreement with the Department on performance levels, beginning with performance levels for the second program year (July 1, 2008 – June 30, 2009).

- B.11 What should a State do if it does not have technical skill assessments in every program area?

A State that does not have technical skill assessments in every program area may want to consider submitting a one-year transition plan, so it could use the first program year under the new Act (July 1, 2007 – June 30, 2008) as a transition year to begin developing and implementing a plan for implementing technical skill

assessments in more program areas and for more students pursuant to the draft State plan guide.

Core Indicators – Secondary Completion

B.12 What is the difference between the secondary indicators of 3S1 (high school diploma), 3S2 (General Education Diploma or other State-recognized equivalent), and 3S3 (a proficiency credential, certificate, or degree, in conjunction with a high school diploma)?

The Department will soon issue further guidance on valid and reliable definitions for each of the core indicators, including those for secondary completion.

Core Indicators – Nontraditional Participation and Completion

B.13 Would the Department consider combining core indicators 5P1 (nontraditional participation) and 5P2 (nontraditional completion)?

The Department will consider all public comments received pursuant to the October 4, 2006, notice inviting public comment on the draft State plan guide, including on the core indicators of performance related to nontraditional participation and completion.

Performance Levels – State Level

B.14 Will a State be able to “start over” in negotiating its performance levels for each of the core indicators?

Yes. In fact, it is likely that most States will need to change their student definitions, measurement definitions, and measurement approaches for one or more of their core indicators of performance and, therefore, will need to generate new baseline data to reach agreement with the Department on adjusted performance levels that promote continuous improvements by the State on individual indicators. The Department will further clarify its expectation of States for negotiating performance levels when it issues its final State plan guide.

B.15 If a State performance level is the “average,” can high-performing local recipients accept the “lower number/the average” of the State?

No. Under section 122(c)(10)(B) of the Act, each State must describe its own policy and procedures for reaching agreement on local adjusted levels of performance for its eligible recipients. However, local adjusted levels of performance, at a minimum, must require the eligible recipient to continuously make progress toward improving the performance of career and technical education students as required by section 113(b)(4)(A)(i)(II) of the Act.

- B.16 For the 1S1 (academic attainment in reading and language arts) and 1S2 (academic attainment in mathematics, does a State have to use its Annual Measurable Objectives (AMOs) as negotiated under No Child Left Behind, or can the State negotiate other levels?

The draft State plan guide provides that the Department strongly encourages a State to reach agreement on “adjusted performance levels” for the core indicators of academic attainment and graduation rates that are the same as the State’s AMOs developed under NCLB to ensure that the State’s schools are making AYP as required under section 1111(b)(2) of NCLB. However, a State may not have established AMOs for graduation rates under NCLB, or a State may wish to propose performance levels for these core indicators that are different from the State’s AMOs. If so, the State must provide baseline data using its most recent year’s achievement data or graduation rates under NCLB, propose performance levels, and reach agreement with the Department on “adjusted performance levels.” The Secretary is considering whether to issue regulations requiring a State to agree to “adjusted performance levels” under the Perkins Act that are the same as the State’s AMOs for academic attainment and graduation rates under the NCLB. If the Secretary decides to regulate on this issue and adopts final rules, a State may be required to amend its State plan.

- B.17 Does a State have to demonstrate “continuous growth” as it sets its performance levels for each of the core indicators as in the past under Perkins III?

Yes. Section 113(b)(3)(A)(i)(II) of the Act requires that each eligible agency reach agreement on levels of performance that “require the State to continually make progress toward improving the performance of career and technical education students.”

Performance Levels – Local Level

- B.18 Do States have to negotiate performance levels under the basic grant program with their local eligible recipients?

A State must negotiate performance levels with its eligible recipients only in cases where an eligible recipient chooses not to accept the State adjusted levels of performance as described in section 122(c)(10)(B) or an eligible recipient must negotiate a different performance level in order for it to meet the requirement that its performance levels, at a minimum, require it to continuously make progress toward improving the performance of career and technical education students as required by section 113(b)(4)(A)(i)(II) of the Act.

B.19 Will the Department issue guidance to States on how they should negotiate performance levels with their eligible recipients?

No. Under section 122(c)(10)(B), each State must set its own policy and procedures for reaching agreement on local adjusted levels of performance for its eligible recipients in accordance with section 113(b)(4) of the Act.

B.20 When there is disagreement between locals and the State on performance levels, who decides on what the levels shall be?

Section 122(c)(10)(B) of the Act requires each eligible agency, in consultation with eligible recipients, to describe in its State plan how it will develop a process for the negotiation of local adjusted levels of performance under section 113(b)(4) of the Act if an eligible recipient does not accept the State adjusted levels of performance under section 113(b)(3) of the Act. This process should include actions to resolve possible disagreements between an eligible agency and its eligible recipients on local adjusted performance levels.

B.21 Should a State factor in size of the geographic area when negotiating performance levels with its eligible recipients?

Each State must set its own policy and process for reaching agreement on local adjusted levels of performance for its eligible recipients in accordance with the Act. Section 113(b)(4)(A)(v) of the Act requires eligible agencies, when establishing local adjusted levels of performance, to take into account such factors as the characteristics of participants, when the participants entered the program, and the services or instruction to be provided. Local adjusted levels of performance also must promote continuous improvement on the core indicators of performance.

Tech Prep Programs

B.22 Does a State have to negotiate performance levels for its tech prep programs with the Department?

No. There is no requirement in the Act for a State to reach agreement with the Department on performance levels for the indicators of performance for tech prep programs under section 203(e) of the Act.

B.23 If a tech prep consortia is focusing on a specific cluster, can the section 113 data be aligned to focus on just those areas or all areas?

The Department does not collect annual performance data from States under section 113 of the Act by cluster area; therefore, a State must aggregate section 113 data from its tech prep consortia regardless of the specific cluster area the consortia is focusing on.

B.24 If a State opts to consolidate its tech prep and basic grant programs, will the State be required to collect and report tech prep data following the first program year (July 1, 2007 – June 30, 2008)?

No. A State would not be required to submit tech prep data to the Department for any program year in which it consolidates all of its tech prep and basic grant funds.

B.25 Will a State be required to report data in the Consolidated Annual Report (CAR) on the tech prep indicators that the State negotiates with its consortia?

The Department will issue further requirements to States for reporting data on the effectiveness of tech prep programs as required under section 205 of the Act.

B.26 Do members of a consortium have to report data to the State as separate entities or as a consortium?

The entity that receives funding on behalf of the consortium should report data on the tech prep indicators of performance to the State on behalf all members of the consortium.

B.27 Does a State have to disaggregate data by special population categories for its tech prep programs?

Under section 204, there is no requirement for a State to disaggregate its performance data for its special population categories, although a State may opt to include such a requirement in its tech prep accountability system.

B.28 Can the Department sanction a State if its tech prep programs fail to meet State adjusted levels of performance under Title I? Can the Department sanction a State under Title II?

A State must report data to the Department for each of the core indicators of performance under section 113(b)(2) of the Act for its tech prep students; however, under section 123 of the Act, the Department has discretion as to whether it will sanction a State that fails to meet its adjusted performance levels under section 113 of the Act, and section 123 does not apply to the data collected by a State on the tech prep program indicators of performance under section 203(e).

C. DEFINITIONS

C.1 Will the Department issue a definition of “high-wage, high-skill, or high-demand” occupations?

No. Each State would be responsible for identifying “high-wage, high-skill, or high-demand occupations or professions” under the draft State plan guide. The U.S. Department of Labor, Bureau of Labor Statistics, offers a wealth of information and data to assist States in this effort. See <http://www.bls.gov/home.htm>

C.2 Will the Department issue a list of “nontraditional occupations or fields” that all States can use?

No. Each State would be responsible for identifying “nontraditional fields” under the draft State plan guide. The U.S. Department of Labor’s Bureau of Labor Statistics and Women’s Bureau, and the National Association of Partners in Education are several sources of information and data to assist states in this effort. See <http://www.bls.gov/home.html>, <http://www.dol.gov/wb/factsheets/nontra2005.htm>, and <http://www.napequity.org>.

D. FISCAL CONSIDERATIONS

D.1 How should a State determine its secondary/postsecondary split?

The Act does not establish criteria for determining a State's split of funds between its secondary and postsecondary delivery systems. As such, a State has total flexibility in making this decision. Moreover, if a State chooses to establish a reserve fund under section 112(d) of the Act, the State has complete freedom to split these funds in any manner it chooses. Attention should be given to section 133(a) of the Act for further State flexibility if the split made under section 112(a)(1) results in the secondary or postsecondary portion of the State's delivery system receiving 15% or less of available funding.

D.2 What data sources, other than Pell Grants, can a State use to develop an alternative postsecondary formula?

The Department has considered past requests for alternative postsecondary formulas on a case-by-case basis. Based on the Department's past experience with respect to alternative postsecondary distribution formulas, an alternative formula may include criteria relating to the number of individuals attending institutions within the State who—

- a. Receive need-based postsecondary financial aid provided from public funds;
- b. Are enrolled in postsecondary educational institutions that—
 - i. Are funded by the State;
 - ii. Do not charge tuition; and
 - iii. Serve only economically disadvantaged students;
- c. Are enrolled in programs serving economically disadvantaged adults;
- d. Are participants in programs assisted under WIA;
- e. Are Pell Grant recipients.

Moreover, in the past the Department has approved only an alternative postsecondary distribution formula proposed by the State that ---

- a. Included direct counts of students enrolled in the institutions;
- b. Directly related to the status of students as economically disadvantaged individuals;
- c. Applied uniformly to all eligible institutions;

- d. Did not include fund pools for specific types of institutions;
- e. Did not include direct assignment of funds to a particular institution on a non-formula basis; and
- f. Identified a more accurate count of economically disadvantaged individuals in the aggregate than does the statutory formula, which is now set forth in section 132(a)(2) of the Act.

D.3 What can section 112(c) reserve funds be used for?

As noted in section 112(c) of the Act, reserve funds can be expended for any of the activities noted in section 135 of the Act.

D.4 Can section 112(c) reserve funds be expended for new and emerging occupations? For innovative programs?

Under sections 135(b)(7), 135(c)(12), and 135(c)(20) of the Act, new and emerging occupations would be allowable uses of funds for the section 112(c) reserve. Moreover, there appears to be no impediment for expending reserve funds for innovative programs that otherwise meet the requirements of the Act at the eligible recipient level.

D.5 Can section 112(c) reserve funds be expended for incentive grants?

Yes. A State may establish as a priority expending its section 112(c) reserve funds to provide incentive grants for eligible recipients. Those eligible recipients must, in turn, meet one of three categories under section 112(c) and must expend funds for the activities described in section 135.

D.6 Must eligible recipients be in a consortium to pool funds locally?

While section 135(c)(19) of the Act permits eligible recipients to pool resources for innovative initiatives, the Act offers no specific guidelines for accomplishing the pooling process. States that encourage such local pooling should develop appropriate policies and procedures to accommodate this process. This could be done through a consortium arrangement, a locally established cooperative agreement, or through a memorandum of understanding. The State needs to be aware of how such pooled funds will be expended, who will serve as the fiscal agent for such funds, how such funds will be accounted for within the State and local accounting systems, etc.

D.7 Under section 135(c)(19) does the State pool funds or do eligible recipients pool funds?

Under section 135(c)(19) of the Act, eligible recipients have the ability to pool funds, not the State. However, each State may consider whether it should establish a process for the pooling of funds by eligible recipients.

D.8 Can consortia formed under sections 131 and 132 restrict funds to small entities?

Sections 131(f) and 132(a)(3) of the Act establish the requirements for the use of funds within consortia. At a minimum, the use of consortium funds must be used only for purposes and programs that *are mutually beneficial* to all members of the consortium. This presupposes joint planning by the consortium members resulting in programs that are of sufficient size, scope, and quality to be effective. Moreover, a consortium is precluded from allocating resources to members in amounts equal to their original allocations or for purposes and programs that are *not* mutually beneficial.

D.9 Under Title II of Perkins IV, can labor organizations be part of a tech prep consortium?

Yes. Under section 203(a)(1) of the Act, a tech prep consortium must consist of at least one secondary entity, as defined, and one postsecondary institution, as defined. Section 203(a)(2) of the Act notes that, *in addition* to the required participants, a tech prep consortium may also include institutions of higher education that award a baccalaureate degree and employers, business intermediaries, or labor organizations.

D.10 To what extent can Perkins IV funds be expended for “all school reforms,” such as encouraging Advance Placement (AP) courses for all students?

Funds under the Act must be expended only for career and technical education programs, services, and activities, as defined by the Act.

D.11 Does an eligible recipient have to expend funds for all nine required elements of section 124(b)?

An eligible agency (the “State”) expends section 124 funds of the Act, not an eligible recipient. The eligible agency is required to make expenditures for all nine required elements noted in section 124(b) of the Act.

Section 135(b)(1)-(9) of the Act lists nine elements that a *local* program must include to be eligible for funding under the Act, but not necessarily funded from funds awarded under the Act. Requiring Perkins funds to be used on all nine factors not only would dissipate limited grant funds beyond meaningful levels, but would also reduce the flexibility of eligible recipients to effectively address issues

directly related to meeting required performance levels. It is the State's responsibility to administer its Perkins grant award to ensure that sufficient funding is directed to the nine areas listed in section 135(b) of the Act, and that these areas will be the primary focus of programs funded by the eligible agency from its Perkins grant.

D.12 What funds can be used to support occupational and employment information?

State leadership funds can be expended for the support of occupational and employment information, as noted in section 124(c)(17) of the Act. Moreover, eligible recipients may expend resources under section 135(c)(2) of the Act which references section 118 of the Act, as well as section 135(c)(20) of the Act that notes that funds may be used to support other career and technical education activities that are consistent with the purpose of the Act.

D.13 Under what circumstances can a State waive the \$15,000 minimum allocation for a secondary eligible recipient?

Section 131(c)(2) of the Act sets forth a two-tier requirement for waiving the \$15,000 minimum funding allocation. The waiver applies to local educational agencies located in a rural, sparsely populated area, or to a public charter school (treated as a local educational agency for funding purposes) operating secondary school career and technical education programs. Both of these entities must demonstrate an inability to enter into a consortium for purposes of providing activities under this part of the Act.

D.14 What is the difference, if any, between "maintenance of effort" and "hold harmless levels."

Section 311(b) of the Act addresses the requirements for maintenance of fiscal effort that must occur from one year to the next for each State. The base requirement is that the State's expenditures, per student or in the aggregate, from State sources for career and technical education programs for the preceding year equaled or exceeded such expenditures from State sources in the second preceding year.

Section 323(a) of the Act addresses a different level-of-effort requirement related to the level of non-Federal funds used to match Federal funds used for State administration. This effort level for State administration is often called a "hold harmless" level to distinguish it from the larger effort requirement found in section 311(b) of the Act. Section 323(a) of the Act requires a State to expend as much money from non-Federal sources for State administration as it did during the preceding year. These State funds used for administration are also part of the overall maintenance calculation used to determine whether a State has met its obligations under section 311(b) of the Act.

E. INCENTIVES AND SANCTIONS

E.1 What happens if a majority of the States doesn't meet the 90% threshold on the non-traditional measure? Would the Department consider eliminating this core indicator from sanctions?

Section 123(a)(1) of the Act requires a State to develop and implement a program improvement plan if it fails to meet at least 90 percent of an agreed upon State adjusted level of performance for *any* of the core indicators of performance in section 113(b) of the Act. This plan must be implemented in the first program year succeeding the program year for which the State failed to meet the State adjusted level of performance for any of the core indicators of performance. That said, section 123(a)(3) provides the Secretary with the authority to determine whether and to what extent to implement sanctions. Section 123(a)(4) authorizes the Secretary to use funds withheld from a State to provide technical assistance, to assist in the development of an improved State improvement plan, or for other improvement strategies consistent with the requirements of the Act for such State.

F. TECH PREP

F.1 Will the Department issue information on the advantages and disadvantages to merging Title II tech prep and Title I basic grant funds?

The Department will issue non-regulatory guidance in the coming months which define the options for the consolidation of Title II tech prep funds with Title I basic grant funds, as permitted under section 202 of the Act, as well as the implications of consolidation for meeting other requirements, such as hold harmless levels and administrative match requirements. Each State must then determine whether such consolidation is beneficial in the implementation of its overall vision for career and technical education.

F2. If a State consolidates its Title II tech prep funds into its Title I basic grant, does the State still need to form tech prep consortia?

Once Title II tech prep funds are consolidated with Title I basic grant funds, Title II funds are considered to be allotted under Title I, as provided in section 202(c) of the Act. Thus, there is no need for the State to form tech prep consortia if it consolidates *all* its Title II funds with its Title I basic grant funds. Only unconsolidated Title II tech prep funds must flow to consortia, as defined in section 203(a).

F3. Who is responsible for checking to see that each local articulation agreement is in place?

Consortium applications required under section 204 of the Act should reflect the appropriate elements of a tech program as outlined in section 203(c) of the Act. As such, the State has the responsibility for ascertaining the degree to which local tech prep consortia have appropriate articulation agreements in place.