Elementary and Secondary Education Act

No Child Left Behind Act of 2001 (NCLB) – Every Student Succeeds Act of 2015 (ESSA)

Equitable Services for Eligible Private School Students,

Teachers, and other Educational Personnel

Comparison Chart

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*This chart includes a comparison of the major equitable services provisions found in Title I, Part A and Title VIII, Part F of the ESSA and Title I, Part A and Title IX, Part E of NCLB.

Current Law: No Child Left Behind Act

TITLE I - IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

PART A - IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

(c) ASSURANCES. -

~~**(1) IN GENERAL. -**~~ Each local educational agency plan shall provide assurances that the local educational agency will -

~~(E)~~ provide services to eligible children attending private elementary schools and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

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 section~~s 1118 and 1119~~.

S. 1177 Every Student Succeeds Act

TITLE I - IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

PART A - IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

(c) ASSURANCES. - Each local educational agency plan shall provide assurances that the local educational agency will -

(2) provide services to eligible children attending private elementary schools and secondary schools in accordance with section 1117, and timely and meaningful consultation with private school officials regarding such services;

SEC. 1117. 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(c) 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—

(A) after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis and individually or in combination, as requested by the officials to best meet the needs of such children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under this part (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs; and

(B) ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to section 1116.

(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.

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

(3) EQUITY. -

(A) IN GENERAL.—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.

(B) OMBUDSMAN.—To help ensure such equity for such private school children, teachers, and other educational personnel, the State educational agency involved shall designate an ombudsman to monitor and enforce the requirements of this part.

(4) EXPENDITURES. -

(A) DETERMINATION. -

(i) IN GENERAL. - 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.

(ii) PROPORTIONAL SHARE. - The proportional share of funds shall be determined based on the total amount of funds received by the local educational agency under this part prior to any allowable expenditures or transfers by the local educational agency.

(B) OBLIGATION OF FUNDS. - Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(C) NOTICE OF ALLOCATION. - Each State educational agency shall provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under this part that the local educational agencies have determined are available for eligible private school children.

(D) TERM OF DETERMINATION. - The local educational agency may determine the equitable share under subparagraph (A) 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 —

(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~~

(5) PROVISION OF SERVICES. - The local educational agency, or, in a case described in subsection (b)(6)(C), the State educational agency involved, 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. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman designated under subsection (a)(3)(B). Such process shall include consultation 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 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, the proportion of funds that is allocated under subsection (a)(4)(A) for such services, and how that proportion of funds is determined;

(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;

(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~~.~~

(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;

(I) whether the agency shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor;

(J) whether to provide equitable services to eligible private school children—

(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private schools; or

(ii) in the agency's participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(A) based on the number of children from low-income families who attend private schools;

(K) when, including the approximate time of day, services will be provided; and

(L) whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 8501(b)(1) to provide services to eligible private school children participating in programs.

(2) DISAGREEMENT.—If a local educational agency disagrees with the views of private school officials with respect to an issue described in paragraph (1), the local educational agency shall provide in writing to such private school officials the reasons why the local educational agency disagrees.

~~**(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) 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) 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) 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 meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. 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, or attempts at such consultation have, 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.

(6) COMPLIANCE. -

(A) IN GENERAL. - A private school official shall have the right to file a complaint with the State educational agency asserting that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school students equitably as required by this section.

(B) PROCEDURE. - If the private school official wishes to file a complaint, 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) STATE EDUCATIONAL AGENCIES.—A State educational agency shall provide services under this section directly or through contracts with public or private agencies, organizations, or institutions, if the appropriate private school officials have—

(i) requested that the State educational agency provide such services directly; and

(ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by 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 -

(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 —

(i) by employees of a public agency; or

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

(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 -

(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 8503.

(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 —

(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 -

(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.

Part E has been deleted and replaced in whole

(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 -

(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 8503 and 8504; 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.

PART E. - FLEXIBILITY FOR EQUITABLE PER PUPIL FUNDING.
SEC. 1501. FLEXIBILITY FOR EQUITABLE PER PUPIL FUNDING.
(d) REQUIRED TERMS OF LOCAL FLEXIBILITY DEMONSTRATION AGREEMENT. -

(1) APPLICATION--Each local education agency that desires to participate in the program under this section shall submit, at such time and in such form as the Secretary may prescribe, an application to enter into a local flexibility demonstration agreement with the Secretary in order to develop and implement a school funding system based on weighted per-pupil allocations that meet the requirements of this section. The application shall include--

PART ~~I~~ - GENERAL PROVISIONS

SEC. ~~1903~~. STATE ADMINISTRATION

(b) COMMITTEE OF PRACTITIONERS. -

(2) MEMBERSHIP. - Each such committee shall include -

(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.~~

(I) an assurance that the local educational agency will continue to meet the requirements of sections 1117, 1118, and 8501; and

PART F - GENERAL PROVISIONS

SEC. 1603. STATE ADMINISTRATION

(b) COMMITTEE OF PRACTITIONERS. -

(2) MEMBERSHIP. - Each such committee shall include -

(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 from traditional public schools and charter schools (if there are charter schools in the State) and career and technical educators;

(D) principals and other school leaders;

(E) parents;

(F) members of local school boards;

(G) representatives of private school children;

(H) specialized instructional support personnel and paraprofessionals;

(I) representatives of authorized public chartering agencies (if there are charter schools in the State); and

(J) charter school leaders (if there are charter schools in the State).

TITLE ~~IX~~--GENERAL PROVISIONS
PART ~~E~~--UNIFORM PROVISIONS

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.

TITLE VIII--GENERAL PROVISIONS
PART F--UNIFORM PROVISIONS

SEC. 8501 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.

(3) SPECIAL RULE. -

(A) IN GENERAL. - 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.

(B) OMBUDSMAN. - To help ensure equitable services are provided to private school children, teachers, and other educational personnel under this section, the State educational agency involved shall direct the ombudsman designated by the agency under section 1117 to monitor and enforce the requirements of this section.

(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.

(4) EXPENDITURES. -

(A) IN GENERAL. - 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.

(B) OBLIGATION OF FUNDS. - Funds allocated to a local educational agency for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.

(C) NOTICE OF ALLOCATION. - Each State educational agency shall provide notice in a timely manner to the appropriate private school officials in the State of the allocation of funds for educational services and other benefits under this subpart that the local educational agencies have determined are available for eligible private 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.

(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; and~~

~~**(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.~~

(b) APPLICABILITY. -

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

(A) part C of title I;

(B) part A of title II;

(C) part A of title III;

(D) part A of title IV; and

(E) 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).

(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~~.~~

(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. Such agency and private school officials shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, 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, the amount of funds available for those services, and how that amount is determined;

(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 services through potential third-party providers; and

(G) whether the agency, consortium, or entity shall provide services directly or through a separate government agency, consortium, or entity or through a third-party contractor; and

(H) whether to provide equitable services to eligible private school children-

(i) by creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(C) based on all the children from low-income families in a participating school attendance area who attend private schools; or

(ii) in the agency's participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(C) based on the number of children from low-income families who attend private schools.

(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.

(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.

(5) 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 meaningful consultation required by this section has occurred. The written affirmation shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children. 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, or attempts at such consultation have, taken place to the State educational agency.

(6) COMPLIANCE. -

(A) IN GENERAL. - If the consultation required under this section is with a local educational service agency, a private school official shall have the right to file a complaint with the State educational agency that the consultation required under this section was not meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school or its students equitable as required by this section.

(B) PROCEDURE. - If the private school official wishes to file a complaint, the private school official shall provide the basis of the noncompliance and all parties shall provide the appropriate documentation to the appropriate officials.

(C) SERVICES. - A State educational agency shall provide services under this section directly through contracts with public and private agencies, organizations, and institutions, if the appropriate private school officials have-

(i) requested that the State educational agency provide such services directly; and

(ii) demonstrated that the local educational agency involved has not met the requirements of this section in accordance with the procedures for making such a request, as prescribed by the State educational agency.

(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.

(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.~~

(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. 8502. 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 8501, 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 8501, 8503, 8504.

(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) 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. 8503. 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 8501 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 45 days.

(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 the 45 day time limit. 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 90 days after receipt of the appeal.

SEC. 8504. BY-PASS DETERMINATION PROCESS

(a) REVIEW. -

(1) IN GENERAL. -

(A) WRITTEN OBJECTIONS. - The Secretary shall not take any final action under section 8502 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.

(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.

(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 8501 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. 8505. 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 or 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.

SEC. 8506. 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 or 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.

TITLE II- PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS.

PART A- ~~TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND~~

~~Subpart 1- Grants to States~~

~~Sec. 2112~~. STATE APPLICATIONS. -

(b) CONTENTS. -

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

~~Subpart 2- Subgrants to Local Educational Agencies~~

~~SEC. 2122 LOCAL APPLICATIONS AND NEEDS ASSESSMENT.~~

(b) CONTENTS. -

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

TITLE II- PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS.

PART A- SUPPORTING EFFECTIVE INSTRUCTION

SEC. 2101. FORMULA GRANTS TO STATES.

(d) STATE APPLICATION. -

(2) CONTENTS. -

(I) An assurance that the State educational agency will comply with section 8501 (regarding participation by private school children and teachers).

SEC. 2102 SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

(b) LOCAL APPLICATIONS. -

(E) An assurance that the local educational agency will comply with section 8501 (regarding participation by private school children and teachers).

PART B - NATIONAL ACTIVITIES

Subpart 3 - American History and Civics Education

Sec. 2232. Presidential and Congressional Academies for American History and Civics.

(e) PRESIDENTIAL ACADEMIES. -

(2) Selection of Teachers- Each year, each Presidential Academy shall select between 50 and 300 teachers of American history and civics from public and private elementary schools and secondary schools to attend the seminar or institute under paragraph (1).

Title IV- 21st CENTURY SCHOOLS

PART A - ~~Safe and Drug Free Schools and Communities~~

Subpart 1 - ~~State Grants~~

~~SEC. 4113 STATE APPLICATION.~~

~~**(a)** IN GENERAL.—~~

~~**(7)** provides an assurance that the local education 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. 4114 LOCAL EDUCATIONAL AGENCY PROGRAM.~~

~~**(c)** DEVELOPMENT~~

~~**(1)** CONSULTATION-~~

~~(A)IN GENERAL- A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).~~

Title IV - 21st CENTURY SCHOOLS

PART A - STUDENT SUPPORT AND ACADEMIC ENRICHMENT GRANTS

Subpart 1 - Student Support and Academic Enrichment Grants

SEC. 4106. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

(e) CONTENTS OF LOCAL APPLICATION. -

(2) ASSURANCES.-

(B) comply with section 8501 (regarding equitable participation by private school children and teachers);

PART E - FAMILY ENGAGEMENT IN EDUCATION PROGRAMS

SEC. 4504. USES OF FUNDS.

(c) PARENTAL RIGHTS- Notwithstanding any other provision of this section-

(1) no person (including a parent who educates a child at home, a public school parent, or a private school parent) shall be required to participate in any program of parent education or developmental screening under this section; and

(2) no program or center assisted under this section shall take any action that infringes in any manner on the right of parents to direct the education of their children.

PART F - NATIONAL ACTIVITIES

Subpart 4 - Academic Enrichment

SEC. 4644. SUPPORTING HIGH-ABILITY LEARNERS AND LEARNING.

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

TITLE ~~VI--FLEXIBILITY AND ACCOUNTABILITY~~

PART A--~~IMPROVING ACADEMIC ACHIEVEMENT~~

~~Subpart 2--Funding Transferability for State and Local Educational Agencies~~

SEC. ~~6121.~~ SHORT TITLE.

This subpart may be cited as the "State and Local Transferability Act."

SEC~~.~~ ~~6122~~. PURPOSE.

The purpose of this subpart is to allow States and local educational agencies the flexibility-

~~(1)~~ to target Federal funds to Federal programs that most effectively address the unique needs of States and localities~~; and~~

~~(2)to transfer Federal funds allocated to other activities to allocations for certain activities authorized under Title I.~~

SEC. ~~6123.~~ TRANSFERABILITY OF FUNDS.

(a) TRANSFERS BY STATES. -

(1) IN GENERAL. - In accordance with this subpart, a State may transfer ~~not more than 50 percent of the nonadministrative State funds~~ (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

~~**(A)** Section 2113(a)(3).~~

~~**(B)** Section 2412(a)(1).~~

~~**(C)** Subsections (a)(1) (with the agreement of the Governor) and (c)(1) of section 4112 and section 4202(c)(3).~~

~~**(D)** Section 5112(b).~~

(2) ADDITIONAL FUNDS ~~FOR TITLE I~~. - In accordance with this subpart ~~and subject to the 50 percent limitation described in paragraph (1),~~ a State may transfer any funds allotted to the State under a provision listed in paragraph (1) to its allotment under ~~title I.~~

TITLE V - FLEXIBILITY AND ACCOUNTABILITY

PART A - FUNDING TRANSFERABILITY FOR STATE AND LCOAL EDUCATIONAL AGENCIES

SEC. 5101. SHORT TITLE.

This subpart may be cited as the "State and Local Transferability Act."

SEC. 5102. PURPOSE.

The purpose of this part is to allow States and local educational agencies the flexibility to target Federal funds to the programs and activities that most effectively address the unique needs of States and localities.

SEC. 5103. TRANSFERABILITY OF FUNDS.

(a) TRANSFERS BY STATES. -

(1) IN GENERAL. - In accordance with this subpart, a State may transfer all, or any lesser amount, of State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

(A) Part A of title II.

(B) Part A of title IV.

(C) Section 4202(c)(3).

(2) ADDITIONAL FUNDS. - In accordance with this part, a State may transfer any funds allotted to the State under a provision listed in paragraph (1) for a fiscal year to its allotment under any other of the following provisions:

(A) Part A of title I.

(B) Part C of title I.

(C) Part D of title I.
(D) Part A of title III.
(E) Part B.

(b) TRANSFER BY LOCAL EDUCATIONAL AGENCIES. -

(1) AUTHORITY TO TRANSFER FUNDS. -

(A) IN GENERAL. - In accordance with this subpart, a local educational agency ~~(except a local educational agency identified for improvement under section 1116(c) or subject to corrective action under section 1116(c)(9)) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C))~~ under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

~~**(B) AGENCIES IDENTIFIED FOR IMPROVEMENT**. In accordance with this subpart, a local educational agency identified for improvement under section 1116(c) may transfer not more than 30 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year —~~

~~(i) to its allocation for school improvement for such fiscal year under section 1003; or~~

~~(ii) to any other allocation for such fiscal year if such transferred funds are used only for local educational agency improvement activities consistent with section 1116(c).~~

~~**(C) ADDITIONAL FUNDS FOR TITLE I**. In accordance with this subpart and subject to the percentage limitation described in subparagraph (A) or (B), as applicable, a local educational agency may transfer funds allocated to such agency under any of the provisions listed in paragraph (2) for a fiscal year to its allocation for part A of title I for that fiscal year.~~

(b) TRANSFER BY LOCAL EDUCATIONAL AGENCIES. -

(1) AUTHORITY TO TRANSFER FUNDS. -

(A) IN GENERAL. - In accordance with this subpart, a local educational agency may transfer all, or any lesser amount, of the funds allocated to it under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) ADDITIONAL FUNDS. - In accordance with this part, a local educational agency may transfer any funds allotted to such agency under a provision listed in paragraph (2) for a fiscal year to its allotment under any other of the following provisions:

(i) Part A of title I.
(ii) Part C of title I.
(iii) Part D of title I.
(iv) Part A of title III.
(v) Part B.

(2) APPLICABLE PROVISIONS. - A local educational agency may transfer funds under subparagraph (A), (B)~~, or (C)~~ of paragraph (1) from allocations made under each of the following provisions:

~~**(A)** Section 2121.~~

~~**(B)** Section 2412(a)(2)(A).~~

~~**(C)** Section 4112(b)(1).~~

~~**(D)** Section 5112(a).~~

(c) NO TRANSFER OF ~~TITLE I~~ FUNDS. - A State or a local educational agency may not transfer under this subpart to any other program any funds allotted or allocated to it for ~~part A of title I~~.

(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION. -

(1) STATE TRANSFERS. - Each State that makes a transfer of funds under this section shall —

(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) LOCAL TRANSFERS. - Each local educational agency that makes a transfer of funds under this section shall —

(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(2) APPLICABLE PROVISIONS. - A local educational agency may transfer funds under subparagraph (A) or (B) of paragraph (1) from allocations made under each of the following provisions:

(A) Part A of title II.

(B) Part A of title IV.

(c) NO TRANSFER OF CERTAIN FUNDING. - A State or a local educational agency may not transfer under this part to any other program any funds allotted or allocated to it for the following provisions:

(1) Part A of title I.

(2) Part C of title I.

(3) Part D of title I.

(4) Part A of title III.

(5) Part B.

(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION. -

(1) STATE TRANSFERS. - Each State that makes a transfer of funds under this section shall —

(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) LOCAL TRANSFERS. - Each local educational agency that makes a transfer of funds under this section shall —

(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(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.

(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 8501, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.