

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Dwayne Umbarger at 1:35 p.m. on January 28, 2003 in Room 123-S of the Capitol.

All members were present except: Senator Hensley (excused)

Committee staff present: Carolyn Rampey, Legislative Research
Kathie Sparks, Legislative Research
Theresa Kiernan, Revisor of Statues
Judy Steinlicht, Secretary

Conferees appearing before the committee: Mark Desetti, Kansas National Education Association
Dale Dennis, Deputy Commissioner, State Department of
Education

Others attending: See attached list

No Child Left Behind

Mark Desetti, Kansas National Education Association, shared his perspective on the No Child Left Behind Act. They have attended three national NEA meetings on the topic, as well as other meetings in Chicago and Washington DC. They have presented the program in many school districts and to other interested groups. They have provided information on their website, as well as a site where a paraprofessional can learn about and prepare for the paraprofessional assessment. They also send out a monthly update to local leaders. Mark provided several of their news updates on the program, funding information from the federal government, a list of the limited number supplemental services in Kansas and sections of the actual law that he incorporated with his presentation. Mark discussed a number of concerns that have been expressed by school administrators and others across the state. ([Attachment 1](#))

Briefing on Governor's Recommendation for the State Department of Education Budget

Dale Dennis, Deputy Commission, State Department of Education, provided an update on the Governor's budget recommendations for fiscal years 2003 and 2004, and gave a brief summary of students' achievements and on the challenges being faced by Kansas school districts. Overall, Dale feels Kansas teachers and administrators have done a great job. Kansas has a high rate of high school completion, graduates going on to college and students ranks high on SAT and ACT tests. ([Attachment 2](#))

The meeting was adjourned at 2:30 p.m. The next meeting is scheduled for January 29, 2003 at 1:30 p.m. in Room 123S.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE - 1-28-03

<u>NAME</u>	<u>REPRESENTING</u>
Elaine Frisbie	Dir. of the Budget
Diane Gjerstad	Wichita Public Schools
Kiri Strunk	DD Council
Kara Lock	Intern - Sen. Downey
Charles Heath	Senator Emler
Nicole Romine	Intern - GBBA
James Johnson	Intern - Sen. Corbin
Doug Bowman	CCECDs
Paul Newman	Sen. Egan
Dusti Hardison	Sen. Hensley
Haley Roberts	Senator O'Brien
Bill Brady	KS Gov't Consulting
Jim Edwards	KASB
Jacque Dubee	SQE
Denny Apt	USA - USD 500
Kathyrne Mueller	Kansas Board of Regents
BLAKE WEST	KNEA
Christy Lewing	KWEA



Mark Desetti, testimony
Senate Education Committee
January 28, 2003

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mr. Chairman, members of the committee, I am happy to be here with you today to share with you our perspective on the reauthorized elementary and secondary education act – better known as the No Child Left Behind Act.

I have three things I wish to talk to you about today. First, I want to let you know what KNEA has been doing to keep people informed about the impact of this legislation. Secondly, I will share some concerns we have about the impact on our schools. Finally, I will try to clear up some misunderstandings about the bill.

KNEA has been watching, studying, analyzing, and talking about this bill for some time now. With our fellow NEA affiliates we sent teams to three national meetings on this topic – one in Chicago shortly after the bill was passed, another in New York as states were beginning to grapple with the implementation of the act, and a third in Florida where we reviewed strategies various states were using to cope with the act. We even brought Alexa Pochowski to one meeting so other states could hear how Kansas was working to meet the law's requirements without overburdening local schools. In addition to NEA meetings, KNEA participated in a USDOE meeting on Teacher Quality and Supplemental Services in Washington, D.C. and another on ESEA implementation in Chicago.

We have worked hard to disseminate information on the bill to Kansas school employees. Our early concern about paraprofessionals was addressed immediately by mailing to every school principal and local association president a flyer for school administrators on the paraprofessional quality issue. That mailing generated plenty of requests for more information and we have responded by training all our staff on the requirements of the law. We continue to go around the state making presentations like the one Dr. Tompkins gave you. My most recent one was by invitation of Dr. Neuenswander in Iola and was part of an inservice day for the entire district faculty. Peg Dunlap and I have presented in Great Bend, Lawrence, Atchison, Ottawa, Wellington, El Dorado, Marion, Parsons, Topeka, Manhattan, Olathe, and to Washburn Students. Our staff regularly provide overviews in other parts of the state for faculties, association meetings, and other interested groups.

Our website includes:

- The full text of the Elementary and Secondary Education Act on the US Government site.
- The final regulations for Title 1 - Improving the Academic Achievement of the Disadvantaged, (63 pp, PDF) housed on the USDOE web site.
- No Child Left Behind: A Desktop Reference, published by the United States Department of Education, outlines what is new under the "No Child Left Behind Act of 2001" (ESEA) for each of the educational programs supported under the Elementary and Secondary Act of 1965 and other statutes.
- No Child Left Behind Act is the web site for the Elementary and Secondary Education Act developed and maintained by the Bush Administration.
- Paraprofessionals and ESEA from Kansas Department of Education is a letter from Kansas Assistant Commissioner of Education Alexa Pochowski explaining the implementation of the paraprofessional quality provisions of ESEA.
- Supplemental Services Guidance Letter from Secretary Paige is the text of a letter from United States Secretary of Education Rod Paige providing guidance to states and school districts on the provision of public school choice and supplemental services.

- Adequately Yearly Progress Guidance Letter from Secretary Paige is the text of a letter from United States Secretary of Education Rod Paige providing guidance to states and school districts on the Act's requirements in meeting adequate yearly progress.

Also on our site are the six documents we produced which I am providing for you now and a link to the ETS ParaPro site where paraprofessionals can learn about and prepare for the paraprofessional assessment.
<http://www.ets.org/parapro/index.html>

We also send a monthly update to our local leaders with materials for them to reproduce, share with their district, and distribute to members.

The word is getting down to the school site level. Not every question or concern has been answered but we're working on it.

We, like others, have a variety of concerns regarding implementation of this law.

Funding issues

As you have already discussed, funding is a serious issue with this law. While the law calls for significant increases in funding to pay for the mandates, the President's budgets and the legislative appropriations have failed to meet levels called for.

The No Child Left Behind Act called for an increase of \$9.714 billion over FY 01 spending for FY 02. The President's budget called for an increase of only \$460 million and the final appropriation was an increase of only \$3.507 billion – over \$6 billion short of what the bill called for.

When we put this federal funding shortfall in the mix with several years of flat state funding – and of course that assumes passage of Governor Sebelius' proposals – you can certainly see why teachers, school administrators, school board members, the state department of education and our state legislators are experiencing some heartburn over this.

45 ways to be labeled

Some have shared the idea that this bill is designed specifically to get as many schools labeled as low performing as we possibly can. There is certainly some evidence for this opinion. I would like to share with you a chart that indicates the various ways a school can get on the "school improvement" list. Down the left column you will see the whole school data along with the various disaggregated subgroups. Along the top are the five performance criteria. A checkmark in any one of these quadrants moves a school toward being designated as "in need of improvement." On the bottom chart I have prepared a sort of worst case scenario. A school that is doing remarkably well in meeting reading and math proficiency, graduation rates and attendance rates has tested only 94% of their students with disabilities. The requirement is to test 95% of the students overall and in each subgroup. To get a mark in any of the quadrants for two years puts a school on the improvement list. This goes a long way to explain why it is so likely that a large majority of schools will eventually be labeled.

Paraprofessionals

While the idea of putting well-qualified paraprofessionals in all positions is laudable, the reality is that the low wages associated with such positions makes it highly unlikely that schools will be able to attract an adequate number of paras with two years of college or an Associate's degree. There is a third method of meeting the standard. In our case it is an assessment from ETS called the ParaPro. The test will cost \$40 per candidate and will test the candidate's skills in assisting with reading and mathematics. School districts can use some Title funds to pay for this and it is certainly an option for paraprofessionals who have not attended college.

Highly Qualified Teachers

We have no problem with the requirement that teachers be highly qualified – certified in the area in which they teach and competent in their content area. Kansas, as Dr. Tompkins pointed out to you is pretty good in this measure already with 94% of our teachers meeting the test immediately and another 3% very close. Our problem is likely to be in middle schools/junior highs where some elementary teachers are hired and teaching in single subject areas. The state department is working to ensure that we are able to determine their quality under a provision known as HOUSE – highly objective uniform state-wide standard of evaluation. The proposed system will take into account experience, college coursework, content area professional development, service to content area organizations and programs, and advanced certification. We would anticipate that, if adopted, this will enable Kansas to ensure that most if not all of our teachers meet the highly qualified definition.

Supplemental Services and Choice

As Dr. Ray Daniels pointed out to you the list of supplemental service providers is thin. I have enclosed the last published list for your information. Note that of 14 providers, 7 are Sylvan Learning Centers, three are school districts that offer services to their district (and no schools yet identified), one is an on-line high school program (and no high schools yet identified). This can only be regarded as "slim pickings."

Both choice and supplemental services will cost money. Some will say that these provisions are funded but they are funding by diverting Title monies from existing student programs in your school to paying for transportation and supplemental services. This is a classic example of robbing Peter to pay Paul.

Now let me clear up some misconceptions:

Do the sanctions apply to non-title 1 schools?

Dr. Tompkins told you they do not but there appeared to be some lingering doubt in your subsequent discussions. I have included here for you §200.12, Single State accountability system. If you look at section b, subsection 4, you will see that it is clearly stated that we are not required to submit schools not participating in Title 1 to the requirements of section 1116 of the ESEA. Sanctions don't apply to non-Title schools.

Collective Bargaining

It has been said that collective bargaining might be a problem. I have included for you §200.54, Rights of School and School District Employees from the Federal Register. This section appears in the commentary portion of the register. As originally proposed the regulation would have tried to change the law regarding collective bargaining and the prohibition to implementing actions that violate collective bargaining agreements. The proposed regulation was deleted from the final regulations because, as you can see, Secretary Paige "agrees that the proposed regulations arguably were inconsistent with a strict reading of the NCLB Act and may have conflicted with applicable State and local laws."

Transferring teachers

It has been said here that the law or the regulations required placing the "best" teachers in the lowest performing classrooms. What is required is that teachers in Title 1 programs meet the highly qualified definition. The school improvement plan section of the regulations §200.41 makes no mention of any requirement to determine who is the best teacher or to transfer those teachers anywhere. It does go into detail about providing the teachers in impacted schools with professional development targeted to the school's areas of difficulties and mentoring services.

Corrective Action requirements

Another issue raised here was how schools on corrective action could do what was required without changes in law or collective bargaining. You were presented with a list of things schools had to do under corrective action. Under §200.42, Corrective Action, you will note that schools are not required to do *everything* that was mentioned earlier. Schools must continue to get technical assistance and provide school choice and supplemental services. The other sanctions are a list of six possibilities. The school must implement one of those six, not all of them. Simply put, if one is not allowed, then it is not an option.

I know that I have provided you with probably too much information. In your folder are copies of section 1116 of the law, portions of the regulations related to my comments, and a variety of other documents examining supplemental services, budget allocations, and summaries of various provisions. I hope this helps clarify some of the realities of this law. Thank you for your time today.



ESEA in focus: Supplemental Educational Services

*When a Title I school fails to meet Adequate Yearly Progress (AYP) for two consecutive years, the district must identify that school for improvement. In the first year of school improvement, parents of students in Title I schools must be offered public school choice. Parents of students in Title I schools identified for their 2nd year of school improvement will be eligible to receive **supplemental educational services** for their children.*

What are supplemental educational services and who is eligible?

Supplemental educational services consist of extra academic assistance for low-income students who are attending Title I schools and may include tutoring, remediation and/or academic intervention. Such instruction must take place outside the regular school day. Children from low-income families attending Title I schools that have failed to make AYP for three or more years are eligible for supplemental educational services.

Who can be a provider of supplemental educational services?

- School entity (public or private)
- Institution of higher education (public or private)
- Nonprofit or for-profit organization
- Faith based organization
- Some areas may have a limited number of providers, so organizations that provide distance learning technology should be considered. Providers that utilize distance learning technology do not have different criteria for eligibility.

All providers must meet four criteria:

- Providers must have a demonstrated record of effectiveness in improving student achievement. (State educational agencies are responsible for defining what would be acceptable evidence of effectiveness.)
- Instructional strategies must be of high quality, based upon research, and designed to increase student achievement.
- Services must be consistent with instruction programs of the school district and with State academic content standards.
- Providers must be financially sound.

The district pays for supplemental educational services using some Title I funds.

- The district must fund the lesser of (a) the amount the district receives in Title I funding per low-income child, or (b) the cost of the services themselves.
- If supplemental educational services are required, the district must use an amount equal to at least 5% of its Title I allocation, and up to 20% depending upon the need for choice-related transportation.
- In some circumstances when more students request services than the school district can fund, the school district must place a priority on serving students who are the lowest achieving.

For more information

www.knea.org Visit the KNEA website and click on ESEA. There you will find Secretary Rod Paige's guidance letter on supplemental educational services along with additional information on ESEA.

www.ksde.org Visit the Kansas State Department of Education website and click on State/Federal Programs.

www.ed.gov Visit the United States Department of Education website.

Contact your UniServ Director or the KNEA Instructional Advocacy Department



ESEA in focus.

Teacher & Paraprofessional Quality

For teachers:

For teachers, "highly qualified" means they must be fully certified or licensed under state law and demonstrate competency.

- Beginning with 2002-03 school year, each local education agency/school district (LEA) receiving Title I funds must ensure all teachers hired and teaching in a program supported with Title I funds are "highly qualified."
- Each state must develop a plan to ensure that all teachers (not just Title I teachers) teaching "core academic subjects" are highly qualified no later than the end of the 2005-06 school year.
- Competency can be shown with an academic major in area of assignment, **OR** passing a test in the subject area, **OR** demonstrating high level of competence through a uniform, objective, statewide standard.
- All teachers newly entering the profession must take a written test. (They will do this under Kansas' new licensure system.)
- LEAs that receive Title I funds must use at least 5% for professional development to help teachers become "highly qualified" by the end of the 2005-06 school year. States and LEAs can also spend Title II teacher quality funds for this purpose.

For paraprofessionals:

For new Title I paraprofessionals "highly qualified" means either completing an associate degree **OR** completing two years of post-secondary education **OR** demonstrating knowledge of reading, writing, math, and the ability to assist in instructing these subjects through a state or local academic assessment. Existing Title I paraprofessionals must meet one of these requirements within 4 years. Paraprofessionals who conduct parental involvement activities or translate are exempt from the requirement to be highly qualified. **Local school districts may use federal funds to help paraprofessionals meet the new requirements of the federal law.**

ESEA limits the duties that paraprofessionals may perform to:

- Tutoring outside normal class time
- Assisting with classroom management
- Assisting in a computer laboratory, library, or media center
- Translating
- Providing instruction under the direct supervision of a teacher
- Conducting parental involvement activities

Title I paraprofessionals may perform certain functions outside those listed above for the benefit of all students, such as lunchroom, playground or study hall monitoring. However, the portion of the time they spend on these general duties may not exceed that of a non-Title I paraprofessional at the same school.

For more information

www.knea.org Visit the KNEA website and click on ESEA.

www.ksde.org Visit the Kansas State Department of Education website and click on State/Federal Programs.

www.ed.gov Visit the United States Department of Education website.

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The basic requirements under ESEA:

- Starting in 2005-06 school year, requires annual testing in at least math and reading in grades 3-8, and at least once in grades 10-12. States must use National Assessment of Educational Progress (NAEP) as a benchmark every other year, but no sanctions will be based on performance on NAEP.
- Prior to 2005-06, requirement of reading and math tests at least once in each of three grade spans (3-5, 6-9, 10-12) remains in effect.
- Each state sets performance goals -- initial goal linked to current lowest-performing group of students or schools in state.
- Progress must be made overall for the school and for economically disadvantaged students, students from major racial and ethnic minority groups, students with disabilities, and Limited English Proficient students.

If a school doesn't meet "adequate yearly progress"?

- School fails to meet AYP for 2 years – in year 3, enters school improvement including public school choice.
- School again fails to meet AYP – enters second year of school improvement (year 4), must offer supplemental services to students who want them.
- School still failing at the end of year 4 – enters corrective action (year 5), including extending school year/day, hiring outside expert, changing curriculum, replacing staff, and/or reducing local decision-making.
- School continues to fail to meet AYP – goes into the second year of corrective action (year 6), including developing a restructuring plan.
- School still failing in year 7 – one of the following actions must be taken: state takeover; turn over to private management; turn into a charter school; reconstitution/ restructuring.

What about Kansas schools on "the list"?

Those schools should continue to address student learning as they have been through the QPA process. The list released by the USDOE this summer utilizes old test data. There is likely to be significant change to the list when the state is finished analyzing new assessment data.

Title I schools that were in school improvement under the old ESEA, are still in school improvement and must meet the requirements listed above.

For more information

www.knea.org Visit the KNEA website and click on ESEA. There you will find Secretary Rod Paige's guidance letter on adequate yearly progress along with additional information on ESEA.

www.ksde.org Visit the Kansas State Department of Education website and click on State/Federal Programs.

www.ed.gov Visit the United States Department of Education website.

Contact your UniServ Director or the KNEA Instructional Advocacy Department



ESEA in focus. *Public School Choice*

*When a Title I school fails to meet Adequate Yearly Progress (AYP) for two consecutive years, the district must identify that school for improvement. In the first year of school improvement, parents of students in Title I schools must be offered **public school choice**. Parents of students in Title I schools identified for their 2nd year of school improvement will be eligible to receive supplemental educational services for their children.*

What is public school choice and who is eligible?

Within the context of ESEA, public school choice is the option to transfer within the school district to another public school that has not been identified for improvement. All students enrolled in a Title I school that has not made AYP for two consecutive years are eligible for public school choice.

The district pays for transportation for public school choice using some Title I funds.

- If transportation for public school choice is required, the district must use an amount equal to at least 5% of its Title I allocation, and up to 20% depending upon the need for supplemental educational services.
- In some circumstances when more students request transportation than the school district can fund, the school district must place a priority on serving the lowest achieving, low-income students.

What about school capacity or schools with entrance requirements?

Capacity is only subject to health and safety requirements regarding facility capacity. Transferring students should be treated as students who have moved into the receiving school's attendance zone and allowed to enroll in class and other activities on the same basis as other children in the school. But school districts are not required to disregard entrance requirements based on academic or other skills for the gifted and talented, math or science schools, or other similar schools.

What happens if a student's home school is no longer in need of improvement?

When a school once identified for improvement makes enough progress to be removed from the requirement to provide public school choice, the school district is released from the obligation to pay for transportation. However, students who have transferred to other schools must be permitted to remain at that school through the highest grade level offered if they so desire.

We have only one school or all of our schools are in need of improvement. What then?

In such cases public school choice is not available unless the district enters into a cooperative agreement with a neighboring district. While the United States Secretary of Education encourages such agreements, there is no obligation on the part of school districts to join them. The Secretary further encourages such school districts to consider offering supplemental educational services or other choices in curriculum or instruction such as distance learning.

For more information

www.knea.org Visit the KNEA website and click on ESEA. There you will find Secretary Rod Paige's guidance letter on supplemental educational services and school choice along with additional information on ESEA.

www.ksde.org Visit the Kansas State Department of Education website and click on State/Federal Programs.

www.ed.gov Visit the United States Department of Education website.

Contact your UniServ Director or the KNEA Instructional Advocacy Department



ESEA in focus:

Access to students by military recruiters

Congress has passed two major pieces of legislation that generally require local educational agencies (LEAs) receiving assistance under the *Elementary and Secondary Education Act* (ESEA) to give military recruiters the same access to secondary school students as they provide to postsecondary institutions or to prospective employers. LEAs are also generally required to provide students' names, addresses, and telephone listings to military recruiters, when requested. Both provisions apply to all LEAs receiving ESEA funds by not later than July 1, 2002. *The Department of Defense has developed a national high school data base to document recruiter access. Presently, 95 percent of the nation's 22,000 secondary schools provide a degree of access to military recruiters that is consistent with current law. If your high school does not, these new provisions change your practice now.*

Information and Access

Section 9528 of ESEA requires each LEA that receives funds under the ESEA to comply with a request by a military recruiter or an institution of higher education for secondary students' names, addresses, and telephone numbers, unless a parent has "opted out" of providing such information. **Note that military recruiters and institutions of higher education are linked in § 9528. If a parent opts out because of the military recruiter provision, they also opt out of release to institutions of higher education.**

Section 9528 also requires LEAs that receive funds under the ESEA to provide military recruiters the same **access** to secondary school students as they generally provide to postsecondary institutions or prospective employers. For example, if the school has a policy of allowing postsecondary institutions or prospective employers to come on school property to provide information to students about educational or professional opportunities, it must afford the same access to military recruiters.

Notifying parents of "opt out" provisions

Under the Federal Educational Rights and Privacy Act (FERPA), an LEA must provide notice to parents of the types of student information that it releases publicly. This type of student information, commonly referred to as "directory information," includes such items as names, addresses, and telephone numbers and is information generally not considered harmful or an invasion of privacy if disclosed. The notice must include an explanation of a parent's right to request that the information not be disclosed without prior written consent. Additionally, § 9528 of ESEA requires that parents be notified that the school routinely discloses names, addresses, and telephone numbers to military recruiters upon request, subject to a parent's request not to disclose such information without written consent. A single notice provided through a mailing, student handbook, or other method that is reasonably calculated to inform parents of the above information is sufficient to satisfy the parental notification requirements of both FERPA and § 9528. The notification must advise the parent of how to opt out of the public, nonconsensual disclosure of directory information and the method and timeline within which to do so.

If an LEA has a blanket policy of not disclosing "directory information" under FERPA, and so does not need an opt out notification, then it **must still provide military recruiters access to secondary students' names, addresses, and telephone listings**. In addition, the LEA must notify parents that they may opt out of this disclosure. In other words, an LEA that does not disclose "directory information" must nonetheless provide a notice that it discloses information to military recruiters. The notice must be reasonably calculated to inform parents.

- The USDOE's **Model Notice for Directory Information** is included on the back of this page.

For more information

www.knea.org Visit the KNEA website and click on ESEA. There you will find additional information on ESEA.

www.ksde.org Visit the Kansas State Department of Education website and click on State/Federal Programs.

<http://www.ed.gov/offices/OM/fpco/> Visit the United States Department of Family Policy Compliance Office website.

Contact your UniServ Director or the KNEA Instructional Advocacy Department



ESEA in focus:

Access to students by military recruiters

Model Notice for Directory Information

The Family Educational Rights and Privacy Act (FERPA), a Federal law, requires that [School District], with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, [School District] may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures. The primary purpose of directory information is to allow the [School District] to include this type of information from your child's education records in certain school publications. Examples include:

- A playbill, showing your student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) to provide military recruiters, upon request, with three directory information categories - names, addresses and telephone listings - unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent.⁽¹⁾

If you do not want [School District] to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing by [insert date]. [School District] has designated the following information as directory information: [Note: an LEA may, but does not have to, include all the information listed below.]

- Student's name
- Participation in officially recognized activities and sports
- Address
- Telephone listing
- Weight and height of members of athletic teams
- Electronic mail address
- Photograph
- Degrees, honors, and awards received
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- The most recent educational agency or institution attended

Footnotes:

1. These laws are: Section 9528 of the ESEA (20 U.S.C. 7908), as amended by the No Child Left Behind Act of 2001 (P.L. 107-110), the education bill, and 10 U.S.C. 503, as amended by section 544, the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107), the legislation that provides funding for the Nation's armed forces.



ESEA in focus : Rural Education Achievement Program

ESEA contains three separate **Rural Education Achievement Program (REAP)** initiatives that are designed to help rural districts that may lack the personnel and resources to compete effectively for Federal competitive grants and that often receive grant allocations in amounts that are too small to be effective in meeting their intended purposes. The three initiatives are:

The REAP Alternative Uses of Funds Authority is a flexibility provision that allows eligible local educational agencies (LEAs) to combine funding under certain programs to carry out local activities under other specified Federal programs. Funds combined under the Alternative Uses of Funds Authority may be used to carry out local activities under one or more of the following Federal programs:

These programs:

- Part A of Title II (Teacher and Principal Training and Recruiting)
- Part D of Title II (Enhancing Education Through Technology)
- Part A of Title IV (Safe and Drug-Free Schools and Communities)
- Part A of Title V (Innovative Programs)

Can be combined and used for these purposes:

- Part A of Title I (Improving the Academic Achievement of Disadvantaged Children)
- Part A of Title II (Teacher and Principal Training and Recruiting)
- Part D of Title II (Enhancing Education Through Technology)
- Title III (Language Instruction for Limited English Proficient and Immigrant Students)
- Part A of Title IV (Safe and Drug-Free Schools and Communities)
- Part B of Title IV (21st Century Community Learning Centers)
- Part A of Title V (Innovative Programs)

LEAs that (1) have an average daily attendance of fewer than 600 students; or where each school is in a county with a population density of less than 10 persons/square mile; and (2) where all of the schools have an NCES school locale code of 7 or 8 are eligible for the REAP Alternative Uses of Funds Authority.

The Small, Rural School Grant Program, which complements the Alternate Uses of Funds authority, authorizes the Secretary to award formula grants directly to eligible LEAs (i.e., those LEAs eligible under the alternative uses of funds program described above) to carry out activities authorized under other specified Federal programs. To see if your district is eligible, visit www.ed.gov/offices/OESE/reap/kansas.xls.

The Rural and Low-Income School Program, designed to address the needs of rural, low-income schools, awards formula grants to State Educational Agencies (SEAs), which in turn award subgrants to eligible LEAs either competitively or on a formula basis. The funds are to be used to carry out activities specified by the statute. To see if your district is eligible to receive a grant from KSDE, visit www.ed.gov/offices/OESE/reap/kansas.xls.

For more information

www.knea.org Visit the KNEA website and click on ESEA. There you will find additional information on ESEA.

www.ksde.org Visit the Kansas State Department of Education website and click on State/Federal Programs.

<http://www.ed.gov/offices/OESE/esea/progsum/title6b.html#top> Visit the United States Department of Education Rural Education Achievement Program website.

Contact your UniServ Director or the KNEA Instructional Advocacy Department

Education Funding: The Numbers

Overall Education Funding

- Current FY 02 discretionary funding = **\$49.94 billion**
- Bush FY 03 proposal = **\$50.31 billion** (an increase of \$374 million, +0.7%)
- July 2002 Senate Appropriations Committee Harkin plan = **\$53.17 billion** (an increase of \$3.2 billion, +6.5%)
- Jan. 2003 Senate Stevens/Specter proposal (after adoption of Gregg amendment and across-the-board cuts) = **\$55.1 billion** (an increase of \$5.15 billion, +10.3%)
- Kennedy-Harkin amendment (defeated) = **\$57.66** (an increase of \$7.73 billion, 15.5%)
- Jan. 2003 House bill (HR 246) = **\$50.31 billion** (an increase of \$374 million, +0.7%)

Funding for Elementary and Secondary Education Act programs

- Current FY 02 funding = **\$22.28 billion**
- Bush FY03 proposal = **\$22.19 billion** (a decrease of \$90 million, -0.4%)
- July 2002 Senate Appropriations Committee Harkin plan = **\$24.60 billion** (an increase of \$2.32 billion, +10.4%)
- Jan. 2003 Senate Stevens/Specter proposal (after adoption of Gregg amendment and across-the-board cuts) = **\$27.33 billion** (an increase of \$5.0 billion, +22.6%)
- Kennedy-Harkin amendment (defeated) = **\$27.76 billion** (an increase of \$5.48 billion, +24.6%)
- Jan. 2003 House bill (HR 246) = **\$22.35 billion** (an increase of \$69 million, +0.3%)

Funding for Title I

- Current FY 02 funding = **\$10.35 billion**
- Amount authorized for FY 2003 under ESEA = **\$16.0 billion**
- Bush FY03 proposal = **\$11.35 billion** (an increase of \$1.0 billion, +9.7%)
- July 2002 Senate Appropriations Committee Harkin plan = **\$11.95 billion** (includes \$100 million for school improvement grants) (an increase of \$1.6 billion, +15.5%)

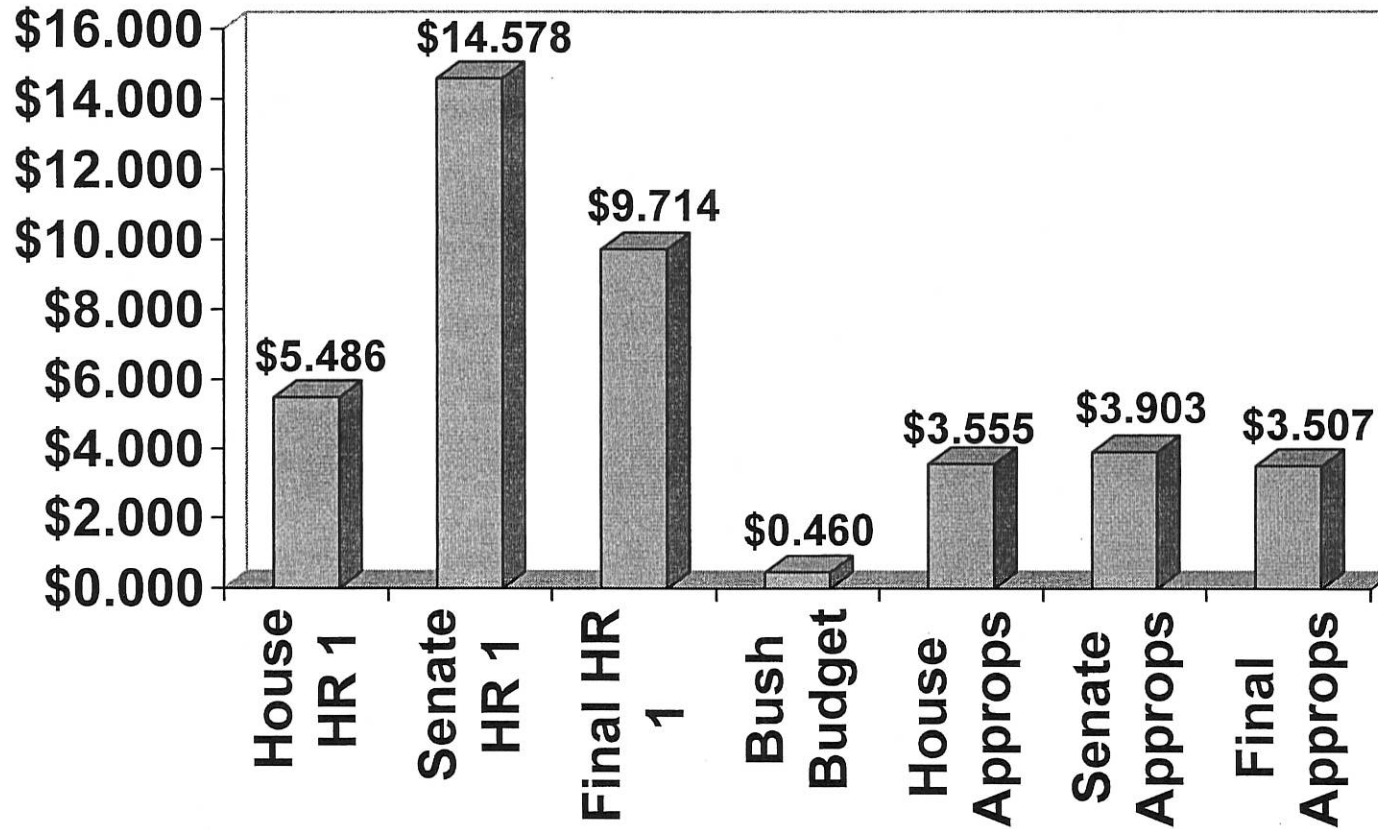
- Jan. 2003 Senate Stevens/Specter proposal (after adoption of Gregg amendment and across-the-board cuts) = **\$11.06 billion** (an increase of \$707 million, +6.8%)
- Kennedy-Harkin amendment (defeated) = **\$16.0 billion** (an increase of \$5.65 billion, +54.6%)
- Jan. 2003 House bill (HR 246) = **\$10.85 billion** (an increase of \$500 million, +4.8%)

Funding for IDEA State Grants

- Current FY02 funding = **\$7.53 billion**
- Amount authorized for FY 2003 (40% full funding share promised by federal government) = **\$18.6 billion**
- Bush FY03 proposal = **\$8.53 billion** (an increase of \$1 billion, +13.3%)
- July 2002 Senate Appropriations Committee Harkin plan = **\$8.53 billion** (an increase of \$1 billion, +13.3%)
- Jan. 2003 Senate Stevens/Specter proposal (after adoption of Gregg amendment and board-the-board cuts) = **\$8.31 billion** (an increase of \$782 million, +10.4%)
- Jan. 2003 House bill (HR 246) = **\$8.03 billion** (an increase of \$500 million, +6.6%)
- Full funding coalition proposal = **\$10 billion** (and similar \$2.5 billion increases in subsequent years to reach full funding in six years)

Prepared by National Education Association, Government Relations Department, January 2003

ESEA PROGRAMS CHANGE FROM FY 01 FUNDING (In billions)



Prepared by National Education Association Government Relations, 12/26/01
Based on House, Senate and conference-passed versions of HR 1, 12/210/01 Department of Education All-Purpose Funding Table, Senate Report 107-84, House Report 107-229, and House Report 107-342

SUPPLEMENTAL SERVICE PROVIDERS		PROVIDER	CONTACT	ADDRESS	CITY	STATE	ZIP	PHONE	FAX	E-MAIL	Subjects	Grade	Maximum	Service	Place of	Type of	Mode of	Student	Cost
Status	NAME	NAME	ADDRESS	CITY	STATE	CODE	PHONE	FAX	E-MAIL	Covered	Level	Number	Area	Service	Organization	Instruction	Ratio	Instructor	Cost
Conditional/ approval	WEST SOLOMON VALLEY	George Brown	325 South Chapman	Lenora	KS	67645	785-567-4350	785-567-4540	gbrown@ruraltel.net	Basic	K-8	10 per grade level	USD 213	School	School Entity	Individual and small group tutoring, after school, summer, during the school year	10 to 1		1 hour @ \$30. per hour per instructor
Conditional/ approval	ESSDACK LEARNING CENTERS	Judy Buri	1500 East 11th, Suite F16A	Hutchinson	KS	67501	620-664-6607	620-663-5734	judib@essdack.org	Math, Language Arts, Reading, Social Science, and Science	4 to 9	30 students per center approx. 400 total	South Central Kansas	On-line/Community learning centers	Not for Profit	On-line/Web-based Individual tutoring CD Instruction Small group instruction Videotape presentation	(1 to 1 K-3) (3 to 1 other)		Program Fee \$25 per hour
Approved	SMARTHINKIG, INC.	Neil Allison	1819 Pennsylvania Ave., Suite 810	Washington	DC	20003	202-543-5034 x 201	202-543-5589	nallison@smarthinking.com	Math, Language Arts, Statistics, Chemistry and Economics	9 to 12	Depends on amount of lead time available	Statewide to students with Internet access	On-line/Community learning centers	For Profit	Internet-based	1 to 1 tutoring online		\$20 to \$40 per hour depending on subject
Approved	KU STRATEGIC LEARNING CENTER	Lisa Walsh	1245 New Hampshire	Lawrence	KS	66044	785-331-3236	785-864-5728	lwalsh@ku.edu	Math, Language Arts, Social Studies, and Science	Pre-K to 12	120 per week or 240 1 to 1 tutoring sessions	North Eastern Kansas	School Students home	Not for Profit	Individual and small group	1 to 1		Average cost \$20 per hour
Conditional/ approval	USD 393 AFTER SCHOOL PROGRAM	Cindy Harlan	113 East 7th St.	Solomon	KS	67480	785-655-3192	785-655-2502	charlan65@hotmail.com	K-6 (Math, Science, Reading, Social Studies, Art, Music, Technology Secondary 7-12 Math and Reading)	K-12	75 (K-6) & 50 (7-12)	USD 393	School	School Entity	Individual and small group	10 to 1		Cost per day: \$1 for free lunch students, \$2 for reduced, and \$3 for regular.
Conditional/ approval	SMOKY HILL EDUCATION SERVICE CENTER	Glendon Lakes, Ph.D.	219 W. 7th	Concordia	KS	66901	785-243-4417	785-243-4457	glakes@informatics.net	Math, Language Arts, Reading, Social Science, and Science	K-12	500+	Western Kansas	School Business Students Home	Not for Profit	On-line/Web-based Individual tutoring, small group, computer-based.	12 to 1		\$100/course or pro-rated amount of a district's FTE

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Conditional/val	USD 261	Carla Lyons	1745 W Grand	Haysville	KS	67060	316-554-2205	316-554-2230	clyons@usd261.com	Math, Language Arts, Reading	K-5	100	USD 261	School Public Library	School Entity	Individual and small group	10 to 1	\$10.00 per child, per day / 1 hour per day
Approved	SYLVAN LEARNING CENTER 1500	Collin Reynolds	9021 Metcalf Ave.	Overland Park	KS	66212	913-381-8755	913-381-1322	Collin.reynolds@sylvanks.com	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 345	North Eastern Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$44 per hour depending on needs
Approved	SYLVAN LEARNING CENTER 1505	Christine Oelkers	4920 Legends Dr.	Lawrence	KS	66049	785-842-6284	785-838-3825	Christine.oelkers@sylvanks.com	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 250	North Eastern Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$42 per hour depending on needs
Approved	SYLVAN LEARNING CENTER 1504	Ruth Eastland	2800 Wanamaker	Topeka	KS	66014	785-272-6284	785-272-4450	Ruth.Eastland@sylvanks.com	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 360	North Eastern Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$42 per hour depending on needs
Approved	SYLVAN LEARNING CENTER 1506	Stephanie Gaskill	3208 Kimball Ave.	Manhattan	KS	66502	785-587-8800	785-587-8942	Ruth.Eastland@sylvanks.com	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 168	North Eastern Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$42 per hour depending on needs
Approved	SYLVAN LEARNING CENTER 1507	Rayna Steen	2500 N. Main Suite J	Hutchinson	KS	67502	620-664-5900	620-663-6666	Sylvanhutch.rayna@sbeglobal.net	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 150	South Central Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$42 per hour depending on needs
Approved	SYLVAN LEARNING CENTER 1502	Lisa Eaglin	2020 N. Woodlawn # 620	Wichita	KS	67208	316-681-2880	316-681-8067	Lisa.eaglin@sylvanks.com	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 170	South Central Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$42 per hour depending on needs
Approved	SYLVAN LEARNING CENTER 1503	Nancy Roth	8404 W. 13th #163	Wichita (West)	KS	67212	316-721-0196	316-721-7738	nancy.roth@sylvanks.com	Math, Language Arts, Reading, Social Science, and Science	Pre-K to 13	Approx. 171	South Central Kansas	Business	For Profit	Individualized /prescriptive, mastery-based instruction.	2-3 to 1	\$38-\$42 per hour depending on needs

SE 16. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

(a) LOCAL REVIEW-

(1) IN GENERAL- Each local educational agency receiving funds under this part shall —

(A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2);

(B) at the local educational agency's discretion, use any academic assessments or any other academic indicators described in the local educational agency's plan under section 1112(b)(1)(A) and (B) to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 1111(b)(2), except that the local educational agency may not use such indicators (other than as provided for in section 1111(b)(2)(1)) if the indicators reduce the number or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;

(C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 1111(b)(1); and

(D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

(2) AVAILABLE RESULTS- The State educational agency shall ensure that the results of State academic assessments administered in that school year are available to the local educational agency before the beginning of the next school year.

(b) SCHOOL IMPROVEMENT-

(1) GENERAL REQUIREMENTS-

(A) IDENTIFICATION- Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).

(B) DEADLINE- The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.

(C) APPLICATION- Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 1111(b)(2)(C)(v) enrolled in such school is meeting or exceeding the State's proficient level of academic achievement.

(D) TARGETED ASSISTANCE SCHOOLS- To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified for school improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

(E) PUBLIC SCHOOL CHOICE-

(i) IN GENERAL- In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

(ii) RULE- In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1).

(F) TRANSFER- Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) shall be enrolled in

classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

(2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT-

(A) IDENTIFICATION- Before identifying an elementary school or a secondary school for school improvement under paragraphs (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE- If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

(C) FINAL DETERMINATION- Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

(3) SCHOOL PLAN-

(A) REVISED PLAN- After the resolution of a review under paragraph (2), each school identified under paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and —

(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F;

(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 1111(b)(2)(C)(v) and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001-2002 school year;

(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 1113 for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that —

(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

(II) meets the requirements for professional development activities under section 1119; and

(III) is provided in a manner that affords increased opportunity for participating in that professional development;

(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 1111(b)(2)(C)(v) and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 1111(b)(2), meet the State's proficient level of achievement on the State academic assessment described in section 1111(b)(3) not later than 12 years after the end of the 2001-2002 school year;

(vi) describe how the school will provide written notice about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language that the parents can understand;

(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 1120A;

(viii) include strategies to promote effective parental involvement in the school;

(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

(x) incorporate a teacher mentoring program.

(B) **CONDITIONAL APPROVAL-** The local educational agency may condition approval of a school plan under this paragraph on —

(i) inclusion of one or more of the corrective actions specified in paragraph

(7)(C)(iv); or

(ii) feedback on the school improvement plan from parents and community leaders.

(C) **PLAN IMPLEMENTATION-** Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).

(D) **PLAN APPROVED DURING SCHOOL YEAR-** Notwithstanding subparagraph (C), if a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

(E) **LOCAL EDUCATIONAL AGENCY APPROVAL-** The local educational agency, within 45 days of receiving a school plan, shall —

(i) establish a peer review process to assist with review of the school plan; and

(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

(4) TECHNICAL ASSISTANCE-

(A) **IN GENERAL-** For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.

(B) **SPECIFIC ASSISTANCE-** Such technical assistance —

(i) shall include assistance in analyzing data from the assessments required under section 1111(b)(3), and other examples of student work, to identify and address problems in instruction, and problems if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;

(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

(iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school improvement status; and

(iv) may be provided —

(I) by the local educational agency, through mechanisms authorized under section 1117; or

(II) by the State educational agency, an institution of higher education (that is in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

(C) **SCIENTIFICALLY BASED RESEARCH-** Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

(5) **FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION-** In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State's plan under section 1111(b)(2), by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school —

(A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);

(B) shall make supplemental educational services available consistent with subsection (e)(1); and

(C) shall continue to provide technical assistance.

(6) NOTICE TO PARENTS- A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8) —

(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

(B) the reasons for the identification;

(C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;

(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

(F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e).

(7) CORRECTIVE ACTION-

(A) IN GENERAL- In this subsection, the term 'corrective action' means action, consistent with State law, that —

(i) substantially and directly responds to —

(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

(II) any underlying staffing, curriculum, or other problems in the school;
and

(ii) is designed to increase substantially the likelihood that each group of students described in 1111(b)(2)(C) enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 1111(b)(3).

(B) SYSTEM- In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

(C) ROLE OF LOCAL EDUCATIONAL AGENCY- In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 1111(b)(2), by the end of the second full school year after the identification under paragraph (1), the local educational agency shall —

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

(iii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and

(iv) identify the school for corrective action and take at least one of the following corrective actions:

(I) Replace the school staff who are relevant to the failure to make adequate yearly progress.

(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

(III) Significantly decrease management authority at the school level.

(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

(V) Extend the school year or school day for the school.

(VI) Restructure the internal organizational structure of the school.

(D) DELAY— Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(E) PUBLICATION AND DISSEMINATION— The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

- (i) to the public and to the parents of each student enrolled in the school subject to corrective action;
- (ii) in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and
- (iii) through such means as the Internet, the media, and public agencies.

(8) RESTRUCTURING-

(A) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS— If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

- (i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);
- (ii) continue to make supplemental educational services available, in accordance with subsection (e), to children who remain in the school; and
- (iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

(B) ALTERNATIVE GOVERNANCE—Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

- (i) Reopening the school as a public charter school.
- (ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.
- (iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.
- (iv) Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.
- (v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 1111(b)(2). In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

(C) PROMPT NOTICE- The local educational agency shall—

- (i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and
- (ii) provide the teachers and parents with an adequate opportunity to—
 - (I) comment before taking any action under those subparagraphs; and
 - (II) participate in developing any plan under subparagraph (A)(iii).

(9) TRANSPORTATION— In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5), (7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii), the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

(10) FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES-

(A) IN GENERAL— Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend—

- (i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (9);
- (ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and
- (iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (9), supplemental educational services under subsection (e), or both, as the agency determines.

(B) TOTAL AMOUNT— The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

(C) INSUFFICIENT FUNDS— If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

(D) PROHIBITION— A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 1113(c) to a school described in paragraph (7)(C) or (8)(A) of subsection (b).

(11) COOPERATIVE AGREEMENT- In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) if all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

(12) DURATION- If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

(13) SPECIAL RULE- A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

(14) STATE EDUCATIONAL AGENCY RESPONSIBILITIES- The State educational agency shall—

- (A) make technical assistance under section 1117 available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 1117(a)(2);
- (B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;
- (C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and
- (D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 1111(b)(9) that have significantly affected student academic achievement.

(c) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT—

(1) IN GENERAL— A State shall—

(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 1111(b)(2) toward meeting the State's student academic achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 1117, 1118, and 1119; and

(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 1111(b)(2).

(2) REWARDS- In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 1111(b)(2), the State may make rewards of the kinds described under section 1117 to the agency.

(3) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCY FOR IMPROVEMENT- A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to the date of enactment of the No Child Left Behind Act of 2001, failed to make adequate yearly progress as defined in the State's plan under section 1111(b)(2).

(4) TARGETED ASSISTANCE SCHOOLS- When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served, or are eligible for services, under this part.

(5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE-

(A) REVIEW- Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE- If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

(6) NOTIFICATION TO PARENTS-The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

(7) LOCAL EDUCATIONAL AGENCY REVISIONS-

(A) PLAN- Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall-

(i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;

(ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;

(iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii)), but excluding funds reserved for professional development under section 1119;

(iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 1111(b)(2)(C)(v), consistent with adequate yearly progress as defined under section 1111(b)(2);

(v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

(vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;

(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 1120A; and

(viii) include strategies to promote effective parental involvement in the school.

(B) IMPLEMENTATION-The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.

(9) STATE EDUCATIONAL AGENCY RESPONSIBILITY-

(A) TECHNICAL OR OTHER ASSISTANCE— For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 1117, to better enable the local educational agency to—

- (i) develop and implement the local educational agency's plan; and
- (ii) work with schools needing improvement.

(B) METHODS AND STRATEGIES—Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 1118 and the professional development activities described in section 1119.

(10) CORRECTIVE ACTION— In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:

(A) DEFINITION— As used in this paragraph, the term corrective action' means action, consistent with State law, that—

- (i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and
- (ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.

(B) GENERAL REQUIREMENTS— After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—

- (i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);
- (ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and
- (iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

(C) CERTAIN CORRECTIVE ACTIONS REQUIRED— In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:

- (i) Deferring programmatic funds or reducing administrative funds.
- (ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.
- (iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.
- (iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.
- (v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.
- (vi) Abolishing or restructuring the local educational agency.
- (vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F), and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9), in conjunction with carrying out not less than one additional action described under this subparagraph.

(D) HEARING- Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

(E) NOTICE TO PARENTS— The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

(F) DELAY— Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(11) SPECIAL RULE— If a local educational agency makes adequate yearly progress for two consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer identify the local educational agency for improvement or subject the local educational agency to corrective action for the succeeding school year.

(d) CONSTRUCTION— Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(e) SUPPLEMENTAL EDUCATIONAL SERVICES—

(1) SUPPLEMENTAL EDUCATIONAL SERVICES— In the case of any school described in paragraph (5), (7), or (8) of subsection (b), the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(2) LOCAL EDUCATIONAL AGENCY RESPONSIBILITIES— Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

(3) AGREEMENT— In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act;

(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES— A State educational agency shall—

- (A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;
- (B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);
- (C) maintain an updated list of approved providers across the State, by school district, from which parents may select;
- (D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and
- (E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

(5) **CRITERIA FOR PROVIDERS**— In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

- (A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.
- (B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.
- (C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.
- (D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

(6) **AMOUNTS FOR SUPPLEMENTAL EDUCATIONAL SERVICES**— The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of--

- (A) the amount of the agency's allocation under subpart 2, divided by the number of children from families below the poverty level counted under section 1124(c)(1)(A); or
- (B) the actual costs of the supplemental educational services received by the child.

(7) **FUNDS PROVIDED BY STATE EDUCATIONAL AGENCY**— Each State educational agency may use funds that the agency reserves under this part, and part A of title V, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

(8) **DURATION**— The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

(9) **PROHIBITION**— Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

(10) **WAIVER**—

(A) **REQUIREMENT**— At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that--

- (i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and
- (ii) the local educational agency provides evidence that it is not able to provide those services.

(B) **NOTIFICATION**— The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

(11) **SPECIAL RULE**— If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval

to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

(12) DEFINITIONS— In this subsection—

(A) the term 'eligible child' means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1);

(B) the term 'provider' means a non-profit entity, a for-profit entity, or a local educational agency that—

(i) has a demonstrated record of effectiveness in increasing student academic achievement;

(ii) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the academic standards described under section 1111; and

(iii) is financially sound; and

(C) the term 'supplemental educational services' means tutoring and other supplemental academic enrichment services that are—

(i) in addition to instruction provided during the school day; and

(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 1111 and attain proficiency in meeting the State's academic achievement standards.

(f) SCHOOLS AND LEAS PREVIOUSLY IDENTIFIED FOR IMPROVEMENT OR CORRECTIVE ACTION—

(1) SCHOOLS—

(A) SCHOOL IMPROVEMENT—

(i) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS BEFORE DATE OF ENACTMENT— Any school that was in the first year of school improvement status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

(ii) SCHOOLS IN SCHOOL-IMPROVEMENT STATUS FOR 2 OR MORE YEARS BEFORE DATE OF ENACTMENT— Any school that was in school improvement status under this section for two or more consecutive school years preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5).

(B) CORRECTIVE ACTION— Any school that was in corrective action status under this section on the day preceding the date of enactment of the No Child Left Behind Act of 2001 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

(2) LEAS—

(A) LEA IMPROVEMENT— A State shall identify for improvement under subsection (c)(3) any local educational agency that was in improvement status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

(B) CORRECTIVE ACTION— A State shall identify for corrective action under subsection (c)(10) any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001.

(C) SPECIAL RULE— For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F) and supplemental education services in accordance with subsection (e) are provided not later than the first day of the 2002-2003 school year.

(D) TRANSITION— With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 1111(b)(2), such determination shall include in such 2-year period any continuous period of time immediately preceding the date of enactment of the No Child Left Behind Act of 2001 during which the agency has failed to make such progress.

State Accountability System

9. Revise § 200.12 and place it under the new undesignated center heading "State Accountability System" in subpart A of part 200 to read as follows:

§ 200.12 Single State accountability system.

(a)(1) Each State must demonstrate in its State plan that the State has developed and is implementing, beginning with the 2002–2003 school year, a single, statewide accountability system.

(2) The State's accountability system must be effective in ensuring that all public elementary and secondary schools and LEAs in the State make adequate yearly progress (AYP) as defined in §§ 200.13 through 200.20.

(b) The State's accountability system must—

(1) Be based on the State's academic standards under § 200.1, academic assessments under § 200.2, and other academic indicators under § 200.19;

(2) Take into account the achievement of all public elementary and secondary school students;

(3) Be the same accountability system the State uses for all public elementary and secondary schools and all LEAs in the State; and

(4) Include sanctions and rewards that the State will use to hold public elementary and secondary schools and LEAs accountable for student achievement and for making AYP, except that the State is not required to subject schools and LEAs not participating under subpart A of this part to the requirements of section 1116 of the ESEA. (Approved by the Office of Management and Budget under control number 1810–0576)

(Authority: 20 U.S.C. 6311(b)(2)(A))

10. Add a new undesignated center heading to subpart A of part 200 and place it after revised § 200.12 to read as follows:

Adequate Yearly Progress (AYP)

11. Revise §§ 200.13 through 200.18 and place them under the new undesignated center heading "Adequate Yearly Progress (AYP)" in subpart A of part 200 to read as follows:

§ 200.13 Adequate yearly progress in general.

(a) Each State must demonstrate in its State plan what constitutes AYP of the State and of all public schools and LEAs in the State—

(1) Toward enabling all public school students to meet the State's student academic achievement standards; while

(2) Working toward the goal of narrowing the achievement gaps in the State, its LEAs, and its public schools.

(b) A State must define, in accordance with §§ 200.14 through 200.20, in a manner that—

(1) Applies the same high standards of academic achievement to all public school students in the State;

(2) Is statistically valid and reliable;

(3) Results in continuous and substantial academic improvement for all students;

(4) Measures the progress of all public schools, LEAs, and the State based primarily on the State's academic assessment system under § 200.2;

(5) Measures progress separately for reading/language arts and for mathematics;

(6) Is the same for all public schools and LEAs in the State; and

(7) Consistent with § 200.7, applies the same annual measurable objectives under § 200.18 separately to each of the following:

(i) All public school students.

(ii) Students in each of the following subgroups:

(A) Economically disadvantaged students.

(B) Students from major racial and ethnic groups.

(C) Students with disabilities, as defined in section 9101(5) of the ESEA.

(D) Students with limited English proficiency, as defined in section 9101(25) of the ESEA.

(c) The State must establish a way to hold accountable schools in which no grade level is assessed under the State's academic assessment system (e.g., K–2 schools), although the State is not required to administer a formal assessment to meet this requirement.

(Approved by the Office of Management and Budget under control number 1810–0576)

(Authority: 20 U.S.C. 6311(b)(2))

§ 200.14 Components of Adequate Yearly Progress.

A State's definition of AYP must include all of the following:

(a) A timeline in accordance with § 200.15.

(b) Starting points in accordance with § 200.16.

(c) Intermediate goals in accordance with § 200.17.

(d) Annual measurable objectives in accordance with § 200.18.

(e) Other academic indicators in accordance with § 200.19.

(Authority: 20 U.S.C. 6311(b)(2))

§ 200.15 Timeline.

(a) Each State must establish a timeline for making AYP that ensures that, not later than the 2013–2014

school year, all students in each group described in § 200.13(b)(7) will meet or exceed the State's proficient level of academic achievement.

(b) Notwithstanding subsequent changes a State may make to its academic assessment system or its definition of AYP under §§ 200.13 through 200.20, the State may not extend its timeline for all students to reach proficiency beyond the 2013–2014 school year.

(Authority: 20 U.S.C. 6311(b)(2))

§ 200.16 Starting points.

(a) Using data from the 2001–2002 school year, each State must establish starting points in reading/language arts and in mathematics for measuring the percentage of students meeting or exceeding the State's proficient level of academic achievement.

(b) Each starting point must be based, at a minimum, on the higher of the following percentages of students at the proficient level:

(1) The percentage in the State of proficient students in the lowest-achieving subgroup of students under § 200.13(b)(7)(ii).

(2) The percentage of proficient students in the school that represents 20 percent of the State's total enrollment among all schools ranked by the percentage of students at the proficient level. The State must determine this percentage as follows:

(i) Rank each school in the State according to the percentage of proficient students in the school.

(ii) Determine 20 percent of the total enrollment in all schools in the State.

(iii) Beginning with the lowest-ranked school, add the number of students enrolled in each school until reaching the school that represents 20 percent of the State's total enrollment among all schools.

(iv) Identify the percentage of proficient students in the school identified in paragraph (iii).

(c)(1) Except as permitted under paragraph (c)(2) of this section, each starting point must be the same throughout the State for each school, each LEA, and each group of students under § 200.13(b)(7).

(2) A State may use the procedures under paragraph (b) of this section to establish separate starting points by grade span.

(Authority: 20 U.S.C. 6311(b)(2))

§ 200.17 Intermediate goals.

Each State must establish intermediate goals that increase in equal

Section 200.51 Notice of SEA Action

Comment: Two commenters requested clarification on whether SEAs, rather than communicating directly to parents as required by proposed

§ 200.51(a)(2)(i), are permitted to work with the LEA to deliver information about the LEA review and improvement process directly to parents.

Discussion: The Secretary agrees that it may be more effective for SEAs, in cases where an SEA does not have access to individual student addresses, to communicate with parents through means provided by the LEA.

Changes: Section 200.51(a)(2)(i) has been changed to permit an SEA, in cases where an SEA does not have access to individual student addresses, to provide information on the LEA review and improvement process by using LEA- and school-level delivery mechanisms.

Section 200.54 Rights of School and School District Employees

Comment: Numerous commenters objected to proposed § 200.54, which would have given LEAs greater flexibility in negotiating collective bargaining agreements and other agreements between employers and employees that are consistent with the school and LEA improvement requirements of proposed §§ 200.30 through 200.53. Commenters maintained that the proposed regulations were inconsistent with both the statute and with many State and local laws governing collective bargaining agreements.

Discussion: The Secretary believes that section 1116(d) of the ESEA was not intended to deny LEA and school leaders the management tools needed to implement effective LEA and school improvement measures, which may often involve changes in the assignment and duties of LEA and school personnel. However, the Secretary agrees that the proposed regulations arguably were inconsistent with a strict reading of the NCLB Act and may have conflicted with applicable State and local laws.

Changes: Proposed § 200.54 has been removed from the final regulations.

Qualifications of Teachers and Paraprofessionals**Section 200.55 Qualifications of Teachers**

Comment: Several commenters asked for clarification as to which subjects are "core academic subjects." One commenter asked that foreign languages and the arts be excluded from the definition of core academic subjects. One commenter asked why science was listed as a stand-alone discipline when

social studies was broken down into civics, geography, and history. Another commenter asked why special education was not listed as a core academic area.

Discussion: The definition of core academic subjects is in section 9101(11) of the ESEA, and is repeated in § 200.55(c) of the regulations. The statute defines core academic subjects as English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. Hence, the definition lists science generally but civics, geography, and history separately. The statute does not identify special education as a core academic subject, and the Secretary lacks authority to delete or change the subjects included in this statutory definition.

Changes: None.

Comment: A commenter recommended that newly hired Title I teachers serving private school students meet the same standards of quality as those who teach in public schools.

Discussion: We agree with this recommendation.

Changes: Section 200.55 (a)(2) and (b) has been modified to clarify that the requirements governing "highly qualified" teachers apply to teachers employed by an LEA with funds under part A of Title I, who teach eligible private school students, to the same extent as they apply to those who teach eligible public school students.

Comment: One commenter recommended that the regulations clarify that a teacher in a targeted assistance program is one who teaches students participating in that program.

Discussion: We believe that the existing language is clear and that no further clarification is needed.

Changes: None.

Comment: One commenter recommended that the "highly qualified" requirement not apply to all teachers in a school that operates a schoolwide program.

Discussion: Inherent to the concept of schoolwide programs is the elimination of any distinction between Title I and non-Title I students; that is, a schoolwide program is intended to provide an instructional program that helps all students in the school. Therefore, it would subvert the intent of schoolwide programs to have requirements that govern highly qualified teachers apply to some, but not all, teachers in a schoolwide program school.

Changes: None.

Comment: One commenter recommended that § 200.55(b)(1) clarify that the requirement that "all teachers

in the State" be highly qualified by the end of the 2005–2006 school year applies only to public elementary and secondary school teachers, and not to others, such as private school and college teachers.

Discussion: The Secretary agrees with the comment.

Changes: Section 200.55(b) has been revised to clarify that the requirements governing highly qualified teachers apply to "all public elementary and secondary school teachers." This clarification was also made in § 200.56(b)(1) and (b)(2). In addition, § 200.55(d) has been added to clarify that the requirements of the section do not apply to teachers hired by private elementary and secondary schools.

Comment: As proposed, § 200.55(b)(2) provided, as an example of teachers who do not need to meet the highly qualified requirements because they do not teach a core academic subject, "some vocational educational teachers." One commenter recommended deletion of the word "some."

Discussion: We disagree with the comment. If a vocational education teacher teaches a core academic subject, such as applied physics, section 1119 of the ESEA requires that teacher to be highly qualified. On the other hand, if a vocational education teacher teaches only a trade, such as auto mechanics, the teacher would not need to meet these requirements since the law does not treat that area of study as a core academic subject. Hence, § 200.56(b)(2) only exempts "some" vocational educational teachers.

Changes: None.

Comment: A number of commenters requested clarification about how the "highly qualified" requirements apply to special education teachers and teachers of limited-English proficient (LEP) students. Several recommended that special education teachers be deemed to have met the "highly qualified" requirements that apply to other teachers if they are certified or licensed in special education and have passed an appropriate State test.

Discussion: The ESEA specifies that all teachers of core academic subjects are to meet the requirements set forth in the statute. Students with limited English proficiency or with disabilities are expected to meet the same standards as all other students, and their teachers should be expected to have met the same standards for content knowledge. On the other hand, special educators who do not directly instruct students on any core academic subject or who provide only consultation to highly qualified teachers of core academic subjects in adapting curricula, using

restructuring plan no later than the beginning of the school year following the year in which the LEA developed the restructuring plan under paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 1810-0576)
(Authority: 20 U.S.C. 6316(b)(8))

§ 200.35 Delay and removal.

(a) *Delay.* (1) An LEA may delay, for a period not to exceed one year, implementation of requirements under the second year of school improvement, under corrective action, or under restructuring if—

(i) The school makes AYP for one year; or

(ii) The school's failure to make AYP is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the LEA or school.

(2) The LEA may not take into account a period of delay under paragraph (a) of this section in determining the number of consecutive years of the school's failure to make AYP.

(3) Except as provided in paragraph (b) of this section, the LEA must subject the school to further actions as if the delay never occurred.

(b) *Removal.* If any school identified for school improvement, corrective action, or restructuring makes AYP for two consecutive school years, the LEA may not, for the succeeding school year—

(1) Subject the school to the requirements of school improvement, corrective action, or restructuring; or

(2) Identify the school for improvement.

(Authority: 20 U.S.C. 6316(b))

§ 200.36 Communication with parents.

(a) Throughout the school improvement process, the State, LEA, or school must communicate with the parents of each child attending the school.

(b) The State, LEA, or school must ensure that, regardless of the method or media used, it provides the information required by §§ 200.37 and 200.38 to parents—

(1) In an understandable and uniform format, including alternative formats upon request; and

(2) To the extent practicable, in a language that parents can understand.

(c) The State, LEA, or school must provide information to parents—

(1) Directly, through such means as regular mail or e-mail, except that if a State does not have access to individual

student addresses, it may provide information to the LEA or school for distribution to parents; and

(2) Through broader means of dissemination such as the Internet, the media, and public agencies serving the student population and their families.

(d) All communications must respect the privacy of students and their families.

(Approved by the Office of Management and Budget under control number 1810-0581)
(Authority: 20 U.S.C. 6316)

§ 200.37 Notice of identification for improvement, corrective action, or restructuring.

(a) If an LEA identifies a school for improvement or subjects the school to corrective action or restructuring, the LEA must, consistent with the requirements of § 200.36, promptly notify the parent or parents of each child enrolled in the school of this identification.

(b) The notice referred to in paragraph (a) of this section must include the following:

(1) An explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary and secondary schools served by the LEA and the SEA involved.

(2) The reasons for the identification.

(3) An explanation of how parents can become involved in addressing the academic issues that led to identification.

(4)(i) An explanation of the parents' option to transfer their child to another public school, including the provision of transportation to the new school, in accordance with § 200.44.

(ii) The explanation of the parents' option to transfer must include, at a minimum, information on the academic achievement of the school or schools to which the child may transfer.

(iii) The explanation may include other information on the school or schools to which the child may transfer, such as—

(A) A description of any special academic programs or facilities;

(B) The availability of before- and after-school programs;

(C) The professional qualifications of teachers in the core academic subjects; and

(D) A description of parental involvement opportunities.

(5)(i) If the school is in its second year of improvement or subject to corrective action or restructuring, a notice explaining how parents can obtain supplemental educational services for their child in accordance with § 200.45.

(ii) The annual notice of the availability of supplemental educational

services must include, at a minimum, the following:

(A) The identity of approved providers of those services available within the LEA, including providers of technology-based or distance-learning supplemental educational services, and providers that make services reasonably available in neighboring LEAs.

(B) A brief description of the services, qualifications, and demonstrated effectiveness of the providers referred to in paragraph (b)(5)(ii)(A) of this section.

(Approved by the Office of Management and Budget under control number 1810-0581)
(Authority: 20 U.S.C. 6316)

§ 200.38 Information about action taken.

(a) An LEA must publish and disseminate to the parents of each student enrolled in the school, consistent with the requirements of § 200.36, and to the public information regarding any action taken by a school and the LEA to address the problems that led to the LEA's identification of the school for improvement, corrective action, or restructuring.

(b) The information referred to in paragraph (a) of this section must include the following:

(1) An explanation of what the school is doing to address the problem of low achievement.

(2) An explanation of what the LEA or SEA is doing to help the school address the problem of low achievement.

(3) If applicable, a description of specific corrective actions or restructuring plans.

(Approved by the Office of Management and Budget under control number 1810-0581)
(Authority: 20 U.S.C. 6316(b))

§ 200.39 Responsibilities resulting from identification for school improvement.

(a) If an LEA identifies a school for school improvement under § 200.32—

(1) The LEA must—

(i) Not later than the first day of the school year following identification, with the exception described in § 200.32(f), provide all students enrolled in the school with the option to transfer, in accordance with § 200.44, to another public school served by the LEA; and

(ii) Ensure that the school receives technical assistance in accordance with § 200.40; and

(2) The school must develop or revise a school improvement plan in accordance with § 200.41.

(b) If a school fails to make AYP by the end of the first full school year after the LEA has identified it for improvement under § 200.32, the LEA must—

(1) Continue to provide all students enrolled in the school with the option

to transfer, in accordance with § 200.44, to another public school served by the LEA;

(2) Continue to ensure that the school receives technical assistance in accordance with § 200.40; and

(3) Make available supplemental educational services in accordance with § 200.45.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(b))

24. Revise §§ 200.40 through 200.45 and place them under the new undesignated center heading "LEA and School Improvement" in subpart A of part 200 to read as follows:

§ 200.40 Technical assistance.

(a) An LEA that identifies a school for improvement under § 200.32 must ensure that the school receives technical assistance as the school develops and implements its improvement plan under § 200.41 and throughout the plan's duration.

(b) The LEA may arrange for the technical assistance to be provided by one or more of the following:

(1) The LEA through the statewide system of school support and recognition described under section 1117 of the ESEA.

(2) The SEA.

(3) An institution of higher education that is in full compliance with all of the reporting provisions of Title II of the Higher Education Act of 1965.

(4) A private not-for-profit organization, a private for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

(c) The technical assistance must include the following:

(1) Assistance in analyzing data from the State assessment system, and other examples of student work, to identify and develop solutions to problems in—

(i) Instruction;

(ii) Implementing the requirements for parental involvement and professional development under this subpart; and

(iii) Implementing the school plan, including LEA- and school-level responsibilities under the plan.

(2) Assistance in identifying and implementing professional development and instructional strategies and methods that have proved effective, through scientifically based research, in addressing the specific instructional issues that caused the LEA to identify the school for improvement.

(3) Assistance in analyzing and revising the school's budget so that the school allocates its resources more

effectively to the activities most likely to—

(i) Increase student academic achievement; and

(ii) Remove the school from school improvement status.

(d) Technical assistance provided under this section must be based on scientifically based research.

(Authority: 20 U.S.C. 6316(b)(4))

§ 200.41 School improvement plan.

(a)(1) Not later than three months after an LEA has identified a school for improvement under § 200.32, the school must develop or revise a school improvement plan for approval by the LEA.

(2) The school must consult with parents, school staff, the LEA, and outside experts in developing or revising its school improvement plan.

(b) The school improvement plan must cover a 2-year period.

(c) The school improvement plan must—

(1) Specify the responsibilities of the school, the LEA, and the SEA serving the school under the plan, including the technical assistance to be provided by the LEA under § 200.40;

(2)(i) Incorporate strategies, grounded in scientifically based research, that will strengthen instruction in the core academic subjects at the school and address the specific academic issues that caused the LEA to identify the school for improvement; and

(ii) May include a strategy for implementing a comprehensive school reform model described in section 1606 of the ESEA;

(3) With regard to the school's core academic subjects, adopt policies and practices most likely to ensure that all groups of students described in § 200.13(b)(7) and enrolled in the school will meet the State's proficient level of achievement, as measured by the State's assessment system, not later than the 2013-2014 school year;

(4) Establish measurable goals that—

(i) Address the specific reasons for the school's failure to make adequate progress; and

(ii) Promote, for each group of students described in § 200.13(b)(7) and enrolled in the school, continuous and substantial progress that ensures that all these groups meet the State's annual measurable objectives described in § 200.18;

(5) Provide an assurance that the school will spend not less than 10 percent of the allocation it receives under subpart A of this part for each year that the school is in school improvement status, for the purpose of providing high-quality professional

development to the school's teachers, principal, and, as appropriate, other instructional staff, consistent with section 9101(34) of the ESEA, that—

(i) Directly addresses the academic achievement problem that caused the school to be identified for improvement;

(ii) Is provided in a manner that affords increased opportunity for participating in that professional development; and

(iii) Incorporates teacher mentoring activities or programs;

(6) Specify how the funds described in paragraph (c)(5) of this section will be used to remove the school from school improvement status;

(7) Describe how the school will provide written notice about the identification to parents of each student enrolled in the school;

(8) Include strategies to promote effective parental involvement at the school; and

(9) As appropriate, incorporate activities before school, after school, during the summer, and during any extension of the school year.

(d)(1) Within 45 days of receiving a school improvement plan, the LEA must—

(i) Establish a peer-review process to assist with review of the plan;

(ii) Promptly review the plan;

(iii) Work with the school to make any necessary revisions; and

(iv) Approve the plan if it meets the requirements of this section.

(2) The LEA may condition approval of the school improvement plan on—

(i) Inclusion of one or more of the corrective actions specified in § 200.42; or

(ii) Feedback on the plan from parents and community leaders.

(e) A school must implement its school improvement plan immediately on approval of the plan by the LEA.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(b)(3))

§ 200.42 Corrective action.

(a) *Definition.* "Corrective action" means action by an LEA that—

(1) Substantially and directly responds to—

(i) The consistent academic failure of a school that led the LEA to identify the school for corrective action; and

(ii) Any underlying staffing, curriculum, or other problems in the school;

(2) Is designed to increase substantially the likelihood that each group of students described in § 200.13(b)(7) and enrolled in the school will meet or exceed the State's proficient levels of achievement as

measured by the State assessment system; and

(3) Is consistent with State law.

(b) *Requirements.* If an LEA identifies a school for corrective action, in accordance with § 200.33, the LEA must do the following:

(1) Continue to provide all students enrolled in the school with the option to transfer to another public school in accordance with § 200.44.

(2) Continue to ensure that the school receives technical assistance consistent with the requirements of § 200.40.

(3) Make available supplemental educational services in accordance with § 200.45.

(4) Take at least one of the following corrective actions:

(i) Replace the school staff who are relevant to the school's failure to make AYP.

(ii) Institute and fully implement a new curriculum, including the provision of appropriate professional development for all relevant staff, that—

(A) Is grounded in scientifically based research; and

(B) Offers substantial promise of improving educational achievement for low-achieving students and of enabling the school to make AYP.

(iii) Significantly decrease management authority at the school level.

(iv) Appoint one or more outside experts to advise the school on—

(A) Revising the school improvement plan developed under § 200.41 to address the specific issues underlying the school's continued failure to make AYP and resulting in identification for corrective action; and

(B) Implementing the revised improvement plan.

(v) Extend for that school the length of the school year or school day.

(vi) Restructure the internal organization of the school.

(Approved by the Office of Management and Budget under control number 1810-0581) (Authority: 20 U.S.C. 6316(b)(7))

§ 200.43 Restructuring.

(a) *Definition.* "Restructuring" means a major reorganization of a school's governance arrangement by an LEA that—

(1) Makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school;

(2) Has substantial promise of enabling the school to make AYP as defined under §§ 200.13 through 200.20; and

(3) Is consistent with State law.

(b) *Requirements.* If the LEA identifies a school for restructuring in accordance

with § 200.34, the LEA must do the following:

(1) Continue to provide all students enrolled in the school with the option to transfer to another public school in accordance with § 200.44.

(2) Make available supplemental educational services in accordance with § 200.45.

(3) Prepare a plan to carry out one of the following alternative governance arrangements:

(i) Reopen the school as a public charter school.

(ii) Replace all or most of the school staff, which may include the principal, who are relevant to the school's failure to make AYP.

(iii) Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the school as a public school.

(iv) Turn the operation of the school over to the SEA, if permitted under State law and agreed to by the State.

(v) Any other major restructuring of a school's governance arrangement consistent with this section.

(4) Provide to parents and teachers—

(i) Prompt notice that the LEA has identified the school for restructuring; and

(ii) An opportunity for parents and teachers to—

(A) Comment before the LEA takes any action under a restructuring plan; and

(B) Participate in the development of any restructuring plan.

(c) *Implementation.* (1) If a school continues to fail to make AYP, the LEA must—

(i) Implement the restructuring plan no later than the beginning of the school year following the year in which the LEA developed the restructuring plan under paragraph (b)(3) of this section; and

(ii) Continue to offer public school choice and supplemental educational services in accordance with §§ 200.44 and 200.45.

(2) An LEA is no longer required to carry out the requirements of paragraph (c)(1) of this section if the restructured school makes AYP for two consecutive school years.

(d) *Rural schools.* On request, the Secretary will provide technical assistance for developing and carrying out a restructuring plan to any rural LEA—

(1) That has fewer than 600 students in average daily attendance at all of its schools; and

(2) In which all of the schools have a School Locale Code of 7 or 8, as determined by the National Center for Education Statistics.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(b)(8))

§ 200.44 Public school choice.

(a) *Requirements.* (1) In the case of a school identified for school improvement under § 200.32, for corrective action under § 200.33, or for restructuring under § 200.34, the LEA must provide all students enrolled in the school with the option to transfer to another public school served by the LEA.

(2) The LEA must offer this option not later than the first day of the school year following the year in which the LEA administered the assessments that resulted in its identification of the school for improvement, corrective action, or restructuring.

(3) The schools to which students may transfer under paragraph (a)(1) of this section—

(i) May not include schools that—

(A) The LEA has identified for improvement under § 200.32, corrective action under § 200.33, or restructuring under § 200.34; or

(B) Are persistently dangerous as determined by the State; and

(ii) May include one or more public charter schools.

(4) If more than one school meets the requirements of paragraph (a)(3) of this section, the LEA must—

(i) Provide to parents of students eligible to transfer under paragraph (a)(1) of this section a choice of more than one such school; and

(ii) Take into account the parents' preferences among the choices offered under paragraph (a)(4)(i) of this section.

(5) The LEA must offer the option to transfer described in this section unless it is prohibited by State law in accordance with paragraph (b) of this section.

(6) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement or subject to corrective action before January 8, 2002, the State must ensure that the LEA provides a public school choice option in accordance with paragraph (a)(1) of this section not later than the first day of the 2002-2003 school year.

(b) *Limitation on State law prohibition.* An LEA may invoke the State law prohibition on choice described in paragraph (a)(5) of this section only if the State law prohibits choice through restrictions on public school assignments or the transfer of students from one public school to another public school.

(c) *Desegregation plans.* (1) If an LEA is subject to a desegregation plan, whether that plan is voluntary, court-

ordered, or required by a Federal or State administrative agency, the LEA is not exempt from the requirement in paragraph (a)(1) of this section.

(2) In determining how to provide students with the option to transfer to another school, the LEA may take into account the requirements of the desegregation plan.

(3) If the desegregation plan forbids the LEA from offering the transfer option required under paragraph (a)(1) of this section, the LEA must secure appropriate changes to the plan to permit compliance with paragraph (a)(1) of this section.

(d) *Capacity.* An LEA may not use lack of capacity to deny students the option to transfer under paragraph (a)(1) of this section.

(e) *Priority.* (1) In providing students the option to transfer to another public school in accordance with paragraph (a)(1) of this section, the LEA must give priority to the lowest-achieving students from low-income families.

(2) The LEA must determine family income on the same basis that the LEA uses to make allocations to schools under subpart A of this part.

(f) *Status.* Any public school to which a student transfers under paragraph (a)(1) of this section must ensure that the student is enrolled in classes and other activities in the school in the same manner as all other students in the school.

(g) *Duration of transfer.* (1) If a student exercises the option under paragraph (a)(1) of this section to transfer to another public school, the LEA must permit the student to remain in that school until the student has completed the highest grade in the school.

(2) The LEA's obligation to provide transportation for the student may be limited under the circumstances described in paragraph (i) of this section and in § 200.48.

(h) *No eligible schools within an LEA.* If all public schools to which a student may transfer within an LEA are identified for school improvement, corrective action, or restructuring, the LEA—

(1) Must, to the extent practicable, establish a cooperative agreement for a transfer with one or more other LEAs in the area; and

(2) May offer supplemental educational services to eligible students under § 200.45 in schools in their first year of school improvement under § 200.39.

(i) *Transportation.* (1) If a student exercises the option under paragraph (a)(1) of this section to transfer to another public school, the LEA must,

consistent with § 200.48, provide or pay for the student's transportation to the school.

(2) The limitation on funding in § 200.48 applies only to the provision of choice-related transportation, and does not affect in any way the basic obligation to provide an option to transfer as required by paragraph (a) of this section.

(3) The LEA's obligation to provide transportation for the student ends at the end of the school year in which the school from which the student transferred is no longer identified by the LEA for school improvement, corrective action, or restructuring.

(j) *Students with disabilities and students covered under Section 504 of the Rehabilitation Act of 1973 (Section 504).* For students with disabilities under the IDEA and students covered under Section 504, the public school choice option must provide a free appropriate public education as that term is defined in section 602(8) of the IDEA or 34 CFR 104.33, respectively.

(Authority: 20 U.S.C. 6316)

§ 200.45 Supplemental educational services.

(a) *Definition.* "Supplemental educational services" means tutoring and other supplemental academic enrichment services that are—

(1) In addition to instruction provided during the school day;

(2) Specifically designed to—

(i) Increase the academic achievement of eligible students as measured by the State's assessment system; and

(ii) Enable these children to attain proficiency in meeting State academic achievement standards; and

(3) Of high quality and research-based.

(b) *Eligibility.* (1) Only students from low-income families are eligible for supplemental educational services.

(2) The LEA must determine family income on the same basis that the LEA uses to make allocations to schools under subpart A of this part.

(c) *Requirement.* (1) If an LEA identifies a school for a second year of improvement under § 200.32, corrective action under § 200.33, or restructuring under § 200.34, the LEA must arrange, consistent with paragraph (d) of this section, for each eligible student in the school to receive supplemental educational services from a State-approved provider selected by the student's parents.

(2) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement status for two or more consecutive school years or subject to corrective action on January 7, 2002, the

State must ensure that the LEA makes available, consistent with paragraph (d) of this section, supplemental educational services to all eligible students not later than the first day of the 2002–2003 school year.

(3) The LEA must, consistent with § 200.48, continue to make available supplemental educational services to eligible students until the end of the school year in which the LEA is making those services available.

(4)(i) At the request of an LEA, the SEA may waive, in whole or in part, the requirement that the LEA make available supplemental educational services if the SEA determines that—

(A) None of the providers of those services on the list approved by the SEA under § 200.47 makes those services available in the area served by the LEA or within a reasonable distance of that area; and

(B) The LEA provides evidence that it is not otherwise able to make those services available.

(ii) The SEA must notify the LEA, within 30 days of receiving the LEA's request for a waiver under paragraph (c)(4)(i) of this section, whether it approves or disapproves the request and, if it disapproves, the reasons for the disapproval, in writing.

(iii) An LEA that receives a waiver must renew its request for that waiver on an annual basis.

(d) *Priority.* If the amount of funds available for supplemental educational services is insufficient to provide services to each student whose parents request these services, the LEA must give priority to the lowest-achieving students.

(Approved by the Office of Management and Budget under control number 1810–0581)

(Authority: 20 U.S.C. 6316)

25. Add new §§ 200.46 through 200.49 and place them under the new undesignated center heading "LEA and School Improvement" in subpart A of part 200 to read as follows:

§ 200.46 LEA responsibilities for supplemental educational services.

(a) If an LEA is required to make available supplemental educational services under § 200.39(b)(3), § 200.42(b)(3), or § 200.43(b)(2), the LEA must do the following:

(1) Provide the annual notice to parents described in § 200.37(b)(5).

(2) If requested, assist parents in choosing a provider from the list of approved providers maintained by the SEA.

(3) Apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all eligible

students whose parents request services consistent with § 200.45.

(4) Ensure that eligible students with disabilities under IDEA and students covered under Section 504 receive appropriate supplemental educational services and accommodations in the provision of those services.

(5) Ensure that eligible students who have limited English proficiency receive appropriate supplemental educational services and language assistance in the provision of those services.

(6) Not disclose to the public, without the written permission of the student's parents, the identity of any student who is eligible for, or receiving, supplemental educational services.

(b)(1) In addition to meeting the requirements in paragraph (a) of this section, the LEA must enter into an agreement with each provider selected by a parent or parents.

(2) The agreement must—

(i) Require the LEA to develop, in consultation with the parents and the provider, a statement that includes—

(A) Specific achievement goals for the student;

(B) A description of how the student's progress will be measured; and

(C) A timetable for improving achievement;

(ii) Describe procedures for regularly informing the student's parents and teachers of the student's progress;

(iii) Provide for the termination of the agreement if the provider is unable to meet the goals and timetables specified in the agreement;

(iv) Specify how the LEA will pay the provider; and

(v) Prohibit the provider from disclosing to the public, without the written permission of the student's parents, the identity of any student who is eligible for, or receiving, supplemental educational services.

(3) In the case of a student with disabilities under IDEA or a student covered under Section 504, the provisions of the agreement referred to in paragraph (b)(2)(i) of this section must be consistent with the student's individualized education program under section 614(d) of the IDEA or the student's individualized services under Section 504.

(4) The LEA may not pay the provider for religious worship or instruction.

(c) If State law prohibits an SEA from carrying out one or more of its responsibilities under § 200.47 with respect to those who provide, or seek approval to provide, supplemental educational services, each LEA must carry out those responsibilities with respect to its students who are eligible for those services.

(Authority: 20 U.S.C. 6316(e))

(Approved by the Office of Management and Budget under control number 1810-0581)

§ 200.47 SEA responsibilities for supplemental educational services.

(a) If one or more LEAs in a State are required to make available supplemental educational services under § 200.39(b)(3), § 200.42(b)(3), or § 200.43(b)(2), the SEA for that State must do the following:

(1)(i) In consultation with affected LEAs, parents, teachers, and other interested members of the public, promote participation by as many providers as possible.

(ii) This promotion must include annual notice to potential providers of—

(A) The opportunity to provide supplemental educational services; and

(B) Procedures for obtaining the SEA's approval to be a provider of those services.

(2) Consistent with paragraph (b) of this section, develop and apply to potential providers objective criteria.

(3) Maintain by LEA an updated list of approved providers, including any technology-based or distance-learning providers, from which parents may select.

(4) Develop, implement, and publicly report on standards and techniques for—

(i) Monitoring the quality and effectiveness of the services offered by each approved provider; and

(ii) Withdrawing approval from a provider that fails, for two consecutive years, to contribute to increasing the academic proficiency of students receiving supplemental educational services from that provider.

(5) Ensure that eligible students with disabilities under IDEA and students covered under Section 504 receive appropriate supplemental educational services and accommodations in the provision of those services.

(6) Ensure that eligible students who have limited English proficiency receive appropriate supplemental educational services and language assistance in the provision of those services.

(b) *Standards for approving providers.*

(1) As used in this section and in § 200.46, "provider" means a non-profit entity, a for-profit entity, an LEA, an educational service agency, a public school, including a public charter school, or a private school that—

(i) Has a demonstrated record of effectiveness in increasing the academic achievement of students in subjects relevant to meeting the State's academic content and student achievement standards described under § 200.1;

(ii) Is capable of providing supplemental educational services that

are consistent with the instructional program of the LEA and with the State academic content standards and State student achievement standards described under § 200.1;

(iii) Is financially sound; and

(iv) In the case of—

(A) A public school, has not been identified under §§ 200.32, 200.33, or 200.34; or

(B) An LEA, has not been identified under § 200.50(d) or (e).

(2) In order for the SEA to include a provider on the State list, the provider must agree to—

(i)(A) Provide parents of each student receiving supplemental educational services and the appropriate LEA with information on the progress of the student in increasing achievement; and

(B) This information must be in an understandable and uniform format, including alternative formats upon request, and, to the extent practicable, in a language that the parents can understand;

(ii) Ensure that the instruction the provider gives and the content the provider uses—

(A) Are consistent with the instruction provided and the content used by the LEA and the SEA;

(B) Are aligned with State student academic achievement standards; and

(C) Are secular, neutral, and nonideological; and

(iii) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(3) As a condition of approval, a State may not require a provider to hire only staff who meet the requirements under §§ 200.55 and 200.56.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(e))

§ 200.48 Funding for choice-related transportation and supplemental educational services.

(a) *Amounts required.* (1) To pay for choice-related transportation and supplemental educational services required under section 1116 of the ESEA, an LEA may use—

(i) Funds allocated under subpart A of this part;

(ii) Funds, where allowable, from other Federal education programs; and

(iii) State, local, or private resources.

(2) Unless a lesser amount is needed, the LEA must spend an amount equal to 20 percent of its allocation under subpart A of this part to—

(i) Provide, or pay for, transportation of students exercising a choice option under § 200.44;

(ii) Satisfy all requests for supplemental educational services under § 200.45; or

(iii) Pay for both paragraph (a)(2)(i) and (ii) of this section, except that—

(A) The LEA must spend a minimum of an amount equal to 5 percent of its allocation under subpart A of this part on transportation under paragraph (a)(2)(i) of this section and an amount equal to 5 percent of its allocation under subpart A of this part for supplemental educational services under paragraph (a)(2)(ii) of this section, unless lesser amounts are needed to meet the requirements of §§ 200.44 and 200.45; and

(B) The LEA may not include costs for administration or transportation incurred in providing supplemental educational services, or administrative costs associated with the provision of public school choice options under § 200.44, in the amounts required under paragraph (a)(2) of this section.

(3) If the amount specified in paragraph (a)(2) of this section is insufficient to pay all choice-related transportation costs, or to meet the demand for supplemental educational services, the LEA may make available any additional needed funds from Federal, State, or local sources.

(4) To assist an LEA that does not have sufficient funds to make available supplemental educational services to all students requesting these services, an SEA may use funds that it reserves under part A of Title I and part A of Title V of the ESEA.

(b) *Cap on school-level reduction.* (1) An LEA may not, in applying paragraph (a) of this section, reduce by more than 15 percent the total amount it makes available under subpart A of this part to a school it has identified for corrective action or restructuring.

(c) *Per-child funding for supplemental educational services.* For each student receiving supplemental educational services under § 200.45, the LEA must make available the lesser of—

(1) The amount of its allocation under subpart A of this part, divided by the number of students from families below the poverty level, as counted under section 1124(c)(1)(A) of the ESEA; or

(2) The actual costs of the supplemental educational services received by the student.

(Authority: 20 U.S.C. 6316)

§ 200.49 SEA responsibilities for school improvement, corrective action, and restructuring.

(a) *Transition requirements for public school choice and supplemental educational services.* (1) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement or subject to corrective action on January 7, 2002, the SEA must ensure

that the LEA for that school provides public school choice in accordance with § 200.44 not later than the first day of the 2002–2003 school year.

(2) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement status for two or more consecutive school years or subject to corrective action on January 7, 2002, the SEA must ensure that the LEA for that school makes available supplemental educational services in accordance with § 200.45 not later than the first day of the 2002–2003 school year.

(b) *State reservation of funds for school improvement.* (1) In accordance with § 200.100(a), an SEA must reserve 2 percent of the amount it receives under this part for fiscal years 2002 and 2003, and 4 percent of the amount it receives under this part for fiscal years 2004 through 2007, to—

(i) Support local school improvement activities;

(ii) Provide technical assistance to schools identified for improvement, corrective action, or restructuring; and

(iii) Provide technical assistance to LEAs that the SEA has identified for improvement or corrective action in accordance with § 200.50.

(2) Of the amount it reserves under paragraph (b)(1) of this section, the SEA must—

(i) Allocate not less than 95 percent directly to LEAs serving schools identified for improvement, corrective action, and restructuring to support improvement activities; or

(ii) With the approval of the LEA, directly provide for these improvement activities or arrange to provide them through such entities as school support teams or educational service agencies.

(3) In providing assistance to LEAs under paragraph (b)(2) of this section, the SEA must give priority to LEAs that—

(i) Serve the lowest-achieving schools;

(ii) Demonstrate the greatest need for this assistance; and

(iii) Demonstrate the strongest commitment to ensuring that this assistance will be used to enable the lowest-achieving schools to meet the progress goals in the school improvement plans under § 200.41.

(c) *Technical assistance.* The SEA must make technical assistance available, through the statewide system of support and improvement required by section 1117 of the ESEA, to schools that LEAs have identified for improvement, corrective action, or restructuring.

(d) *LEA failure.* If the SEA determines that an LEA has failed to carry out its responsibilities with respect to school improvement, corrective action, or

restructuring, the SEA must take the actions it determines to be appropriate and in compliance with State law.

(e) *Assessment results.* (1) The SEA must ensure that the results of academic assessments administered as part of the State assessment system in a given school year are available to LEAs before the beginning of the next school year and in such time as to allow for the identification described in § 200.32(a)(2).

(2) The SEA must provide the results described in paragraph (e)(1) of this section to a school before an LEA may identify the school for school improvement under § 200.32, corrective action under § 200.33, or restructuring under § 200.34.

(f) *Accountability for charter schools.* The accountability provisions under section 1116 of the ESEA must be overseen for charter schools in accordance with State charter school law.

(g) *Factors affecting student achievement.* The SEA must notify the Secretary of Education of major factors that have been brought to the SEA's attention under section 1111(b)(9) of the ESEA that have significantly affected student academic achievement in schools and LEAs identified for improvement within the State.

(Approved by the Office of Management and Budget under control number 1810–0581)
(Authority: 20 U.S.C. 6311 and 6316)

26. Revise §§ 200.50 and 200.51 and place them under the new undesignated center heading "LEA and School Improvement" in subpart A of part 200 to read as follows:

§ 200.50 SEA review of LEA progress.

(a) *State review.* (1) An SEA must annually review the progress of each LEA in its State that receives funds under subpart A of this part to determine whether—

(i) The LEA's schools served under this part are making AYP, as defined under §§ 200.13 through 200.20, toward meeting the State's student academic achievement standards; and

(ii) The LEA is carrying out its responsibilities under this part with respect to school improvement, technical assistance, parental involvement, and professional development.

(2) In reviewing the progress of an LEA, the SEA may, in the case of targeted assistance schools served by the LEA, consider the progress only of the students served or eligible for services under this subpart, provided the students selected for services in such schools are those with the greatest need



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

January 28, 2003

TO: Senate Education Committee

FROM: Dale M. Dennis, Deputy
Commissioner of Education

SUBJECT: Governor's Budget Recommendation

Attached you will find a packet of materials which provides an update on the Governor's budget recommendations and a summary of our students' achievements and challenges being faced by Kansas school districts.

I hope this information will be of assistance to you in your deliberations.

c:leg:SEC--Gov. Budget Rec.

Kansas Education Shines

Kansas remains tied for fourth place in the nation for having the highest percentage of students graduate from high school. Currently, 92 percent of Kansas' young people complete high school or its equivalency. National Education Goals Panel

Kansas is one of the top 14 states in the nation with the highest percentage of high school graduates who go immediately on to college. NCES, Digest of Education Statistics 2000 and 2001

Kansas high school students continue to excel on the ACT national college entrance exam. In 2002, the composite score for students taking the test was 21.6 which tops the national average of 20.8. Kansas' results are even more impressive when compared to other states. This year, 76 percent of Kansas seniors took the test and no other state with an equal or greater percentage of students taking the test scored higher. Since 1994, ACT college entrance examination scores in Kansas have risen twice as fast as the national average. ACT, Inc.

In 2002, Kansas students once again exceeded the national averages on the SAT national college entrance test which measures verbal and mathematical reasoning. This year, Kansas attained an average score of 578 on the verbal portion of the test, as compared to the national average of 504. Kansas high school students scored 580 on mathematics, well above the national average of 516. The College Board

Kansas ranks among the best – fourth out of 50 states – in proportion of high school graduates with scores in the top 20% nationally on either the ACT or SAT College Entrance Examinations. National Center for Public Policy and Higher Education, Measuring Up 2000: The State-by-State Report Card for Higher Education

Ninety-three percent of public schools in Kansas have Internet access. There is one computer available for instruction for every 2.8 public school students in Kansas, making Kansas one of the top three states in computer availability for students. Market Data Retrieval, Technology in Education 2001.

One hundred seventy-seven Kansas high school students were named National Merit semifinalists in 2002. Nationally, over 16,000 high school students were named semifinalists.

In the American Legislative Exchange Council's "Report Card on American Education: A State-by-State Analysis 1976-2001, October 2002" in ranking of states by academic achievement, Kansas was ranked 6th in the nation.

In the 2000 NAEP mathematics test, the average score for Kansas fourth grade students was 232, compared to the national average of 226. Kansas fourth grade students tied for seventh on the 2000 NAEP mathematics assessment. Kansas eighth grade students had an average score of 284, compared to the national average of 274, which placed Kansas eighth graders fourth in the nation. Kansas was one of only two states to be among the top performers for both grade levels. In the 1998 NAEP reading test, Kansas fourth graders had an average scale score of 222, compared to the national average of 215, which placed Kansas fourth graders eighth in the nation. Kansas eighth graders had an average scale score of 268, as compared to the national average of 261. Kansas eighth graders ranked fifth in the nation.

Kansas public school students lead the nation in scoring high on the Advanced Placement (AP) examination. Kansas students rank among the top six states on their AP exam scores. College Board, 2001 AP State and National Summary Report

Kansas is one of the top two states in the country in the percentage of public school 8th graders attending school without a tardiness and absenteeism problem. Education Week, Quality Counts, 2002

FISCAL YEARS 2003 AND 2004
GOVERNOR'S RECOMMENDATIONS

2.3

Program	FISCAL YEAR 2002	FISCAL YEAR 2003		FISCAL YEAR 2004	
	Actual	Governor's Rec.	Comments	Governor's Rec.	Comments
General State Aid	1,815,231,343	1,796,980,000	Funds BSAPP at \$3,863, \$27 below current law. Requires supplemental appropriation of \$6.6 million which the Governor recommends.	2,033,304,845	Governor recommends BSAPP of \$3,863 which is the same as for FY 2003 after the August allotments, plus funding for special education weighting.
Supplemental General State Aid	116,529,122	148,427,000	Fully funds formula with a BSAPP of \$3,863. Requires supplemental appropriation of \$21.9 million which the Governor recommends.	155,956,000	Fully funds formula with a BSAPP of \$3,863.
Capital Improvement Fund (Bond & Interest)	40,007,915	47,216,350	Revenue transfer from the state general fund. Fully funds statutory requirement.	55,000,000	Fully funds statutory requirement.
Inservice Aid	2,592,096	2,600,000	Reduces approved amount by \$2 million. Estimated state aid proration is 35%.	0	Recommends no appropriation.
Juvenile Detention Facilities	5,170,024	5,484,483	Funds formula equal to "two times BSAPP of \$3,863" or actual expenditures, whichever is lesser.	5,599,393	Funds formula equal to "two times BSAPP of \$3,863" or actual expenditures, whichever is lesser.
School Food Service	2,510,486	2,510,486	Meets federal matching requirements. Generates \$100 million in federal aid for child nutrition programs.	2,510,486	Meets federal matching requirements. Generates \$100 million in federal aid for child nutrition programs.
Special Education	242,678,561	251,016,845	Reduces approved amount by \$254,991. Estimated to fund 85% of excess costs (\$19,485 per teacher).	0	Funds 83.9% of excess costs. Recommends a weighting system that adds special education to general state aid
Educable Deaf/Blind	109,855	110,000	Same as prior year appropriation.	110,000	Same as prior year appropriation.
Parent Education	6,763,968	7,167,000	Same as prior year appropriation. Estimated to serve 18,000 children and their parents.	7,167,000	Same as prior year appropriation. Estimated to serve 18,000 children and their parents.
KPERS	98,391,841	116,747,986	Underfunded by \$6.2 million	138,940,758	\$6.2 million shortfall in FY 2003 is added to FY 2004 appropriation.
Vision Study Grant	300,000	300,000	Same as prior year appropriation. Serves students with convergence insufficiency and other visual disorders.	300,000	Same as prior year appropriation. Serves students with convergence insufficiency and other visual disorders.
ational Board Cert. Scholarships/Awards	119,265	110,000	Underfunded by \$65,000.	110,000	Underfunded by \$105,000.



January 15, 2003

SUBJECT: Governor's FY 2003 and 2004 Budget Recommendations

Governor Sebelius delivered her State-of-the-State address on January 15, 2003, and made the following recommendations.

FISCAL YEAR 2003 (2002-03 School Year)

- Base State Aid Per Pupil -- Funded at \$3,863 per pupil. This amount is the same estimate following the August 2002, reduction of \$27 (\$3,890 minus \$27).
- Supplemental General State Aid (Local Option Budget) -- Fully funded.
- Inservice State Aid -- Reduced by \$2,000,000 which provides for a 35 percent proration (originally estimated at 40 percent proration).
- Special Education -- Funded at 85 percent of excess cost (\$19,485 per teacher).

FISCAL YEAR 2004 (2003-04 School Year)

- Base State Aid Per Pupil -- Remains at \$3,863.
- Supplemental General State Aid (Local Option Budget) -- Fully funded.
- Inservice Education -- Eliminated in FY 2004.
- Parents as Teachers -- Funded same as prior year.
- Special Education -- Funded at 83.9 percent of excess cost and incorporated into the general fund with the following weightings.

Severely Multiple Handicapped -- 2.648

Other Students with IEP's including gifted, infants and toddlers, etc. -- .704

Transportation and catastrophic formulas were incorporated into the weighting and, therefore, eliminated as a separate distribution calculation.

c:usd:CSA--Sebelius FY 03 & 04 Rec.

FISCAL YEAR 2004
BUDGET CONCERNS REQUIRING ADDITIONAL FUNDING

- Recruitment and retention of teachers
- Property insurance
- Health insurance
- Utilities
- Textbooks
- Workmen's compensation
- Motor fuel for school buses
- Deferred maintenance
- Reduction in cash balances particularly special education
- Recruitment and retention of administrators
- Potential cost of No Child Left Behind (NCLB)

Attached you will find the following information.

- Table containing national ranking of average teacher salaries (based upon 9-month school year and excludes fringe benefits and extra duty pay)
- Memo to the Legislative Budget Committee containing actual FY 2003 budget reductions made by school districts as a result of a limited budget increase and the August allotments.
- Memo explaining teacher vacancy information as of August 1 for the past three years.

NATIONAL EDUCATION ASSOCIATION
ESTIMATES DATABASE

AVERAGE SALARIES OF PUBLIC SCHOOL TEACHERS, 2001-02

Ranking 2000-2001	Ranking 2001-2002	State	Average Teacher Salary--2001-02	Percent Change Over 2000-2001	Average Teacher Salary--2000-2001
1	2	Connecticut	53,551	1.6	52,693
2	1	California	53,870	2.6	52,480
3	3	New York	53,081	2.0	52,040
4	4	Michigan	52,037	2.6	50,694
5	5	New Jersey	51,186	2.0	50,177
6	6	Pennsylvania	50,599	2.2	49,528
7	12	District of Columbia	47,049	(3.4)	48,704
8	8	Rhode Island	49,758	2.6	48,474
9	9	Alaska	49,418	2.7	48,123
10	7	Illinois	50,000	4.5	47,847
11	10	Massachusetts	49,054	2.6	47,789
12	11	Delaware	48,363	2.8	47,047
13	13	Maryland	46,200	0.5	45,963
14	14	Oregon	46,039	2.3	44,989
15	15	Nevada	44,738	0.8	44,386
16	16	Indiana	44,195	2.0	43,311
17	18	Ohio	44,029	3.0	42,764
18	17	Georgia	44,073	4.4	42,216
19	20	Minnesota	43,330	2.6	42,212
20	19	Washington	43,474	3.2	42,137
21	22	Wisconsin	42,232	0.3	42,122
22	23	North Carolina	41,991	1.2	41,496
23	24	Virginia	41,262	2.6	40,197
24	21	Hawaii	42,615	6.4	40,052
25	25	Colorado	40,222	2.6	39,184
26	30	Texas	39,232	2.3	38,361
27	32	New Hampshire	38,911	1.6	38,301
28	29	Vermont	39,240	2.6	38,253
29	27	Florida	39,275	2.7	38,230
30	28	Alabama	39,268	3.5	37,956
31	31	South Carolina	38,943	2.6	37,938
32	33	Tennessee	38,554	3.0	37,431
33	26	Arizona	39,973	7.5	37,167
34	35	Missouri	37,904	3.2	36,715
35	36	Kentucky	37,847	3.4	36,589
36	34	Iowa	38,230	4.8	36,479
37	39	Utah	37,414	2.7	36,441
38	38	Idaho	37,482	3.0	36,375
39	40	Maine	37,300	2.5	36,373
40	41	Arkansas	37,140	2.6	36,182
41	43	Kansas	36,673	2.2	35,901
42	42	West Virginia	36,751	2.4	35,888
43	37	Wyoming	37,841	9.1	34,678
44	46	Oklahoma	34,744	0.7	34,499
45	45	Nebraska	36,236	6.0	34,175
46	44	New Mexico	36,440	7.9	33,785
47	47	Louisiana	34,505	2.6	33,615
48	48	Montana	34,379	3.4	33,249
49	49	Mississippi	32,800	2.6	31,954
50	50	North Dakota	31,709	2.6	30,891
51	51	South Dakota	31,295	3.4	30,265
UNITED STATES			44,499	2.7	43,399



September 5, 2002

TO: Legislative Budget Committee

FROM: Dale M. Dennis, Deputy
Commissioner of Education

SUBJECT: USD Budget Cuts

During my recent visit with the Legislative Budget Committee, a member requested that I survey selected school districts concerning their budget reductions for the 2002-03 school year. These reductions are a result of a limited budget increase and the allotments recently issued by Governor Graves.

The following list indicates a cross section of Kansas school districts. These are actual reductions as reported to my office by school administrators. If we included everything received, the list would be very voluminous.

- Eliminated 4.6 teaching positions which included a part-time foreign language teacher
- Reduced four assistant coaches
- Eliminated boys swimming program
- Reduced police reserve at athletic events
- Reduced emergency medical services for selected athletic events
- Reduced lab teaching position
- Eliminated Saturday school for detention
- Reduced three assistant coaches
- Reduced library positions
- Reduced library clerks
- Reduced two teaching positions
- Reduced technology budget
- Eliminated back-to-school staff lunches
- Increased insurance deductible
- Dropped memberships in associations
- Reduced three custodial positions
- Reduced summer maintenance projects
- Reduced one administrator
- Combined three administrators into one position
- Reduced six supplemental contract assignments
- Holding two paraprofessional positions open
- Cut one part-time music teacher

- Reduced three assistant coaches
- Reduced building instructional budgets
- Discontinued the alternative high school program
- Dropped middle school Spanish program
- Dropped boys and girls tennis
- Reduced school food service options
- Cut half-time custodian and one full-time food service worker
- Eliminated grades 8 - 12 art program
- Eliminated curriculum director
- Eliminated two teachers
- Eliminated vehicle replacements
- Eliminated one music and one elementary teacher
- Eliminated one maintenance person
- Eliminated one bus route
- Cut six coaching positions
- Cut one teaching position
- Eliminated Title I all-day kindergarten
- Reduced technology purchases
- Reduced two assistant coaches
- Reduced repairs and maintenance
- Cut one administrator
- Combined two attendance centers
- Cut assistant coaching positions
- Delayed after school at-risk programs until January, 2003
- Cut staff development and inservice
- Cut athletic budgets
- Postponed textbook purchases
- Eliminated summer activities program
- Reduced food service program
- Reduced technology teacher contract
- Delayed textbook and uniform purchases
- Cut inservice
- Cut extracurricular positions
- Reduced technology staff
- Increased class size
- Reduced three teachers
- Eliminated bus route, one cook position, half-time teacher and half-time clerical
- Eliminated librarian, three assistant coaches, and one health and social studies teacher
- Reduced business education staff
- Cut home economics program
- Reduced athletic program
- Cut one secondary teacher and one fifth grade teacher
- Eliminated two teaching positions
- Reduced overtime

- Reduced one counselor
- Eliminated one cook
- Froze salaries
- Delayed new textbook purchases
- Reduced field trips, cut three coaches, one paraprofessional, and one cook
- Reduced food service program
- Cut athletic budget
- Reduced one certified and one noncertified position
- Reduced teaching supplies and athletic expenses by 11 percent
- Reduced two librarians, one classroom teacher, one custodian, and one secretary
- Reduced administrative staff
- Reduced teaching staff
- Reduced classroom aides
- Eliminate one bus route
- Eliminate parents as teachers program
- Postponed new textbook purchases as well as curricula revisions
- Cut three teaching positions
- Reduced eight special education paraprofessionals
- Cut one music teacher
- Cut one math teacher and increased pupil-teacher ratio
- Cut two special education teachers
- Cut ten teaching positions
- Cut three school lunch positions
- Cut coaching positions
- Cut custodial secretarial staff
- Cut coaches from most sports
- Cut eight teaching positions, one administrator, one maintenance, and four secretaries
- Reduced secondary Spanish teacher
- Eliminated Title I paraprofessional
- Reduced building budgets
- Eliminated librarian and counselor
- Combined the position of superintendent and director of special education
- Reduced contract for teachers by six days
- Cut full-time social studies teacher
- Cut math teacher and hired part-time person
- Eliminated assistant to superintendent position and reduced administrative support positions
- Eliminated elementary principal positions
- Reduced elementary counselors
- Reduced supply allocation to schools

Feel free to contact this office if you have questions.

c:leg:LBC--USD budget cuts



FROM: Dale M. Dennis, Deputy
Commissioner of Education

SUBJECT: Teacher Vacancies

As of August 1, 2002, there are 89 unified school districts with approximately 402 teacher vacancies compared to 512.4 at the beginning of the 2001-02 school year, and 530.1 vacancies at the beginning of the 2000-01 school year. Listed below is a summary and comparison of the information submitted by the school districts.

We also asked the districts how many 2002-03 certified personnel positions were filled on a temporary basis (one year or less). The total statewide response was 144 positions.

SCHOOL DISTRICTS WITH NO TEACHER VACANCIES --- 214

	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>
ELEMENTARY			
Counseling	8.0	15.3	4.0
Music	18.0	19.0	11.2
Special Education	73.5	66.4	56.8
Other	120.5	85.7	78.0
MIDDLE SCHOOL			
Counseling	2.0	3.8	3.0
Business	2.0	1.0	1.0
Foreign Language	4.8	4.0	4.5
Math	14.1	7.5	11.0
Music	10.6	10.4	7.2
Science	11.5	7.5	5.5
Special Education	31.0	49.7	34.6
Technology	3.0	1.3	2.2
Other	34.0	28.8	29.6
HIGH SCHOOL			
Counseling	1.5	3.9	4.0
Business	14.0	17.5	7.0
Foreign Language	14.3	16.3	14.6
Industrial Technology	5.0	10.0	9.0
Vocational		12.5	6.0
Math	16.1	19.0	13.5
Music	17.7	12.6	10.5
Special Education	50.5	58.9	42.5
Technology	4.0	3.9	3.3
Other	74.0	57.4	43.0
TOTAL	530.1	512.4	402.0

To: Dale Dennis
From: Alexa Pochowski
Date: January 27, 2003
Subject: Accountability and "No Child Left Behind"

The "No Child Left Behind" Act specifies that states must develop and implement a single, statewide accountability system that ensures all districts and schools make adequate yearly progress, and hold accountable those that do not. As part of this unitary accountability system, schools that do not make adequate yearly progress (AYP) for two consecutive years or more toward the ultimate goal of having 100% of students proficient in reading and mathematics by 2013-14 must be identified as in need of improvement. Specifically, AYP applies to all public schools students in the states; must be based primarily on academic assessments; and must measure achievement in mathematics and reading.

The NCLB also outlined a prescriptive series of sanctions by which schools must abide if they fail to make AYP for two or more consecutive years. **These sanctions apply to Title I schools only.** Included as sanctions for Title I schools are the following:

- Public school choice
- Supplemental educational services
- Technical assistance provided by the district and state
- Corrective action such as reconstituting the school, revamping the curriculum, or extending the school year
- School restructuring such as replacing staff or turning over school operations to a private company

States are also required to identify districts not making AYP and include a specific list of sanctions to be applied to each. Finally, a state that fails to make AYP will receive technical assistance from the U.S. Department of Education.

DEPARTMENT OF EDUCATION - MAJOR PROGRAMS
(Program Level, Discretionary \$ in millions)

	FY 2002	FY 2003	FY 2003	FY 2003	FY 2003	FY 2003	FY 2003	Increases and Decreases from FY 2002							
	Comparable	Bush	Senate Cmtte.	Regula	Senate	Senate	Senate	Bush		Regula HR 246		Senate HJRes 2		Senate HJRes 2 Revised	
			July-02	Jan-03	January-03	January-03	January-03	Dollar	Percent	Dollar	Percent	Dollar	Percent	Dollar	Percent
					HR 246	HJRes 2	2.9% Cut	HJRes 2 Revised							
<i>Physical Education for Progress</i>	50	0	70	n.a.	70	2	68	-50	-100%	n.a.	n.a.	20	40%	18	36%
<i>Community Technology Centers</i>	32	0	32	n.a.	32	1	32	-32	-100%	n.a.	n.a.	0	0%	-1	-3%
<i>Arts in Education</i>	30	0	36	n.a.	36	1	35	-30	-100%	n.a.	n.a.	6	20%	5	17%
<i>Women's Educational Equity</i>	3	0	3	n.a.	3	0	3	-3	-100%	n.a.	n.a.	0	0%	0	-3%
<i>Comprehensive School Reform</i>	75	0	75	n.a.	0	0	0	-75	-100%	n.a.	n.a.	-75	-100%	-75	-100%
<i>Other</i>	405	35	413	311	491	14	475	-370	-91%	-94	-23%	86	21%	70	17%
Civic Education	16	0	18	16	18	1	17	-16	-100%	0	0%	3	16%	2	13%
State Assessments	387	387	397	387	387	11	376	0	0%	0	0%	0	0%	-11	-3%
Charter School Program	200	200	200	200	200	6	194	0	0%	0	0%	0	0%	-6	-3%
Charter School Facilities	0	100	0	50	0	0	0	100	n.a.	50	n.a.	0	n.a.	0	n.a.
Choice Demonstration Fund	0	50	0	25	0	0	0	50	n.a.	25	n.a.	0	n.a.	0	n.a.
Magnet Schools	110	110	110	110	110	3	107	0	0%	0	0%	0	0%	-3	-3%
Education for Homeless	50	50	52	55	54	2	52	0	0%	5	10%	4	8%	2	5%
Rural Education	163	0	175	163	175	5	170	-163	-100%	0	0%	13	8%	7	5%
Language Acquisition State Grant	665	665	740	665	690	20	670	0	0%	0	0%	25	4%	5	1%
IDEA , Total	8,673	9,688	9,696	9,188	9,691	252	9,439	1,015	12%	515	6%	1,019	12%	767	9%
<i>IDEA Part B State Grant</i>	7,529	8,529	8,529	8,029	8,529	218	8,310	1,000	13%	500	7%	1,000	13%	782	10%
<i>Memo: % Federal contribution</i>	16.0	17.5	17.5	16.5	17.5		17.0	2	9%	1	3%	2	9%	1	6%
<i>IDEA Preschool Grants</i>	390	390	390	390	390	11	379	0	0%	0	0%	0	0%	-11	-3%
<i>IDEA Infants and Children</i>	417	437	437	437	437	13	424	20	5%	20	5%	20	5%	7	2%
<i>IDEA Personnel Preparation</i>	90	90	100	90	95	3	92	0	0%	0	0%	5	6%	2	2%
<i>IDEA Other</i>	247	242	241	242	241	7	234	-5	-2%	-5	-2%	-6	-3%	-13	-5%
Vocational Education State Grant	1,180	1,180	1,180	1,200	1,180	34	1,146	0	0%	20	2%	0	0%	-34	-3%
Adult Education State Grant	575	575	575	575	575	17	558	0	0%	0	0%	0	0%	-17	-3%
National Educational Assessment (NAEP)	112	95	95	95	95	3	93	-16	-14%	-16	-14%	-16	-14%	-19	-17%
Postsecondary Education Programs															
Pell Grant 3/	11,314	10,863	11,180	11,200	11,180	324	10,856	-451	-4%	-114	-1%	-134	-1%	-458	-4%
<i>Memo: Maximum Pell Grant</i>	4,000	4,000	4,100	4,000	4,100		4,100	0	0%	0	0%	100	3%	100	3%
Supplemental Educational Opportunity Grant	725	725	725	725	725	21	704	0	0%	0	0%	0	0%	-21	-3%
College Work Study	1,011	1,011	1,011	1,011	1,011	29	982	0	0%	0	0%	0	0%	-29	-3%
Perkins Loans	168	168	173	168	168	5	163	0	0%	0	0%	0	0%	-5	-3%
Leveraging Educational Assistance (LEAP)	67	0	73	67	67	2	65	-67	-100%	0	0%	0	0%	-2	-3%
TRIO	803	803	833	810	833	24	808	0	0%	8	1%	30	4%	6	1%
GEAR UP	285	285	295	285	295	9	286	0	0%	0	0%	10	4%	1	1%
Hispanic Serving Institutions	86	89	91	89	93	3	90	3	4%	3	4%	7	8%	4	5%

DEPARTMENT OF EDUCATION - MAJOR PROGRAMS
(Program Level, Discretionary \$ in millions)

	FY 2002	FY 2003	FY 2003	FY 2003	FY 2003	FY 2003	FY 2003	Increases and Decreases from FY 2002								
	Comparable	Bush	Senate Cmtte.	Regula	Senate	Senate	Senate	Bush		Regula HR 246		Senate HJRes 2		Senate HJRes 2 Revised		
			July-02	Jan-03	January-03	January-03	January-03	Dollar	Percent	Dollar	Percent	Dollar	Percent	Dollar	Percent	
			HR 246	HJRes 2	2.9% Cut	HJRes 2 Revised										
Historically Black Institutions	206	213	213	213	215	6	209	7	4%	7	4%	9	5%	3	2%	
International Education and Foreign Language	99	103	103	99	102	3	99	4	4%	0	0%	3	3%	0	0%	
Teacher Quality Enhancement	90	90	90	100	90	3	87	0	0%	10	11%	0	0%	-3	-3%	
Child Care Access Means Parents In School	25	15	15	15	16	0	16	-10	-40%	-10	-40%	-9	-35%	-9	-37%	
Gallaudet University	97	94	98	95	98	3	96	-2	-3%	-2	-2%	2	2%	-1	-1%	
National Technical Institute for the Deaf	55	52	55	54	55	2	53	-3	-6%	-2	-3%	-1	-1%	-2	-4%	
Howard University	237	237	237	240	240	7	233	0	0%	3	1%	3	1%	-4	-2%	
Thurgood Marshall Scholarships	4	0	4	4	5	0	5	-4	-100%	0	0%	1	25%	1	21%	
B.J. Stupak Olympic Scholarships	1	0	0	1	0	0	0	-1	-100%	0	0%	-1	-100%	-1	-100%	
Other Programs																
Education Research	122	175	140	140	90	3	87	53	44%	18	15%	-32	-27%	-35	-29%	
Education Statistics	85	95	90	95	87	3	84	10	12%	10	12%	2	2%	-1	-1%	
Vocational Rehabilitation State Grant	0	83	0	0	0	0	0	83	n.a.	0	n.a.	0	n.a.	0	n.a.	
Vocational Rehabilitation Incentive Grant	0	30	0	0	0	0	0	30	n.a.	0	n.a.	0	n.a.	0	n.a.	

1/ FY 2003 Bush column includes a scorekeeping adjustment of -\$795 million for proposed reclassification of mandatory Section 458 student aid administrative costs and excludes \$23.728 million proposed for mandatory federal retirement accrual costs.

2/ FY 2002 Comparable column includes \$10 million emergency supplemental appropriation for Project SERV.

3/ FY 2002 Comparable column includes \$1.0 billion Pell Grant supplemental enacted in P.L. 107-206.

Increases and Decreases From Bush		
Regula HR 246	Senate HJRes 2	Senate HJRes 2
Dollar	Dollar	Revised Dollar

Regula HR 246 Compared To:	
Senate HJRes 2	Senate HJRes 2
Dollar	Revised Dollar

Senate HJRes 2 Revised Compared To:	
Senate Cmte.	Senate HJRes 2
Dollar	Dollar

Note: Senate Figures Are Preliminary, Subject to Change

Department of Education, Total 1/	0	6,352	4,774	-6,352	-4,774	1,919	-1,578
All Elementary and Secondary Education	-319	5,960	4,875	-6,279	-5,194	2,417	-1,085
No Child Left Behind Act	159	5,916	5,137	-5,757	-4,978	2,727	-779
Postsecondary Education	399	528	72	-128	327	-402	-456
Other	-80	-135	-173	55	93	-95	-38

Elementary and Secondary Education Programs

Title 1 Grants to LEAS	-500	0	-293	-500	-207	-793	-293
Title 1 School Improvement	0	0	0	0	0	-100	0
Even Start	50	0	-6	50	56	-56	-6
Reading First	0	0	-31	0	31	-31	-31
Comprehensive School Reform	0	-235	-235	235	235	-235	0
Literacy Through School Libraries	0	3	2	-3	-2	-10	0
Close Up	2	2	1	0	0	0	0
Migrant Education (HEP/CAMP)	0	2	1	-2	-1	-1	-1
Impact Aid	45	36	2	9	43	-58	-34
Teacher Quality State Grant	100	0	-83	100	183	-333	-83
Troops to Teachers	10	0	-1	10	11	-1	-1
Transition to Teaching	8	-4	-5	12	13	-5	-1
NBPTS/Advanced Credentialing	10	10	10	0	0	0	0
Early Childhood Educators	-15	0	0	-15	-15	0	0
School Leadership	10	15	15	-5	-5	0	0
Teaching American History	0	50	47	-50	-47	-3	-3
Math and Science Partnerships	88	13	12	75	76	-1	-1
Safe and Drug Free Schools 2/	0	0	-19	0	19	-29	-19
Mentoring Programs	18	18	17	0	1	-1	-1
21st Century After School Centers	0	0	-29	0	29	-119	-29
Educational Technology State Grant	0	0	-20	0	20	-20	-20
Innovation State Grant	0	5,000	4,844	-5,000	-4,844	4,844	-156
Fund for the Improvement of Education, Total	227	652	630	-425	-403	-162	-21
School Counselors	n.a.	33	32	n.a.	n.a.	-1	-1
Character Education	n.a.	0	1	n.a.	n.a.	1	1
Smaller Learning Communities	n.a.	0	0	n.a.	n.a.	-142	0
Reading Is Fundamental	n.a.	3	2	n.a.	n.a.	-1	-1
Foreign Language Assistance	n.a.	19	18	n.a.	n.a.	-2	-1

Increases and Decreases From Bush			Regula HR 246 Compared To:		Senate HJRes 2 Revised Compared To:	
Regula HR 246	Senate HJRes 2	Senate HJRes 2 Revised	Senate HJRes 2	Senate HJRes 2 Revised	Senate Cmtte.	Senate HJRes 2
Dollar	Dollar	Dollar	Dollar	Dollar	Dollar	Dollar

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Physical Education for Progress	n.a.	70	68	n.a.	n.a.	-2	-2
Community Technology Centers	n.a.	32	32	n.a.	n.a.	-1	-1
Arts in Education	n.a.	36	35	n.a.	n.a.	-1	-1
Women's Educational Equity	n.a.	3	3	n.a.	n.a.	0	0
Comprehensive School Reform	n.a.	0	0	n.a.	n.a.	-75	0
Other	276	456	440	-180	-164	62	-16
Civic Education	16	18	17	-3	-2	-1	-1
State Assessments	0	0	-11	0	11	-21	-11
Charter School Program	0	0	-6	0	6	-6	-6
Charter School Facilities	-50	-100	-100	50	50	0	0
Choice Demonstration Fund	-25	-50	-50	25	25	0	0
Magnet Schools	0	0	-3	0	3	-3	-3
Education for Homeless	5	4	2	1	3	0	-2
Rural Education	163	175	170	-13	-7	-5	-5
Language Acquisition State Grant	0	25	5	-25	-5	-70	-20
IDEA , Total	-500	4	-248	-504	-252	-257	-252
IDEA Part B State Grant	-500	0	-218	-500	-282	-218	-218
Memo: % Federal contribution	-1	0	-1	-1	-1	-1	-1
IDEA Preschool Grants	0	0	-11	0	11	-11	-11
IDEA Infants and Children	0	0	-13	0	13	-13	-13
IDEA Personnel Preparation	0	5	2	-5	-2	-8	-3
IDEA Other	0	-1	-8	1	8	-7	-7
Vocational Education State Grant	20	0	-34	20	54	-34	-34
Adult Education State Grant	0	0	-17	0	17	-17	-17
National Educational Assessment (NAEP)	0	0	-3	0	3	-3	-3
Postsecondary Education Programs							
Pell Grant 3/	337	317	-7	20	344	-324	-324
Memo: Maximum Pell Grant	0	100	100	-100	-100	0	0
Supplemental Educational Opportunity Grant	0	0	-21	0	21	-21	-21
College Work Study	0	0	-29	0	29	-29	-29
Perkins Loans	0	0	-5	0	5	-10	-5
Leveraging Educational Assistance (LEAP)	67	67	65	0	2	-7	-2
TRIO	8	30	6	-23	2	-24	-24
GEAR UP	0	10	1	-10	-1	-9	-9
Hispanic Serving Institutions	0	4	1	-4	-1	-1	-3

	Increases and Decreases From Bush			Regula HR 246 Compared To:		Senate HJRes 2 Revised Compared To:	
	Regula HR 246	Senate HJRes 2	Senate HJRes 2 Revised	Senate HJRes 2	Senate HJRes 2 Revised	Senate Cmtte.	Senate HJRes 2
	Dollar	Dollar	Dollar	Dollar	Dollar	Dollar	Dollar
Historically Black Institutions	0	2	-4	-2	4	-4	-6
International Education and Foreign Language	-4	-1	-4	-3	0	-4	-3
Teacher Quality Enhancement	10	0	-3	10	13	-3	-3
Child Care Access Means Parents In School	0	1	1	-1	-1	1	0
Gallaudet University	1	4	1	-3	-1	-3	-3
National Technical Institute for the Deaf	1	3	1	-1	0	-2	-2
Howard University	3	3	-4	0	7	-4	-7
Thurgood Marshall Scholarships	4	5	5	-1	-1	1	0
B.J. Stupak Olympic Scholarships	1	0	0	1	1	0	0
Other Programs							
Education Research	-35	-86	-88	51	53	-53	-3
Education Statistics	0	-8	-11	8	11	-6	-3
Vocational Rehabilitation State Grant	-83	-83	-83	0	0	0	0
Vocational Rehabilitation Incentive Grant	-30	-30	-30	0	0	0	0

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