

## ELEMENTARY & SECONDARY EDUCATION

### Use of Title I Funds

Districts and Schools Identified for Improvement

October 12, 2004

Dear Chief State School Officers:

We have received a few questions about the use of funds under Title I of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (NCLB), in districts and schools that have been identified for improvement. This letter provides guidance on these questions.

First, may a State allocate school improvement funds (§1003) to a local educational agency (LEA) identified for improvement under section 1116 even if the LEA has no schools in improvement? Section 1003 of Title I requires each State to reserve 4 percent of the Title I funds it receives for school improvement activities. Of the amount reserved, the State must allocate not less than 95 percent directly to LEAs "for schools identified for school improvement, corrective action, and restructuring, for activities under section 1116(b)." After reviewing this language, we do not believe that a State may initially allocate section 1003 funds to LEAs that do not have any schools in improvement.

However, under section 1003(d), if a State determines, after consultation with LEAs in the State, that the amount of section 1003 funds it is required to reserve is more than the amount needed to provide assistance to schools in improvement, the State may allocate the excess amount to LEAs either as part of the State's regular Title I allocation process or in accordance with section 1126(c). Section 1126(c) permits a State to reallocate excess Title I funds to LEAs based on need. Certainly a State could determine that LEAs identified for improvement have a bona fide need for section 1003 funds.

A second question has been asked about the use of Title I funds set aside for professional development [§1116(c)(7)(A)(iii)] when an LEA is identified for improvement. The statutory provisions clearly authorize an LEA to use the professional development set-aside for teachers throughout the LEA. In determining how to use these funds (i.e., 10 percent of the LEA's Title I allocation), the LEA should examine the needs of all its schools—not just the ones that did not make adequate yearly progress (AYP)—before spending the 10 percent. In other words, if an LEA is identified for improvement because its high school did not make AYP, this does not necessarily mean that professional development needs exist only at the high school. There may well be professional development needs in elementary and middle schools too; after all, those students feed into the high school. An LEA should thus look at all its needs to determine where these set-aside funds are best spent.

Finally, a few States have raised an issue, to which I ask that you give thoughtful consideration, concerning the application of the statute in determining rewards and interventions. Under NCLB, a State must implement a single, statewide accountability system and make an annual determination of whether each public school, both schools that do and do not receive Title I funds, has made AYP. However, NCLB does not apply the requirements of section 1116 (regarding school improvement, corrective action, and restructuring) to schools that do not receive Title I funds. With this in mind, a few States have asked how the State should determine the school improvement status of schools, and the application of related interventions, when schools do not consistently receive Title I funding from one year to the next.

The statute does not expressly address the situation of how the school improvement provisions apply when a school receives Title I funds in one year but not the next. In these cases we believe that States have flexibility to establish their own guidelines. For example, for States that apply section 1116 requirements to all schools, there would be no distinction made between Title I and non-Title I schools relative to school improvement requirements. Any time a school did not make AYP, that determination would advance the school along the section 1116 timeline to identification for improvement, corrective action, or restructuring. In States that apply section 1116 requirements only to Title I schools, the States may establish their own guidelines. As you consider how to handle this situation, I remind you of the very important purpose of AYP and the school improvement requirements: to hold schools accountable for the achievement of all their students and to help schools improve by providing them with technical assistance and high-quality professional development so that they can and do implement more effective instructional strategies. I also

remind you of the requirement to serve schools in rank order of poverty, so that schools moving in and out of Title I will most likely be an LEA's lowest poverty Title I schools.

I encourage you to make this information available to your superintendents, as they will be making decisions about the use of Title I funds throughout the year. If you need additional clarification of these issues, please do not hesitate to contact your State contact in the Student Achievement and School Accountability Programs office or me.

Sincerely,

Jacquelyn C. Jackson, Ed.D.  
Director  
Student Achievement and  
School Accountability Programs