

Archived Information

**ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA)
as amended by**

IMRPOVING AMERICA'S SCHOOLS ACT OF 1994 (IASA)

GUIDANCE

for

**Title VI of the ESEA
Innovative Education
Program Strategies**

**U.S. DEPARTMENT OF EDUCATION
WASHINGTON, DC**



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PURPOSE OF THIS GUIDANCE

This document contains guidance for Title VI of the Elementary and Secondary Education Act, as amended by the Improving America's Schools Act. Guidance in this document replaces all prior non-regulatory guidance for Chapter 2 of Title I of the former ESEA -- the predecessor program to Title VI. Previous regulations for the former Chapter 2 program are no longer applicable, and no regulations will be issued for Title VI.

This document includes an explanation of statutory requirements contained in Title VI and provides guidance for carrying out programs under Title VI. This document does not impose any requirements beyond those in the Title VI statute and other applicable Federal statutes and regulations, but encourages varying views and focuses upon what can be done, rather than setting limits. State and local recipients that follow the guidance in this document shall be deemed in compliance with Title VI and other applicable Federal statutes and regulations by U.S. Department of Education officials, including the Inspector General.

Throughout the document, we have used several devices to aid the reader in the guidance. Examples are provided in several places and appear in thick-lined boxes. Examples are merely illustrative, and the Department encourages State Educational Agencies (SEAs) and local educational agencies (LEAs) to refer to them only as guides that might be helpful in designing and implementing programs under Title VI. Other information that the Department believes will be helpful in planning and implementing programs appears in thin-lined boxes.

This document also includes interpretations that are in direct response to questions raised by Title VI State coordinators. These interpretations appear throughout the document under the heading "Supplemental Guidance."

For ready reference, an index of "Frequently Asked Questions" is included at the end of this document. These questions are cross-referenced to pages in the guidance answers can be found. Also, the relevant statutory and regulatory citations appear in parentheses following each question.

INTRODUCTION

The Improving America's Schools Act of 1994, enacted on October 20, 1994 (P.L. 103-382), reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), with a focus on changing the way we deliver education, encouraging comprehensive systemic school reform, upgrading instructional and professional development to align with high standards, strengthening accountability, and promoting the coordination of resources to improve education for ALL children.

This guidance shows how the Title VI--Innovative Education Program Strategies program (Title VI) working in tandem with the Goals 2000: Educate America Act and the other ESEA programs can contribute to the support that States, local school districts and schools will need to better enable all children to achieve to high standards.

Research supports that the following four principles are considered key to any comprehensive educational improvement effort: 1) high standards for all students; 2) teachers better trained to teach to high standards; 3) flexibility to stimulate local initiative coupled with responsibility for results; and 4) promoting partnerships among families, communities and schools.

SEAs, LEAs and schools are encouraged to realize fully the potential of the ESEA by incorporating these four principles in their school reform efforts. The Department believes that by focusing resources around these key principles for educational improvement, the ESEA substantially contributes to advancing the quality of teaching and learning for ALL students.

High Standards for all students

Professional Experiences that better
prepare teachers to teach to high standards

Flexibility to stimulate local initiatives coupled
with responsibility for results

Promoting partnerships among, families,
communities and schools

High Standards for All Students

A clear definition of what all students need to know and be able to do should drive the entire education system.

All children can and must be taught to use complex skills. Instruction too often means merely filling out endless drill and practice worksheets, especially for low-income and low achieving children. Indeed, even when technology is used in teaching these children, it is often little more than computerized drill and practice.

The ESEA advances the concept that all children must have the experiences of reading novels, creating stories, tackling multi-step mathematics problems, and designing and conducting science experiments. There must be progress toward acquiring the skills and knowledge necessary for achieving challenging standards. The ESEA emphasizes that all children must learn problem solving skills which will prepare them for success in a constantly changing technological world.

Professional Development Tied to High Standards

Professional development for educators is a critical element in helping them to enable students to achieve higher standards. Professional development must focus upon the best of an array of high performance instructional strategies - individual and team learning, team teaching, writing across subject areas, active applied learning, interdisciplinary instruction, in-depth and long-term projects, and other new technologies. The ESEA provides the opportunity to change the typical one-time program or activity approach to staff development. It empowers States to design in-depth, sustained, high-quality professional development programs that are connected to overall school-wide improvement strategies to give teachers and other educators the knowledge and skills necessary to provide all children the opportunity to meet challenging academic standards. The Eisenhower Professional Development Program (Title II of the ESEA) and Title VI, working together, can serve as one of the vehicles to coordinate and integrate activities to support this kind of professional development.

Flexibility in Exchange for Results

The reauthorized ESEA represents a shift from narrowly categorical, disconnected education programs that often impeded innovation and coordination to flexible connected programs that promote system-wide reforms based on challenging academic standards for all students. The new legislation provides greater decision-making authority to schools and teachers in exchange for greater responsibility for student performance. Emphasizing results, the ESEA imposes fewer burdens and requirements for SEAs and LEAs. Similarly, it promotes increased flexibility through waivers, consolidated applications, redirection of resources, and coordinated services.

The Department believes that the ESEA programs, together with the Goals 2000: Educate America Act and the School-to-Work Opportunities Act, provide significant flexibility and resources to States and local school districts, schools, and communities to support systemic educational reform.

Partnerships Among Families, Communities, Schools

The ESEA advocates that the system at every level, including the Federal level, work together to move all children toward meeting challenging standards. No longer can the success of individual educational programs and activities be the singular objective for marking educational improvement. Programs working together within a comprehensive plan for enabling all students to achieve high standards should be the goal, with educators responsible for the progress students are making toward reaching the standards.

NOTE: The Department of Education staff are eager to assist you. If issues arise that this guidance does not address, we are always ready to collaborate and explore approaches to help you apply the law to improve teaching and learning for all students.

PROGRAM OVERVIEW

Title VI of the reauthorized ESEA replaces Chapter 2 of Title I of the former ESEA (Chapter 2). Congress authorized Title VI to encourage SEAs and LEAs to focus upon the relationship between programs under Title VI and reform efforts under Goals 2000: Educate America Act (Goals 2000) as well as other State and local school reform efforts.

Programs under Title VI have the following purposes:

- assisting local educational reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act
- supporting State and local efforts to accomplish the National Education Goals
- providing funding to enable SEAs and LEAs to implement promising educational reform programs
- providing a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials.
- meeting the special educational needs of at-risk and high cost students

These purposes should serve as the starting point for SEAs and LEAs in designing and implementing programs under Title VI.

STATE AND LOCAL ROLES

Role of SEAs

Under Title VI, the SEA is entrusted with the basic responsibility for the administration and supervision of Title VI programs in the State. This includes the responsibility to ensure compliance with the Title VI provisions. Additionally, the SEA's role will also involve supporting and facilitating the efforts of its LEAs through technical assistance services in the implementation of Title VI programs as well as statewide education reform activities.

Role of LEAs

The primary role of LEAs under Title VI is to carry out one or more of the nine authorized innovative assistance programs listed in the statute. Title VI provides LEAs with flexibility in carrying out this role. First, LEAs have complete discretion in determining how to divide funds among the nine innovative assistance program areas in a manner that meets both the purposes of Title VI and the needs of the students within the LEAs. (See section 6303(c), 20 USC 7353(c)). Moreover, LEAs and school personnel have the primary responsibility for the design and implementation of programs. (See section 6001(c), 20 USC 7301(c)).

Supplemental Guidance

LEA Discretion - In light of the discretion that LEAs have to divide funds among the nine innovative assistance programs, questions have arisen about the extent to which this precludes SEAs from becoming involved in any manner in such decisions. SEAs and LEAs should note that Title VI also specifically requires SEAs to refrain from exercising any influence in the decision-making processes of LEAs concerning the expenditures for programs among the innovative assistance programs. (See section 6202(a)(5), 20 USC 7332(a)(5)). Thus, the Department believes that an SEA or a State legislature may not establish -- whether through the budget approval process, legislation, or other means -- binding requirements on an LEA with respect to the division of funds among the innovative assistance programs. However, in keeping with its administrative role, an SEA may still issue rules relating to the administration and operation of Title VI as long as they are issued pursuant to State law, do not conflict with the provisions of Title VI, and do not limit the discretion of LEAs regarding allocation of expenditures among the programs.

STATE APPLICATIONS

Consolidated Application

An SEA wishing to receive Title VI funds may include the Title VI program in a consolidated application.

Section 14302 of the ESEA allows SEAs to submit a consolidated State application to the Secretary for specific programs, including Title VI. By submitting a consolidated application, an SEA may obtain funds under many ESEA programs through a single application, rather than through separate program applications. SEAs must meet all statutory requirements for each program included in the consolidated State application, but are not required to submit to the Department much of the information required in separate applications. Consolidation is intended to improve teaching and learning by encouraging greater cross-programs coordination, planning, and service delivery, and enhancing integration of programs with educational activities carried out with State and local funds. Program coordination can strengthen the promotion of the State's educational goals for all students while effectively meeting the needs of the programs' intended beneficiaries.

Single Application

A State may receive Title VI funds by filing an application for assistance with the Secretary that satisfies the application requirements as stipulated in the statute. The Department does not, however, require a standard State application form for Title VI; therefore, the SEA may submit its Title VI application in any format it deems appropriate, as long as it contains the information required by the statute.

The State may file a Title VI application to cover up to three years. If the application meets the requirements of Title VI, the Secretary awards the State its Title VI grant. The State may amend its application annually to reflect changes. An SEA will receive its allocation of funds under Title VI for any year in which it has on file with the Department an application which:

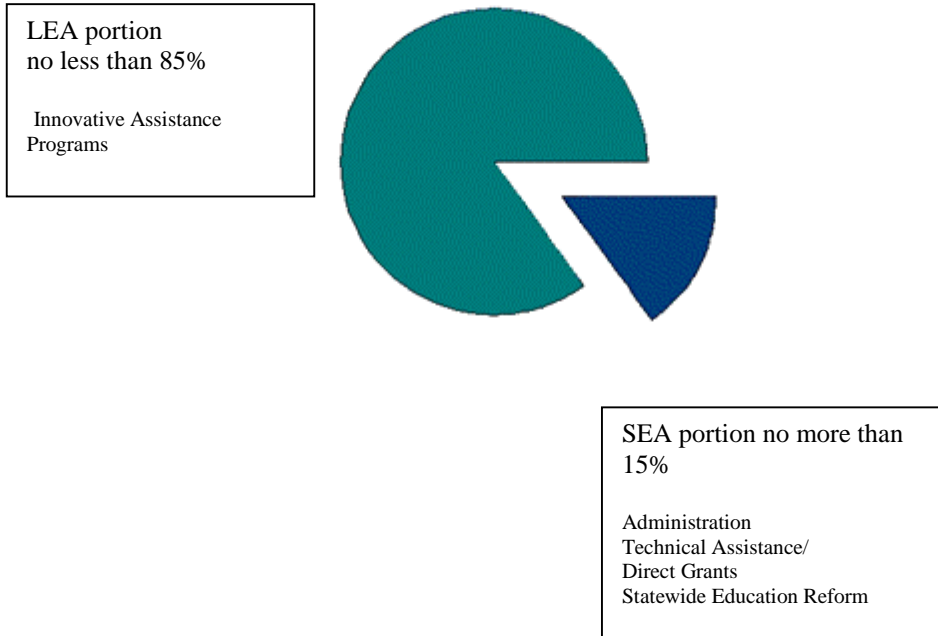
- Designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under Title VI.
- Provides for a biennial submission of data on the uses of funds, types of services furnished, and the students served under Title VI.
- Provides for an evaluation in fiscal year 1998 of the effectiveness of programs assisted under Title VI.

- Sets forth the allocation of such funds required to implement the provisions for the participation of children enrolled in private schools.
- Provides that the SEA will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under Title VI).
- Provides assurance that, apart from technical and advisory assistance and monitoring compliance with Title VI, the SEA has not and will not exercise any influence in the decision-making processes of local educational agencies as to the expenditure made pursuant to an application under section 6303.
- Contains assurances that there is compliance with the specific requirements of Title VI.
- Provides for timely public notice and public dissemination of the information provided pursuant to sections 6202(a)(2)(A) and (B) of the statute (data on the uses of funds, types of services furnished, and students served under Title VI and evaluation of effectiveness)

(See section 6202, 20 USC 7332--State application requirements).

In the development of program specific plans under Title VI, the Department encourages the SEA to consider ways of coordinating activities across ESEA programs to promote greater flexibility and achieve optimum benefit for all students.

LEA and SEA Uses of Funds



ALLOCATION OF FUNDS

Distribution of Funds to LEAs

The first responsibility of the State in administering Title VI is to develop the formula for allocating at least 85 percent of the Title VI funds to its LEAs. The formula is based upon the relative enrollments in public and private nonprofit schools, adjusted to provide higher per pupil allocations to those LEAs with children whose education imposes a higher than average cost per child. The criteria for making these adjustments must be approved by the Department. The statute includes three factors that an SEA may use in developing criteria for adjusting the per pupil allocations: i) children living in areas with high concentrations of low-income families; ii) children from low-income families; and iii) children living in sparsely populated areas. (See section 6102, 20 USC 7312).

Supplemental Guidance

Adjustment of Allocations - A number of States have requested clarification regarding the factors that may be used to adjust the distribution formula to provide higher per pupil allocations to LEAs with children whose education imposes a higher than average cost. Under the Chapter 2 program, States could use only the three statutory factors listed above to adjust their formulas because the Department interpreted the statute as permitting use of only these three factors. However, States had considerable flexibility in how they made adjustments using these factors. The Department also interprets Title VI as permitting adjusted allocations only upon the basis of these three factors; therefore, SEAs must submit for Department approval adjustment criteria based only upon any of these three factors.

Reallocation of Local Funds - The Department understands that, from time to time, an LEA may accumulate unobligated Title VI funds for a variety of reasons. When these funds exceed the amount that the LEA needs to provide a prudent and justifiable reserve for operating its Title VI projects effectively during the succeeding fiscal year, the Department believes that the LEA should return these funds to the SEA. The SEA may then distribute these funds to all LEAs or to a particular group of LEAs. If the SEA chooses the latter, it might want to consider developing objective criteria for the selection of LEAs, which the SEA could publicly disseminate before reallocating Title VI funds. Reallocated funds need to be obligated during the period of availability established when the funds were initially allocated.

USES OF FUNDS BY SEAS

An SEA may retain up to 15 percent of the State's Title VI funds, and may use the funds for the following purposes:

- **Administration of programs** including supervision of the allocation of funds to LEAs; planning, supervision, and processing of State funds; and monitoring and evaluation of programs and activities;
- **Support for planning, designing, and initial implementation of charter schools** as described in Part C of Title X of the ESEA;
- **Technical assistance** which assists LEAs to provide targeted assistance;
- **Direct grants** to assist LEAs to provide targeted assistance; and
- **Statewide education reform activities** including effective schools programs which assist LEAs to provide targeted assistance.

Administration

Title VI provides that the SEA may use up to 25 percent of the funds that it retains in any fiscal year for State administration. The SEAs administer programs through planning and supervision of the allocation of funds and through monitoring and evaluation of programs.

The SEA has significant flexibility in carrying out its administrative responsibilities subject to the statute and applicable regulations.

An SEA may opt to consolidate its Title VI administrative funds with administrative funds from other ESEA programs. In doing so, the SEA may gain broader flexibility in coordinating activities across programs to carry out required tasks. Further, this consolidation removes the burden of keeping records relating to the costs of administration for individual programs. For a more detailed discussion of consolidation of administrative funds, including the requirements that must be met, see the Cross cutting Provisions section of this guidance.

Example: A State which receives the minimum allocation under Title VI has \$68,000 to administer the Title VI program. This is due to the limitation that an SEA may use only 25 percent of the funds it retains for its own use (up to 15 percent of the total allocation) for administration. In this case, the SEA may choose to consolidate its Title VI administrative funds with administrative funds from one or more other ESEA programs. Consolidating the funds will permit the SEA to combine supervision, monitoring and evaluation activities of the programs, resulting in better coordination and cost savings.

Charter Schools

The Charter School Expansion Act of 1998 amended Title VI to permit the State to use its reserved funds under Title VI to support the planning, designing, and initial implementation of charter schools in accordance with Part C of Title X of the ESEA.

Technical Assistance

An SEA may use Title VI funds reserved for State use to provide technical assistance to its LEAs. Technical assistance may be in the form of direct support to an LEA based upon its local needs. It may also include conducting statewide education reform activities which assist LEAs in providing services under the innovative assistance programs contained in section 6301(b) of Title VI. These statewide programs may provide support for activities and programs consistent with the State's Goals 2000 plan or other school reform efforts.

Example: To support its Goals 2000 plan or other school reform activities, an SEA could use Title VI funds to conduct a statewide:

- health-related program as part of its school reform activities
- program to meet the educational needs of gifted and talented students
- staff development program for media specialists and librarians in the effective use of a statewide computer network related to school-based reform

Direct Grants

An SEA may use funds reserved for State use to award direct grants or contracts to LEAs. (See section 6201(a)(2), 20 USC 7331(a)(2)). In doing this, the SEA may wish to establish criteria for these grants or contracts and make such criteria known to all its LEAs. For example, an SEA may wish to conduct a statewide competition among its LEAs to carry out an effective schools program. Such effective schools programs must meet the definition of effective schools program contained in section 6003 of Title VI. While all elements of the definition need not be present at the inception of the effective schools program they should be the underlying structure of the planned program. In time, all elements must be reflected in the program.

Statewide Education Reform Activities

An SEA may also choose to use Title VI funds to coordinate statewide education reform activities that support its Goals 2000 strategic plan, taking advantage of the opportunity to address the following kinds of areas:

- Strategies to develop or adopt content and student performance standards and aligned assessments.
- Strategies to improve teacher training.
- Strategies to involve parents and the community to help all students meet challenging State standards and promote bottom-up reform.
- Strategies to help all LEAs and schools develop and implement needed improvements.
- Strategies to promote the principles of high-performance management such as site based management, accountability for results and flexibility.
- Strategies to provide all students an opportunity to achieve to high standards.
- Strategies to assist LEAs and schools to help school-age students who have dropped out of school.
- Strategies to bring technology into the classroom to increase learning.

Supplemental Guidance

Statewide and Local Reform - A number of State coordinators has asked who is responsible for defining statewide and local reform. The ESEA does not define educational reform. The spirit of the new legislation enacted in Congress allows far greater flexibility in how local school districts and States will carry out their initiatives, and more opportunities for education dollars to improve teaching and learning and making progress toward our National Education Goals. Rigid, fragmented programs that have often impeded innovation in education at the local level have been replaced with flexible initiatives that provide for systemwide educational improvement based on challenging academic standards for all students. The ESEA allows States real opportunities to implement meaningful and creative changes to their education systems in order to make progress toward the National Education Goals and their own State or local goals.

Uses Of Funds By LEAS

Innovative Assistance Programs

The Department embraces the view that educators closest to schools--school superintendents, principals, teachers and school support personnel--know what is needed and how best to meet the educational needs of their students. In keeping with this view, and as indicated earlier, LEAs have the primary responsibility for deciding how to allocate funds among the nine innovative assistance programs listed in section 6301(b) of Title VI, and for designing and implementing programs.

The innovative assistance programs include:

- Technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software
- Programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards that will be used to improve student achievement and which are part of an overall education reform program
- Promising education reform projects, including effective schools and magnet schools
- Programs to improve higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school
- Programs to combat illiteracy in the student and adult populations, including parent illiteracy
- Programs to provide for the educational needs of gifted and talented children
- School reform activities that are consistent with the Goals 2000: Educate America Act
- Planning, designing, and initial implementation of charter schools as described in Part C of Title X of the ESEA
- School improvement programs or activities under sections 1116 and 1117 of the ESEA

Accordingly, the Department encourages LEAs to use Title VI funds to develop programs under one or more of the nine innovative assistance programs in ways that complement the State's or LEA's Goals 2000 plan or other comprehensive school reform efforts. To support comprehensive reform, the Department encourages the SEA to strongly consider using Title VI funds in conjunction with other Federal, State and local funds to support school-wide programs as described in section 1114 of the ESEA. Under this authority an LEA may use Title VI funds to help upgrade the entire educational program in a school that in the initial year of the school-wide program meets the following criteria:

(A) For the school year 1995-1996--

(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

(ii) not less than 60 percent of the children enrolled in the school are from such families.

(B) For the school year 1996-1997 and subsequent years--

(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

(ii) not less than 50 percent of the children enrolled in the school are from such families.

Example: The following are examples of uses of Title VI funds in ways that might address a State's Goals 2000 or State overall school improvement plan. These examples are merely illustrative.

- An LEA chooses to use Title VI funds for a program that provides disadvantaged elementary and secondary students with experiences in problem solving and reasoning skills in literature.
- An LEA with a high rate of disadvantaged, at-risk elementary and secondary- school students has a goal to improve the student drop-out rate. To help meet this goal, the
- LEA plans to use a newly developed pupil profile system to identify students to be included in these programs and use a school enrichment/tutoring program to provide academic support and increase excitement for learning. The LEA might use Title VI funds to provide counseling services for the students and Title I funds to supplement local funds and to hire the additional teacher personnel to implement the tutorial program.
- An LEA conducts a program to combat illiteracy among students and parents. In order to assist this program, the LEA might use Title VI funds to provide professional development activities designed to enhance the effectiveness of teacher personnel who will be working with the students and parents in the program.
- An LEA decides to implement a hands-on science program to help students achieve to high standards. The LEA plans to use State and local funds to implement parts of this program. The LEA may use Title II funds for the professional development component of this program and Title VI funds to acquire the necessary instructional equipment and materials.

Supplemental Guidance

Professional Development - Some States have asked whether Title VI funds may be used for professional development activities, despite the fact that such activities do not appear as a separate innovative assistance program area under Title VI (except in connection with technology). The Department believes that, as long as an LEA can justify professional development activities as a reasonable and necessary cost with respect to the specific Title VI program the LEA is implementing, the LEA may use Title VI funds to support such activities. The Department has developed a "Mission Statement and Principles of Professional Development," which might be of interest to SEAs and LEAs [see page 15]. The statement presents the Department's vision of the kinds of professional development activities that are needed to help all students achieve to high standards of learning and achievement. An SEA or LEA may wish to consider incorporating these principles in any professional development activities included in a Title VI program.

Library Services - State coordinators have asked whether Title VI funds may be used for library automation. Section 6301(b)(2) of Title VI permits an LEA to use Title VI funds for programs for the acquisition and use of instructional and educational materials, including library services. The Department's interpretation is that the term "library services" may include library automation. Therefore, an LEA may use Title VI funds to automate a school's library. However, section 6301(b)(2) also requires that library services acquired using Title VI funds must be tied to high academic standards, be used to improve student achievement, and be part of an overall education reform program. In light of these requirements, an LEA may not use Title VI funds simply for the purpose of achieving library automation. Rather, the LEA must be prepared to demonstrate to the SEA that its proposed library automation program is tied to high academic standards and that an integral aspect of the program will be the use of the automated library services in a meaningful way to improve student achievement. Moreover, the LEA must be able to demonstrate to the SEA that the library automation program is part of an overall education reform program.

PRINCIPLES OF PROFESSIONAL DEVELOPMENT

"As local, state, and Federal partnerships strive to...ensure that all students achieve high standards...it has become increasingly clear that high-quality professional development strategies for teachers and other educators are imperative." *Secretary Riley*

Professional development--

- focuses on teachers as central to school reform, yet includes all members of the school community;
- respects and nurtures the intellectual capacity of teachers and others in the school community;
- is planned principally by those who will participate in that development;
- enables teachers to develop expertise in content, pedagogy, and other essential elements in teaching to high standards;
- enhances leadership capacity among teachers, principals and others;
- requires ample time and other resources that enable educators to develop their individual capacity and to learn and work together;
- promotes commitment to continuous inquiry and improvement embedded in the daily life of schools;
-
- is driven by a coherent long-term plan that incorporates professional development as essential among a broad set of strategies to improve teaching and learning; and
- is evaluated on the basis of its impact on teacher effectiveness, student learning, leadership, and the school professional development efforts.

LOCAL APPLICATIONS

In order to receive Title VI funds, an LEA must submit an application to the SEA. The SEA sets the due date for local applications. An LEA may submit a separate application for Title VI funds or, under circumstances described below, a consolidated application.

Consolidated Application

Section 14305 of the ESEA (20 USC 8855) provides the authority for LEAs to submit consolidated applications. There are two circumstances under which an LEA may submit a consolidated application. First, under section 14305(a), an LEA that is receiving funds under more than one of the ESEA programs for which consolidation is permitted may submit a consolidated application to the SEA. Second, under section 14305(b), if an SEA has obtained approval from the Department of a consolidated State application, it may, if it desires, require LEAs receiving funds under more than one program included in the consolidated State application to submit a consolidated local application.

SEAs are free to determine the content of consolidated local applications; however, under section 14305(d), SEAs may require as part of a consolidated local application only those descriptions, information, assurances and other material that are absolutely necessary. The flexibility that SEAs have to design the content of consolidated local applications means that they are not required to include specific application requirements set forth in individual program statutes. Therefore, an SEA that designs a consolidated local application that covers Title VI is not required to include any of the local application requirements found in section 6303. Under the Department's interpretation, however, exclusion of any of these specific Title VI local application requirements from the consolidated local application would not change an LEA's responsibility to comply with any program requirements that are expressed through the local application requirements.

Example. Title VI requires that local applications provide for systematic consultation with parents, teachers and administrative personnel, and other groups involved in implementation of Title VI. If an SEA designs a consolidated local application that covers Title VI and excludes this specific application requirement from the consolidated application, an LEA would not be required to address systematic consultation in the consolidated application, but would still be required to carry out the systematic consultation requirement in its program.

Finally, in developing consolidated local applications, SEAs must collaborate with LEAs under section 14305(c). In designing consolidated local applications that cover Title VI, SEAs and LEAs are encouraged to work together to emphasize the relationship of the planned Title VI program to the State's Goals 2000 or other systemic reform plan, as well as to the other programs covered in the consolidated application.

Single Application

If an LEA chooses to submit a separate Title VI application, it must include the following information:

- the amount of funds it intends to allocate to the various Title VI innovative programs, along with a description of the programs, projects and activities it will carry out and its reasons for selecting these programs, projects and activities

- the allocation of funds required to provide equitable services to participating private school children in accordance with section 6402 of Title VI
- a description of how assistance under Title VI will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students
- assurances of compliance with the provisions of Title VI
- an agreement that the LEA will keep such records and provide such information to the SEA as reasonably may be required for fiscal audit and program evaluation, consistent with the SEA's responsibilities
- provision, in the allocation of funds, for systematic consultation with parents of children attending schools within the LEA, with teachers and administrative personnel, and with other groups involved in implementation of Title VI as the LEA considers appropriate.

In keeping with the opportunity that exists to use Title VI funds in ways that support reform efforts, the Department encourages LEAs to include in their applications a discussion of how the planned Title VI activities relate to its statewide school reform plan, including the State's or LEA's Goals 2000 plan.

Supplemental Guidance

Consolidated Planning/Cash Management Improvement Act - A number of State coordinators have noted that, with respect to FY 95 funding, it is unlikely that LEAs will be engaging in any consolidated planning before July 1 because the approval process for consolidated State plans probably will not be completed until June. A question was raised regarding whether the Cash Management Improvement Act (CMIA) would therefore have any effect on the consolidated planning process. The CMIA applies only to SEAs, not LEAs. Therefore, it is the Department's interpretation that as long as SEAs have submitted their consolidated State plans and obtained Department approval by July 1, the CMIA will have no implications for the consolidated planning process, even if LEAs do not begin developing consolidated local plans until after July 1.

Systematic Consultation - The Department believes it is imperative in our mission of educational reform that broad-based alliances of involvement be formed to meet the challenge of helping all students achieve to high standards. Title VI charges the LEA with bringing together all key groups, particularly parents with teachers and local school administrators, and other groups involved in the implementation of Title VI (such as librarians, school counselors, and other pupil services personnel) as considered appropriate by the LEA, for systematic consultation. Such consultation must cover the allocation of funds for programs authorized by Title VI and the design, planning and implementation of those programs. Each LEA may determine, based on local needs and circumstances, what constitutes systematic consultation. In general, the Department envisions that such consultation would be an ongoing process that is open to all interested persons and is calculated to provide advice within a timeframe that can affect ultimate decisions regarding Title VI programs.

LEAs have used a number of strategies to ensure that they maintain meaningful systematic consultation with parents. Among these strategies are:

- Soliciting parents' and appropriate school personnel suggestions in the allocation of funds and in the design, planning, and implementation of the program.
- Providing timely responses to parents' recommendations.
- Providing reasonable access to meeting space and materials.
- Providing opportunities for parents to view the program's operations.
- Issuing monthly newsletters.
- Conducting parent workshops.
- Inviting one or more parent representatives to participate on budget committees advising school administrators on the use of local, State and Federal funds.
- Hiring community aides to work with parents in the home and to serve as a link between school and home.
- Providing training designed to help parents work with their children at home.
- Facilitating volunteer or paid participation by parents in school activities.
- Designating LEA parent coordinators.
- Establishing parent advisory councils.
- Having materials in appropriate languages and formats to bring about consultation with all appropriate persons.
- Informing parents of their children's participation in special Title VI projects; e.g., gifted and talented, magnet schools, drop-out prevention.
- Providing parents, or making available to parents, in an ongoing, timely and adequate manner information such as proposed and final project applications; project plans; budgetary information; and evaluation data.
- Using language(s) of predominant linguistic groups in meetings, communications and other informational materials.

Combinations of these activities can often ensure effective two-way communication. Meaningful parent involvement requires adequate information upon which to base that involvement. Schools are encouraged to capitalize upon this relationship and afford parents the opportunity to become involved in critical choices regarding their children's education.

Participation Of Children Enrolled In Private Nonprofit Schools

An LEA must provide Title VI services to children enrolled in a private non-profit school within the LEA if, after consultation with private school officials, the officials of the private school indicate that they wish the children in that school to participate. The LEA must contact the private schools within the LEA annually to determine which schools wish their children to participate. The LEA must consult with the officials of interested private schools to determine the needs of the children and the types of Title VI services that will be provided. The LEA provides those services on an equitable basis to those children whether or not the services are the same Title VI services the LEA provides to the public school children. The expenditures for such services, however, shall be equal (consistent with the number of children served) to Title VI services provided to public school children taking into account the needs of the children and other factors.

Example:

An LEA contacts all the private nonprofit schools in the LEA and receives positive responses from four. In consultation with the officials of one of the schools, the LEA determines that the needs of the children attending that school can be met by using Title VI funds for a program to train teachers to use instructional computer hardware and software previously provided under Chapter 2 for the benefit of the private school students. The LEA does not use its Title VI funds for such training nor for the grade levels that would be served in the private school. Since such a program of professional development is allowable under Title VI, the LEA arranges for these services.

Secular, Neutral and Nonideological Services and Benefits

General Requirements

Services, materials and equipment provided for the benefit of participating private school students must be secular, neutral and nonideological. The control of Title VI funds and the title to any equipment and materials must remain in the public agency (usually the LEA). No Title VI funds may be paid to any private school, and the title to equipment and materials may not be transferred to any private school. Title VI services must be provided by a public agency either directly or through a contractor. Any contractor must be a person or an association, agency, or corporation who or which, in the provision of the Title VI services, is independent of the private school and any religious organization. A public agency must supervise and have ultimate control over any contractor hired to provide Title VI services. Title VI services for private school students must supplement, and in no case supplant, the level of services that would be available to participating students and educational personnel in the private schools in the absence of the Title VI services. (For the complete text of the statutory and regulatory requirements, see Section 6402 of the Act (20 U.S.C. 7372) and 34 C.F.R. 299.6-.9).

Safeguards

LEAs should implement safeguards and procedures to ensure that Title VI funds are used properly for private school children:

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

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

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

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

Supplemental Guidance

Benefit to Students - If Title VI funds are used to provide services for children enrolled in private, nonprofit schools, these services must primarily benefit the children, not the schools. (See section 6402(a)(1), 20 USC 7372(a)(1), which states that an LEA shall provide for services for the benefit of the children in private schools.) A question has arisen as to whether this precludes an LEA from providing reform-oriented Title VI services to private school children because of the likelihood that such services would benefit the private schools, rather than the children. The Department's interpretation is that if the LEA can show that the private school students will receive the primary benefit of reform-oriented Title VI services, the LEA may provide those services for the private school students, even if the private schools also happen to benefit. If the primary benefit of the reform-oriented Title VI services would fall to the private schools, however, the Department believes that the LEA would not be able to provide reform-oriented Title VI services for the private school children.

OTHER USES OF FUNDS BY SEAS AND LEAS

Grants and Contracts

An SEA or an LEA may wish to use Title VI funds to award grants or contracts on a competitive basis to LEAs, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations and institutions to carry out activities authorized under Title VI. (See section 6302, 20 USC 7353) It is the Department's interpretation that if an SEA or LEA awards such grants or contracts, the SEA or LEA still maintains overall administrative responsibility for the program under which the activity is being implemented.

Example: An SEA wishes to conduct a statewide program to improve higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school. As part of this program, the SEA uses Title VI funds to contract with a group of museums to develop a series of activities for the children enrolled in the program. These activities are to be conducted by museum personnel at the museum, while the SEA will continue to handle administrative responsibilities for the program.

An SEA or LEA, under the authority in section 6302, may not use Title VI funds to contract with a "for profit" agency, organization or institution to operate programs or conduct programmatic activities. However, the Department does not believe that this precludes an SEA or LEA from contracting with an individual or a for-profit corporation or other organization to purchase specific goods or services to assist the SEA or LEA in carrying out a program.

It is possible for an SEA or LEA to contract with a for-profit entity or individual for items such as:

- equipment and materials
- computer hardware and software
- audit services
- evaluation services
- maintenance agreements on equipment
- professional development activities

Personnel

SEA or LEA personnel who carry out activities under Title VI may be paid with Title VI funds to the extent that their duties are authorized under Title VI. If an employee works part-time for Title VI or splits time between Title VI administration and technical assistance, the SEA must maintain time and effort records showing the actual time spent on each program or activity. Similarly, if an LEA employee splits time among Title VI and other local, State or Federal programs, such records must be kept.

REPORTING REQUIREMENTS

Formal evaluation is critical to determining the merit and effectiveness of programs supported by Federal funds. Recognizing this, Congress placed in the Title VI legislation two reporting requirements--a biennial report of State and local Title VI allocations which provides descriptive data on the uses of Title VI funds, and a State self-evaluation of effectiveness of State and local Title VI programs.

Biennial Report

Title VI requires the SEA to submit biennially to the Secretary a report covering the use of funds by the SEA and its LEAs, the types of services provided and the children served. (Section 6202(a)(2)(A), 20 USC 7332(a)(2)(A)). There is no required format for submitting the biennial report. However, to assist SEAs in fulfilling this reporting requirement, the Department, in consultation with representatives of SEAs and LEAs, has developed a model that SEAs might wish to use.

The biennial report should cover two years of data, whether the report includes separate data for each of the two years covered or provides the data for the two years in a combined form. The Department, in conjunction with SEA and LEA representatives, has developed the following suggested timeline for collecting and reporting data. SEAs would submit data collected in school years 1995-96 and 1996-97 to the Department in December 1997, and would submit data collected in school years 1997-98 and 1998-99 in December 1999.

Biennial Reports- Suggested Timeline

<u>School Year</u>	<u>SEA Biennial Reports</u>
1995-1996	Establish LEA-SEA collection mechanism
1996-1997	Collect data on SY 95-96 and SY 96-97 Submit report to the Secretary on SY 95-96 and SY 96-97 by December 31, 1997
1998-1999	Collect data on SY 1997-1998 and SY 1998-1999 Submit report to the Secretary on SY 97-98 and SY 98-99 by December 31,1999

Evaluation of Effectiveness

Title VI also requires the SEA to conduct a formal evaluation that assesses the effectiveness of Title VI programs. The Department envisions that evaluations would measure the overall impact of Title VI on the improvement of education--specifically on schools' curriculum and instruction, on school staff, and on students. The SEA must evaluate the effectiveness of both statewide programs and local programs. In evaluating local programs, the SEA is encouraged to consider the discretion that LEAs have to allocate funds among the innovative assistance programs.

FISCAL REQUIREMENTS

Supplement, Not Supplant

Section 6401(b) of Title VI of the ESEA provides that an SEA or an LEA may use and allocate Title VI funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of funds made available under Title VI, be made available from non-Federal sources. Title VI funds may not be used to supplant funds from non-Federal sources. (20 USC 7371(b))

Whether an SEA or LEA may use Title VI funds as part of any State-mandated program, however, depends upon whether non-Federal funds are already available to carry out activities under the State-mandated plan. Section 6401(b) of Title VI prohibits the use of Title VI funds where such use would result in supplanting funds available from non-Federal sources. Presumably, in the absence of Title VI funds, the SEA or LEA would use State funds to carry out a State-mandated plan. To use Title VI funds in connection with the plan would therefore violate the supplement, not supplant requirement of Title VI. However, Title VI funds might be used in connection with the plan, without violating the supplement, not supplant requirement, if the Title VI funds are used for supplemental activities that would not have been provided but for the availability of the Title VI funds.

Example:

A State has a mandated program to test all students in grades one, four, six, nine and twelve. The State decides to use Title VI funds to test students in grades two, five and seven as part of a dropout prevention program. This use of Title VI funds is allowable.

In general, an SEA or LEA should determine what educational activities it would support if no Title VI funds were available. If the result of this determination is that no State or local funds remain available to fund certain activities, then the SEA or LEA may be able to use Title VI funds for those activities. In no event, however, may an SEA or LEA decrease State or local funds for particular activities because Title VI funds are available.

Example: An LEA that qualified for State funds has been conducting a program for gifted and talented students. The State funds were based on the number of such children attending schools in the LEA. The number of these children in the LEA decreases and the LEA therefore no longer qualifies for the State funds. The LEA may choose to continue to operate this program using Title VI funds without violating the supplement, not supplant clause. This example presumes that the LEA would not fund the program out of other non-Federal funds in the absence of Title VI.

Maintenance of Effort

SEAs are required to maintain effort in order to receive their full allocation of Title VI funds for any fiscal year. The SEA maintains effort when either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year. (See section 6401(a), 20 USC 7371(a)(1).)

The Department interprets "preceding fiscal year" to mean either the Federal fiscal year or the twelve-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

Both State and local expenditures for free public education within the State are to be considered in determining whether a State has maintained effort under Title VI. The Department interprets "aggregate expenditures for free public education" to include expenditures such as those for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food service and student body activities. States may include in the maintenance of effort calculation expenditures of Federal funds for which no accountability to the Federal government is required. (Impact Aid funds are an example of such funds; however, there is a requirement of accountability for certain Impact Aid funds, such as those received for children with disabilities. Therefore, Impact Aid funds may be included in a State's maintenance of effort calculation under Title VI, but only to the extent that there is no accountability for their expenditure.)

States must be consistent in the manner in which they calculate maintenance of effort from year to year in order to ensure that the annual comparisons are on the same basis (i.e., calculations must consistently, from year to year, either include or exclude expenditures of Federal funds for which accountability to the Federal government is not required). Moreover, States that choose to include expenditures of Federal funds for which accountability to the Federal government is not required, must do so with the understanding that future years' maintenance of effort calculations may be affected by fluctuating Federal appropriations over which neither the Department, nor a State, has any control.

Finally, it is the Department's position that expenditures not to be considered in determining maintenance of effort under Title VI are expenditures for community services, capital outlay, debt service, or any expenditures of Federal funds for which accountability to the Federal government is required.

RELATIONSHIP BETWEEN TITLE VI AND THE CLASS-SIZE REDUCTION PROGRAM

For fiscal year 1999, Congress included \$1.2 billion within the appropriation for Title VI for a program to reduce class size in the early grades, using highly qualified teachers to improve educational achievement for regular and special needs children. Congress indicated that the Class-Size Reduction program funds are available "to carry out Title VI...in accordance with [the Class-Size Reduction statute contained in section 307 of the Department of Education Appropriations Act]..." This means that although the Class-Size Reduction program has a separate implementation statute, Congress intended the Class-Size Reduction program, at least as currently enacted for fiscal year 1999, to be part of the Title VI. Therefore, *except where it is inconsistent with specific provisions of the Class-Size Reduction statute*, the Title VI statute applies to the Class-Size Reduction program.

The application of the Title VI statute to the Class-Size Reduction Program has the following implications:

- State Administration - An SEA may use funds reserved for State administration under section 6201 of Title VI to administer the Class-Size Reduction program (States must distribute 100% of their Class-Size Reduction allocations to LEAs).
- LEA Applications - Section 307(g) of the Class-Size Reduction statute provides that LEAs will apply to States for Class-Size Reduction funding through their Title VI applications, providing a description of their program to reduce class size by hiring additional highly qualified teachers.
- Maintenance of Effort - The maintenance of effort requirement in section 6401(a) of Title VI applies to the Class-Size Reduction program.
- Supplement, Not Supplant - The Class-Size Reduction statute contains a non-supplanting provision (section 307(c)(3)), which applies only to an LEA's use of funds under the program. It is narrower than the non-supplanting provision in section 6401(b) of Title VI, in that it applies only to LEAs and prohibits the use of Federal Class-Size Reduction funds to replace State or local funds *that would otherwise be spent for activities allowable under the Class-Size Reduction program*. With respect to other Title VI funds (that are not part of the Class-Size Reduction funds), SEAs and LEAs remain subject to the Title VI non-supplanting provision.
- Equitable Participation of Private Schools - As provided in section 307(e) of the Class-Size Reduction statute, the equitable participation requirement in section 6402 of Title VI applies only to professional development activities undertaken with Class-Size Reduction program funds.
- Biennial Report - As provided in section 307(d)(1) of the Class-Size Reduction statute, States are required to report on activities under the program, consistent with the biennial reporting requirement in section 6202(a)(2)(A) of Title VI.

For further guidance about the Class-Size Reduction program, see the Department's guidelines on the Class-Size Reduction Program.

OTHER APPLICABLE STATUTES AND REGULATIONS

General Education Provisions Act

The General Education Provisions Act (GEPA) is the law that contains general requirements applicable to most programs administered by the Department. GEPA was amended by Title II of the Improving America's Schools Act. The amendments to GEPA include changes to existing provisions, repeal of some provisions, and the addition of new provisions. Below are the GEPA provisions that apply to Title VI. (Note: Some of the GEPA section numbers have changed because of the amendments.)

- Section 400 (20 U.S.C. 1221) - Applicability; Definitions
- Section 420 (20 U.S.C. 1223) - Forward Funding
- Section 421 (20 U.S.C. 1225) - Availability of Appropriations on Academic or School-Year Basis; Additional Period for Obligation of Funds
- Section 422 (20 U.S.C. 1226a) - Contingent Extension of Programs
- Section 423 (20 U.S.C. 1226a-1) - Payments
- Section 424 (20 U.S.C. 1226b) - Responsibility of States to Furnish Information
- Section 425 (20 U.S.C. 1226c) - Biennial Evaluation Report
- Section 426 (20 U.S.C. 1228) - Prohibition Against Use of Appropriated Funds for Busing
- Section 427 (20 U.S.C. 1228a) - Equity for Students, Teachers, and Other Program Beneficiaries
- Section 430 (20 U.S.C. 1231) - Joint Funding of Programs
- Section 431 (20 U.S.C. 1231a) - Collection and Dissemination of Information
- Section 432 (20 U.S.C. 1231b-2) - Review of Applications
- Section 433 (20 U.S.C. 1231c) - Technical Assistance
- Section 435 (20 U.S.C. 1231e) - Use of Funds Withheld
- Section 438 (20 U.S.C. 1232a) - Prohibition Against Federal Control of Education
- Section 439 (20 U.S.C. 1232b) - Labor Standards
- Section 440 (20 U.S.C. 1232c) - State Agency Monitoring and Enforcement
- Section 443 (20 U.S.C. 1232f) - Records
- Section 444 (20 U.S.C. 1232g) - Protection of the Rights and Privacy of Parents and Students
- Section 445 (20 U.S.C. 1232h) - Protection of Pupil Rights
- Section 446 (20 U.S.C. 1232i) - Limitation on Withholding of Federal Funds
- Section 451 (20 U.S.C. 1234) - Office of Administrative Law Judges
- Section 452 (20 U.S.C. 1234a) - Recovery of Funds
- Section 453 (20 U.S.C. 1234b) - Measure of Recovery
- Section 454 (20 U.S.C. 1234c) - Remedies for Existing Violations
- Section 455 (20 U.S.C. 1234d) - Withholding
- Section 456 (20 U.S.C. 1234e) - Cease and Desist Orders
- Section 457 (20 U.S.C. 1234f) - Compliance Agreements
- Section 458 (20 U.S.C. 1234g) - Judicial Review
- Section 459 (20 U.S.C. 1234h) - Use of Recovered Funds
- Section 460 (20 U.S.C. 1234i) - Definitions

Education Department General Administrative Regulations (EDGAR)

There are no program-specific regulations for the Title VI program. The following parts of the Education Department General Administrative Regulations (EDGAR) apply to Title VI: 34 C.F.R. Parts 76, 77, 80, 81, 82, and 85. However, Part 80 does not apply if a State formally adopts its own written fiscal and administrative requirements for expending and accounting for Title VI funds received by SEAs and LEAs. The requirements adopted by the State must be available for Federal inspection and must ensure that Title VI funds are used in compliance with applicable statutory and regulatory provisions, are used only for reasonable and necessary costs of operating Title VI programs, and are not used for general expenses to carry out other State or local responsibilities.

SEAs and LEAs are particularly encouraged to review Parts 76 and 80 (under the predecessor Chapter 2 program, only certain provisions of Part 76 applied and Part 80 did not apply at all). Below is additional information about some of the provisions of Parts 76 and 80 to assist SEAs and LEAs in understanding these regulatory provisions.

EDGAR Part 76

The following two provisions in Part 76 of EDGAR do not apply to Title VI because they are inconsistent with its provisions:

Section 76.103 of EDGAR, which provides that State plans shall be effective for three years, does not apply to Title VI. It is inconsistent with section 6202(b) of Title VI, which provides that State applications shall be effective for a period not to exceed three years.

Section 76.301 of EDGAR does not apply to Title VI. It provides that an LEA shall file with the SEA an application that meets the requirements of section 436 (now section 442) of the General Education Provisions Act (GEPA). However, section 14306(b) of the ESEA states that section 442 of GEPA does not apply to ESEA programs.

EDGAR Part 80

For SEAs that decide to administer the Title VI program in accordance with Part 80 of EDGAR, instead of adopting their own written fiscal and administrative requirements, the following two provisions in Part 80 might be of particular interest:

SEAs and LEAs should refer to section 80.22 of EDGAR, along with OMB Circular A-87, for applicable cost principles.

The record retention requirements in section 80.42(b) of EDGAR and section 434(a) (formerly section 437(a)) of GEPA are now the same. As a result, SEAs and LEAs are now required to retain records for three years after completion of the activity for which they used grant funds. (Note: Section 76.734 of EDGAR contains a five-year record retention requirement, which is based upon the requirement that was formerly in section 437 of GEPA. However, the new three-year requirement in section 443 of GEPA controls, and section 76.734 of EDGAR is not applicable.)

CROSS CUTTING PROVISIONS

The ESEA contains several general provisions which are applicable to programs under various titles. Two of these cross cutting provisions -- waivers and consolidation of administrative funds -- are discussed in this section of the guidance.

WAIVERS OF PROGRAM REQUIREMENTS

There is broad waiver authority that allows SEAs and LEAs to obtain relief from Federal requirements to implement a program more effectively. In such cases, the Secretary's waiver of a particular statutory or regulatory requirement may be in effect for up to three years. It is difficult to anticipate all of the particular situations in which Federal program requirements might inhibit effective program operations. Therefore, the waiver authority allows the Secretary to consider requests for waivers of any statutory or regulatory requirement, with several exceptions. (See section 14401 of the ESEA, 20 USC 8881.)

General Waiver Procedures for SEAs and LEAs

In the case of waivers submitted by either an SEA or LEA, all interested entities in the State must be provided with notice and reasonable time to comment on the waiver request. In the case of SEAs acting on their own behalf, these comments must be submitted to the Secretary. In the case of LEAs, they must be submitted to the SEA.

The Secretary may not waive statutory or regulatory requirements relating to the following:

Allocation or distribution of funds to SEAs, LEAs, or other recipients of ESEA funds

Maintenance of Effort

Comparability of Services

Use of Federal funds to supplement, not supplant, non-Federal funds

Equitable participation of private school students and teachers

Parental participation and involvement

Applicable civil rights requirements

Charter School requirements

Prohibitions regarding State aid in Section 14502 or the use of funds for religious worship or instruction in section 14507

WAIVER INFORMATION

An SEA or LEA or Indian tribe requesting a waiver must:

- identify the Federal programs affected by the waiver
- describe the Federal requirements to be waived and how the waiving of the requirements will *increase quality of instruction for students and improve their academic performance*
- if applicable, describe waiving of similar State and local requirements and how this will assist the LEA, Indian tribe, or schools in achieving the objectives stated above
- describe specific, measurable educational improvement goals and expected outcomes for affected students
- describe the methods to be used to measure progress in meeting the goals and expectations
- describe how schools will continue to serve the same populations served by the programs for which waivers are requested

Waivers approved by the Secretary may remain in effect up to *three years*. The Secretary may extend this period if the waiver:

- has been effective in enabling the recipients to carry out activities affected by the waiver;
- has contributed to improved student performance; and
- is in the interest of the public.

CONSOLIDATION OF SET-ASIDE FOR STATE ADMINISTRATIVE FUNDS

The ESEA permits consolidation of State administrative funds under ESEA formula grant programs (e.g., Title I, Professional Development, Safe and Drug-Free Schools, and Title VI) if the SEA can demonstrate that the majority of its resources come from non-Federal sources. (Section 14201(a)(1) of the ESEA, 20 USC 8821(a)(1))

An SEA could use its consolidated administrative funds for broader purposes such as to:

- administer all of the programs included in the consolidation;
- coordinate with other Federal and non-Federal programs;
- establish and operate peer review mechanisms under ESEA;
- administer Title XIV of the ESEA;
- disseminate information regarding model programs and practices; and
- provide technical assistance under programs included in the consolidation of administrative funds. (Section 14201(b)(2) of the ESEA, 20 USC 8821(b)(2))

Separate records to account for costs related to administration do not need to be kept for the individual programs included in this consolidation. (Section 1421(c) of the ESEA, 20 USC 4821(c))

The Department believes that these provisions could result in less burden to LEAs, and more program funds for instruction. Previously, LEAs spent separate program funds on program administration, resulting in burdensome record keeping and fragmented administration.

Because record keeping and administrative practices vary considerably across LEAs, it is not clear how much actually is spent on LEA administration. Title XIV authorizes a study of the use of administrative funds by LEAs and SEAs. The findings of this study will be reported to Congress. (Section 14204 of the ESEA, 20 USC 8824)

FREQUENTLY ASKED QUESTIONS

- 1.** Can Title VI funds be used for professional development? (See p. 8, section 6301 of Title VI, 20 USC 7351)
- 2.** Will annual data be reported in the biennial submission of data? (See p. 23, section 6202(a)(2)(A) of Title VI, 20 USC 7332(a)(2)(A))
- 3.** Does GEPA apply to Title VI? (See p. 23, 20 USC 1221-1234b)
- 4.** How will the Department be involved in the evaluation of effectiveness? (See p.4, section 6202(c)(2)(B) of Title VI, 20 USC 7332(a)(2)(B))
- 5.** In calculating its formula for distributing Title VI funds, may a State use factors other than the three listed in the statute? (See p.15, section 6102(a)(3) of Title VI, 20 USC 7312(a)(3))
- 6.** What EDGAR requirements are now applicable to Title VI? (See p. 21, 34 C.F.R. Parts 76, 77, 80, 82, 85, and 86)
- 7.** Do the EDGAR provisions regarding the participation of private school children apply to Title VI? (See p. 28, 34 C.F.R. 76.650-76.622) This provision no longer applies to Title VI. Rather, the Title XIV regulations relating to private school participation apply now (sections 299.6 – 299.9).
- 8.** May a State require that applications from LEAs be consolidated or must the LEA be given the option? (See p.11, section 14305 of Title VI, 20 USC 8854)
- 9.** May a State continue to use an Advisory Committee? (See p. 10)
- 10.** Do activities funded under Title VI need to be tied to the National Education Goals and Goals 2000? (See pp 4 and 15, section 60001(b); 6303(a)(2), USC 7301(b); USC 7353(a)(2))
- 11.** May Title VI funds be used for a statewide health-related program? (See pp. 8-9, section 6201(a)(2); 6301(b), USC 7331(a)(2); USC 7351(b))
- 12.** Does Title VI limit public notice and dissemination requirements only to biennial data and the 1998 evaluation of effectiveness? (See p. 6, section 6202(a)(7), USC 7332(a)(7))
- 13.** Who will define the terms "State and local reform activities" and "statewide reform activities"? (See p. 10)
- 14.** May an LEA use Title VI funds to provide reform-oriented services to private school children? (See p. 19, section 6402(a)(1); 20 USC 7372(a)(1))
- 15.** May Title VI funds be used to automate the library? (See p. 14, section 6301(b)(2); 20 USC 7351(b)(2))