



## **P.L. 107-110**

### **STATUTORY LANGUAGE PERTAINING TO PRIVATE SCHOOL PARTICIPATION**

*The following excerpts from the No Child Left Behind Act contain language that specifically refers to the participation of private school students, teachers, and parents in the various programs authorized by the law. The full text of the law is available at [www.ed.gov/nclb](http://www.ed.gov/nclb).*

#### **Title I CC Improving The Academic Achievement Of The Disadvantaged**

##### **Part A: Improving Basic Programs operated by Local Education Agencies**

##### **SEC. 1111. STATE PLANS.**

*Note: This section does not specifically mention private schools, but is significant because it explicitly applies the requirement for states to conduct annual assessment to public schools only. The law does not require private schools to participate in annual state assessments.*

##### **(b) ACADEMIC STANDARDS, ACADEMIC ASSESSMENTS, AND ACCOUNTABILITY- 2) ACCOUNTABILITY-**

**(A) IN GENERAL-** Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph.

Each State accountability system shall--

(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 1116; and

(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under subparagraphs (B) and (C)

##### **SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.**

##### **(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.

(5) CRITERIA FOR PROVIDERSBB 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 SERVICESBB 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.

*Note: The following section refers to the Title I, Part A program, not to the supplemental services program described above.*

## **SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.**

### **(a) GENERAL REQUIREMENT-**

(1) IN GENERAL- To the extent consistent with the number of eligible children identified under section 1115(b) in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 1118 and 1119.

(2) SECULAR, NEUTRAL, NONIDEOLOGICAL- Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

(3) EQUITY- Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

(4) EXPENDITURES- Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

(5) PROVISION OF SERVICES- The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

(b) CONSULTATION-

(1) IN GENERAL- To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as C C

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) for such services;

(F) the method or sources of data that are used under subsection (c) and section 1113(c)(1) to determine the number of children from low-income families in participating school attendance areas who attend private schools;

(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers; and

(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

(2) TIMING- Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

(3) DISCUSSION- Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(4) DOCUMENTATION- Each local educational agency shall maintain in the agency's records and provide to the State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

(5) COMPLIANCE-

(A) IN GENERAL- A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(B) PROCEDURE- If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(c) ALLOCATION FOR EQUITABLE SERVICE TO PRIVATE SCHOOL STUDENTS-

- (1) CALCULATION- A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by C C
- (A) using the same measure of low income used to count public school children;
- (B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;
- (C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or
- (D) using an equated measure of low income correlated with the measure of low income used to count public school children.
- (2) COMPLAINT PROCESS- Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 9505.
- (d) PUBLIC CONTROL OF FUNDS-
- (1) IN GENERAL- The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property
- (2) PROVISION OF SERVICES-
- (A) PROVIDER- The provision of services under this section shall be provided C C
- (i) by employees of a public agency; or
- (ii) through contract by such public agency with an individual, association, agency, or organization.
- (B) REQUIREMENT- In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.
- (e) STANDARDS FOR A BYPASS- If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall C C
- (1) waive the requirements of this section for such local educational agency;
- (2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 9503 and 9504; and
- (3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

### **SEC. 1903. STATE ADMINISTRATION.**

#### **(b) COMMITTEE OF PRACTITIONERS-**

- (1) IN GENERAL- Each State educational agency that receives funds under this title shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.
- (2) MEMBERSHIP- Each such committee shall include C C
- (A) as a majority of its members, representatives from local educational agencies;
- (B) administrators, including the administrators of programs described in other parts of this title;

- (C) teachers, including vocational educators;
- (D) parents;
- (E) members of local school boards;
- (F) representatives of private school children; and
- (G) pupil services personnel

(3) DUTIES- The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

*Although the following section occurs in the law under Title V, it is included here because it pertains to the use of Capital Expense funds for Title I.*

### **Title V, Part D, Subpart 19 — Grants for Capital Expenses of Providing Equitable Services for Private School Students**

#### **SEC. 5466. GENERAL PROVISIONS.**

(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS- In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

#### **SEC. 5591. GRANT PROGRAM AUTHORIZED.**

The Secretary is authorized to award grants to State educational agencies, from allotments made under section 5593, to enable the State educational agencies to award subgrants to local educational agencies to pay for capital expenses in accordance with this subpart.

#### **SEC. 5592. USES OF FUNDS.**

A local educational agency that receives a subgrant under this subpart shall use the subgrant funds only to pay for capital expenses incurred in providing equitable services for private school students under section 1120.

#### **SEC. 5593. ALLOTMENTS TO STATES.**

From the funds made available to carry out this subpart for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the funds made available as the number of private school students who received services under part A of title I in the State in the most recent year for which data, satisfactory to the Secretary, are available bears to the number of such students in all States in such year.

**SEC. 5594. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) APPLICATIONS- A local educational agency that desires to receive a subgrant under this subpart shall submit an application to the State educational agency involved at such time, in such manner, and containing such information as the State educational agency may require.

**SEC. 5595. CAPITAL EXPENSES DEFINED.**

In this subpart, the term capital expenses' means —

- (1) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;
- (2) insurance and maintenance costs;
- (3) transportation; and
- (4) other comparable goods and services.

**SEC. 5596. TERMINATION.**

The authority provided by this subpart terminates effective October 1, 2003.

# **TITLE I CC IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED**

## **PART B: STUDENT READING SKILLS IMPROVEMENT GRANTS SUBPART 3 CC WILLIAM F. GOODLING EVEN START FAMILY LITERACY PROGRAMS**

### **SEC. 1232. PROGRAM AUTHORIZED.**

(e) DEFINITIONS- For the purpose of this subpart CC

(1) the term eligible entity' means a partnership composed of CC

(A) a local educational agency; and

(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

(2) the term eligible organization' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

### **SEC. 1237. APPLICATIONS.**

(c) PLAN-

(1) IN GENERAL- The application shall also include a plan of operation and continuous improvement for the program, that includes CC

(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

*Although the following section occurs in the law under Title V, it is included here because it pertains to the use of Capital Expense funds for Title I.*

## **Title V, Part D, Subpart 19 — Grants for Capital Expenses of Providing Equitable Services for Private School Students**

### **SEC. 5466. GENERAL PROVISIONS.**

(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS- In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

### **SEC. 5591. GRANT PROGRAM AUTHORIZED.**

The Secretary is authorized to award grants to State educational agencies, from allotments made under section 5593, to enable the State educational agencies to award

subgrants to local educational agencies to pay for capital expenses in accordance with this subpart.

**SEC. 5592. USES OF FUNDS.**

A local educational agency that receives a subgrant under this subpart shall use the subgrant funds only to pay for capital expenses incurred in providing equitable services for private school students under section 1120.

**SEC. 5593. ALLOTMENTS TO STATES.**

From the funds made available to carry out this subpart for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the funds made available as the number of private school students who received services under part A of title I in the State in the most recent year for which data, satisfactory to the Secretary, are available bears to the number of such students in all States in such year.

**SEC. 5594. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) APPLICATIONS- A local educational agency that desires to receive a subgrant under this subpart shall submit an application to the State educational agency involved at such time, in such manner, and containing such information as the State educational agency may require.

**SEC. 5595. CAPITAL EXPENSES DEFINED.**

In this subpart, the term capital expenses' means —

- (1) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;
- (2) insurance and maintenance costs;
- (3) transportation; and
- (4) other comparable goods and services.

**SEC. 5596. TERMINATION.**

The authority provided by this subpart terminates effective October 1, 2003.

## **Title II — Preparing, Training, and Recruiting High Quality Teachers and Principals**

### **PART A — TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND**

#### **SEC. 2112. STATE APPLICATIONS.**

(a) IN GENERAL- For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) CONTENTS- Each application submitted under this section shall include the following:

(12) An assurance that the State educational agency will comply with section 9501 (regarding participation by private school children and teachers).

#### **SEC. 2122. LOCAL APPLICATIONS AND NEEDS ASSESSMENT.**

(a) IN GENERAL- To be eligible to receive a subgrant under this subpart, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) CONTENTS- Each application submitted under this section shall be based on the needs assessment required in subsection (c) and shall include the following:

(11) An assurance that the local educational agency will comply with section 9501 (regarding participation by private school children and teachers).

*The following section of Title IX, Part E, Uniform Provisions, is included here because it applies specifically to Title II Part A.*

#### **SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.**

(b) APPLICABILITY-

(3) APPLICATION- (A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

## **TITLE IV--21ST CENTURY SCHOOLS**

### **PART A — SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES**

#### **SEC. 4113. STATE APPLICATION.**

(a) IN GENERAL- In order to receive an allotment under section 4111(b) for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that

(7) provides an assurance that the local educational agencies in the State will comply with the provisions of section 9501 pertaining to the participation of private school children and teachers in the programs and activities under this subpart.

#### **SEC. 4115. AUTHORIZED ACTIVITIES.**

(a) PRINCIPLES OF EFFECTIVENESS-

(1) IN GENERAL- For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall —

(A) be based on an assessment of objective data regarding the incidence of violence and illegal drug use in the elementary schools and secondary schools and communities to be served, including an objective analysis of the current conditions and consequences regarding violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

## **TITLE V — PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS**

### **PART A — INNOVATIVE PROGRAMS**

#### **SEC. 5112. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.**

(a) DISTRIBUTION RULE-

(1) ALLOCATION OF BASE AMOUNTS- From the amount made available to a State educational agency under this part for a fiscal year, the State educational agency shall distribute, to local educational agencies within the State, an amount that is not less than 85 percent of the amount made available to the State educational agency under this part for fiscal year 2002, according to the relative enrollments in public and in private nonprofit schools within the jurisdictions of such local educational agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational

agencies that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as —

- (A) children living in areas with high concentrations of economically disadvantaged families;
- (B) children from economically disadvantaged families; and
- (C) children living in sparsely populated areas.

(c) **CALCULATION OF ENROLLMENTS-**

(1) **IN GENERAL-** The calculation of relative enrollments under subsection (a)(1) shall be on the basis of the total of —

- (A) the number of children enrolled in public schools; and
- (B) the number of children enrolled in private nonprofit schools that participated in programs assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.

(2) **RULE OF CONSTRUCTION-** Nothing in this subsection shall diminish the responsibility of each local educational agency to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

(d) **PAYMENT OF ALLOCATIONS-**

(2) **ADDITIONAL FUNDS-**

(A) **USE-** Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(1) may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public schools and private nonprofit schools in direct proportion to the number of children described in subsection (a)(1) and enrolled in such schools within the area served by the local educational agency.

(B) **ALLOCATION-** In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the area served by the local educational agency in such manner.

**SEC. 5122. STATE APPLICATIONS.**

(a) **APPLICATION REQUIREMENTS-** Any State that desires to receive assistance under this part shall submit to the Secretary an application that includes each of the following:

- (3) Information setting forth the allocation of funds required to implement section 5142.

**SEC. 5142. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.**

(a) **PARTICIPATION ON EQUITABLE BASIS-**

(1) **IN GENERAL-** To the extent consistent with the number of children in the school district of a local educational agency that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary

schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency use, the local educational agency, after consultation with appropriate private school officials —

(A) shall provide, as may be necessary, for the benefit of such children in such schools —

(i) secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs; and

(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c)); or

(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools, as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

(2) OTHER PROVISIONS FOR SERVICES- If no program is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

(3) APPLICATION OF REQUIREMENTS- The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

(b) EQUAL EXPENDITURES-

(1) IN GENERAL- Expenditures for programs under subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

(2) CONCENTRATED PROGRAMS- Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs.

(c) ADMINISTRATIVE REQUIREMENTS-

(1) FUNDS AND PROPERTY- The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.

(2) PROVISION OF SERVICES- Services provided under this part shall be provided by employees of a public agency or through contract by such a public

agency with a person, association, agency, or corporation that, in the provision of such services, is independent of the private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such a public agency. The funds provided under this part shall not be commingled with State or local funds.

(d) WAIVER-

(1) STATE PROHIBITION- If a State educational agency or local educational agency is prohibited, by reason of any provision of law, from providing for the participation in programs of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary shall waive such requirements for the agency involved and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

2) FAILURE TO COMPLY- If the Secretary determines that a State educational agency or a local educational agency has substantially failed, or is unwilling, to provide for the participation on an equitable basis of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c), the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

(e) WITHHOLDING OF ALLOTMENT OR ALLOCATION- Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2), the Secretary may withhold from the allotment or allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

(f) DURATION OF DETERMINATION- Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency or local educational agency to meet the requirements of subsections (a) through (c).

(g) PAYMENT FROM STATE ALLOTMENT- When the Secretary arranges for services under subsection (d), the Secretary shall, after consultation with the appropriate public school and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State educational agency under this part.

(h) REVIEW OF DETERMINATION-

(1) WRITTEN OBJECTIONS- The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

(2) COURT ACTION- If a State educational agency or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

- (3) REMAND TO SECRETARY- The findings of fact by the Secretary with respect to a proceeding under paragraph (1), if supported by substantial evidence, shall be conclusive. The court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive, if supported by substantial evidence.
- (4) COURT REVIEW- Upon the filing of a petition under paragraph (2), the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court upon certiorari or certification, as provided in section 1254 of title 28, United States Code.
- (i) PRIOR DETERMINATION- Any bypass determination by the Secretary under title VI (as such title was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) shall, to the extent consistent with the purposes of this part, apply to programs under this part.

## **TITLE VI — FLEXIBILITY AND ACCOUNTABILITY**

### **PART A — IMPROVING ACADEMIC ACHIEVEMENT**

Subpart 2 — Funding Transferability for State and Local Educational Agencies

#### **SEC. 6123. TRANSFERABILITY OF FUNDS.**

(e) APPLICABLE RULES-

(1) IN GENERAL- Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.

(2) CONSULTATION- Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 9501, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.

### **Subpart 3 — State and Local Flexibility Demonstration Chapter A — State Flexibility Authority**

#### **SEC. 6141. STATE FLEXIBILITY**

(c) STATE APPLICATIONS-

(1) APPLICATIONS- To be eligible to receive flexibility authority under this chapter, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including

(K) an assurance that, in consolidating and using funds under the grant of authority —

(i) the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will provide for the equitable participation of students and professional staff in private schools consistent with section 9501; and

(ii) that sections 9502, 9503, and 9504 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 9501;

### **Chapter B — Local Flexibility Demonstration**

#### **SEC. 6151. LOCAL FLEXIBILITY DEMONSTRATION AGREEMENTS**

c) REQUIRED TERMS OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT- Each local flexibility demonstration agreement entered into with the Secretary under this chapter shall contain each of the following terms:

(8) PRIVATE SCHOOL PARTICIPATION- The local flexibility demonstration agreement shall contain an assurance that the local educational agency agrees that in consolidating and using funds under the agreement —

(A) the local educational agency, will provide for the equitable participation of students and professional staff in private schools consistent with section 9501; and

(B) that sections 9502, 9503, and 9504 shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 9501.

# **TITLE IX — GENERAL PROVISIONS**

## **Part E — Uniform Provisions**

### **Subpart 1 — Private Schools**

#### **SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.**

##### **(a) PRIVATE SCHOOL PARTICIPATION-**

(1) **IN GENERAL-** Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

(2) **SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS-** Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) **SPECIAL RULE-** Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

(4) **EXPENDITURES-** Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) **PROVISION OF SERVICES-** An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

##### **(b) APPLICABILITY-**

(1) **IN GENERAL-** This section applies to programs under —

- (A) subparts 1 and 3 of part B of title I;
- (B) part C of title I;
- (C) part A of title II, to the extent provided in paragraph (3);
- (D) part B of title II;
- (E) part D of title II;
- (F) part A of title III;
- (G) part A of title IV; an
- (H) part B of title IV.

(2) **DEFINITION-** For the purpose of this section, the term eligible children' means children eligible for services under a program described in paragraph (1).

(3) **APPLICATION-**

(A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4), applies to funds awarded to a local educational agency under part A of title II only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of title II that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001) and section 306 of the Department of Education Appropriations Act, 2001.

(c) CONSULTATION-

(1) IN GENERAL- To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as —

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be assessed and how the results of the assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and

(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

(2) DISAGREEMENT- If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) TIMING- The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act, and shall continue throughout the implementation and assessment of activities under this section.

(4) DISCUSSION REQUIRED- The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) PUBLIC CONTROL OF FUNDS-

(1) IN GENERAL- The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

(2) PROVISION OF SERVICES-

(A) IN GENERAL- The provision of services under this section shall be provided —

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) INDEPENDENCE; PUBLIC AGENCY- In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) COMMINGLING OF FUNDS PROHIBITED- Funds used to provide services under this section shall not be commingled with non-Federal funds.

#### **SEC. 9502. STANDARDS FOR BY-PASS.**

(a) IN GENERAL- If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 9501, the Secretary shall —

(1) waive the requirements of that section for the agency, consortium, or entity; and

(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 9501, 9503, and 9504.

(b) DETERMINATION- In making the determination under subsection (a), the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

#### **SEC. 9503. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.**

(a) PROCEDURES FOR COMPLAINTS- The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 9501 by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) APPEALS TO SECRETARY- The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the

complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.

#### **SEC. 9504. BY-PASS DETERMINATION PROCESS.**

(a) REVIEW-

(1) IN GENERAL-

(A) WRITTEN OBJECTIONS- The Secretary shall not take any final action under section 9502 until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

(B) PRIOR TO REDUCTION- Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(2) PETITION FOR REVIEW-

(A) PETITION- If the affected agency, consortium, or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), the agency, consortium, or entity may, within 60 days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action.

(B) TRANSMISSION- A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) FILING- The Secretary, upon receipt of the copy of the petition, shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28, United States Code.

(3) FINDINGS OF FACT-

(A) IN GENERAL- The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

(B) NEW OR MODIFIED FINDINGS- Any new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) JURISDICTION-

(A) IN GENERAL- Upon the filing of a petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part.

(B) JUDGMENT- The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(b) DETERMINATION- Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with that agency, consortium, or entity and representatives of the affected private school children, teachers, or other educational personnel, that there will no longer be any failure or inability on the part of the agency, consortium, or entity to meet the applicable requirements of section 9501 or any other provision of this Act.

(c) PAYMENT FROM STATE ALLOTMENT- When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of those services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

(d) PRIOR DETERMINATION- Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the No Child Left Behind Act of 2001 shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

#### **SEC. 9505. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.**

Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

#### **SEC. 9506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.**

(a) APPLICABILITY TO NONRECIPIENT PRIVATE SCHOOLS- Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, nor shall any student who attends a private school that does not receive funds or services under this Act be required to participate in any assessment referenced in this Act.

(b) APPLICABILITY TO HOME SCHOOLS- Nothing in this Act shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this Act.

(c) RULE OF CONSTRUCTION ON PROHIBITION OF FEDERAL CONTROL OVER NONPUBLIC SCHOOLS- Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

(d) RULE OF CONSTRUCTION ON STATE AND LOCAL EDUCATIONAL AGENCY MANDATES- Nothing in this Act shall be construed to require any State educational agency or local educational agency that receives funds under this Act to mandate, direct, or control the curriculum of a private or home school, regardless of whether or not a home school is treated as a private school under state law, nor shall any funds under this Act be used for this purpose.

## DEFINITIONS

*The following definitions of commonly used terms in the No Child Left Behind Act are found primarily in Part A, Section 9101 of Title IX. Appropriate citations are provided in brackets after definitions that occur in other sections of NCLBA.*

**ADEQUATE YEARLY PROGRESS** shall be defined by the State in a manner that--

- (i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;
- (ii) is statistically valid and reliable;
- (iii) results in continuous and substantial academic improvement for all students;
- (iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);
- (v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:
  - (I) The achievement of all public elementary school and secondary school students.
  - (II) The achievement of—
    - (aa) economically disadvantaged students;
    - (bb) students from major racial and ethnic groups;
    - (cc) students with disabilities; and
    - (dd) students with limited English proficiency; except that disaggregation of data under subclause (II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;
- (vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and
- (vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses. [Title I, Part A, Subpart 1, SEC. 1111. (b) (2)(C)]

**COMMUNITY-BASED ORGANIZATION-** The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that —

- (A) is representative of a community or significant segments of a community; and
- (B) provides educational or related services to individuals in the community.

**CORE ACADEMIC SUBJECTS-** The term 'core academic subjects' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

**ELEMENTARY SCHOOL-** The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

**GIFTED AND TALENTED-** The term 'gifted and talented', when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific

academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

**HIGHLY QUALIFIED-** The term 'highly qualified' —

(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that —

- (i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and
- (ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

(B) when used with respect to —

(i) an elementary school teacher who is new to the profession, means that the teacher —

- (I) holds at least a bachelor's degree; and
- (II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

(ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by —

- (I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
- (II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and —

(i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or

(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that —

- (I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;
- (II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
- (III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
- (IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;
- (V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
- (VI) is made available to the public upon request; and
- (VII) may involve multiple, objective measures of teacher competency.

**LIMITED ENGLISH PROFICIENT-** The term 'limited English proficient', when used with respect to an individual, means an individual —

(A) who is aged 3 through 21;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

- (C) (i) who was not born in the United States or whose native language is a language other than English;
  - (ii) (I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
    - (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
  - (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual —
  - (i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);
  - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
  - (iii) the opportunity to participate fully in society.

**MIGRATORY CHILD-** The term 'migratory child' means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work —

- (A) has moved from one school district to another;
- (B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or
- (C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity. *[Title I, Part C SEC. 1309 (2)]*

**PROFESSIONAL DEVELOPMENT-** The term 'professional development' —

- (A) includes activities that —
  - (i) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;
  - (ii) are an integral part of broad schoolwide and districtwide educational improvement plans;
  - (iii) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;
  - (iv) improve classroom management skills;
  - (v) (I) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and
    - (II) are not 1-day or short-term workshops or conferences;
  - (vi) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;
  - (vii) advance teacher understanding of effective instructional strategies that are —
    - (I) based on scientifically based research (except that this subclause shall not apply to activities carried out under part D of title II); and
    - (II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and
  - (viii) are aligned with and directly related to —
    - (I) State academic content standards, student academic achievement standards, and assessments; and

- (II) the curricula and programs tied to the standards described in subclause (I) except that this subclause shall not apply to activities described in clauses (ii) and (iii) of section 2123(3)(B);
  - (ix) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;
  - (x) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;
  - (xi) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;
  - (xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;
  - (xiii) provide instruction in methods of teaching children with special needs;
  - (xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and
  - (xv) include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and
- (B) may include activities that —
- (i) involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;
  - (ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and
  - (iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

**SCIENTIFICALLY BASED RESEARCH-** The term 'scientifically based research' —

- (A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and
- (B) includes research that —
  - (i) employs systematic, empirical methods that draw on observation or experiment;
  - (ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
  - (iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
  - (iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
  - (v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
  - (vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

**SECONDARY SCHOOL-** The term 'secondary school' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

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