

§ 200.9

Technology Education Act, and the National and Community Service Act of 1990.

(3) The schoolwide program plan remains in effect for the duration of the school's participation under this section.

(4) A school operating a schoolwide program shall review and revise its plan, as necessary, to reflect changes in its schoolwide program or changes to reflect State standards established after the plan was developed.

(f) *Effect of operating a schoolwide program.* (1) No school operating a schoolwide program shall be required to—

(i) Identify particular children under this subpart and under any other Federal program included under paragraph (c) of this section as eligible to participate in the schoolwide program;

(ii) Document that funds available under this subpart and any other Federal program included under paragraph (c) of this section are used to benefit only the intended beneficiaries of the respective programs; or

(iii) Demonstrate that the particular services paid for with funds under this subpart and under any other Federal program included under paragraph (c) of this section supplement the services regularly provided in that school.

(2) A school operating a schoolwide program shall use funds available under this subpart and under any other Federal program included under paragraph (c) of this section only to supplement the total amount of funds that would, in the absence of those funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited-English proficiency.

(Authority: 20 U.S.C. 6314, 1413(a)(2)(D), 6396(b)(3), 7703(d), 7815(c))

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34 CFR Ch. II (7-1-02 Edition)

§ 200.9 [Reserved]

PARTICIPATION OF ELIGIBLE CHILDREN IN PRIVATE SCHOOLS

§ 200.10 Responsibilities for providing services to children in private schools.

(a) An LEA shall, after timely and meaningful consultation with appropriate private school officials, provide special educational services or other benefits under this subpart, on an equitable basis, to eligible children who are enrolled in private elementary and secondary schools in accordance with the requirements in §§ 200.11 through 200.17 and section 1120 of the Act.

(b)(1) Eligible private school children are children who—

(i) Reside in a participating school attendance area of the LEA; and

(ii) Meet the criteria in section 1115(b) of the Act.

(2) If an LEA identifies a public school as eligible on the basis of enrollment, rather than because it serves an eligible school attendance area, the LEA shall, in consultation with private school officials, determine an equitable way to identify eligible private school children.

(3) Among the eligible private school children, the LEA shall select children to participate in a manner that is consistent with the provisions in § 200.11.

(Authority: 20 U.S.C. 6315(b); 6321(a))

§ 200.11 Factors for determining equitable participation of children in private schools.

(a) *Equal expenditures.* (1) Expenditures of funds made available under this subpart for services for eligible private school children in the aggregate must be equal to the amount of funds generated by private school children from low-income families under § 200.28.

(2) An LEA shall meet this requirement as follows:

(i) Before determining equal expenditures under paragraph (a)(1) of this section, the LEA shall reserve, from the

Ofc. of Elem. & Secondary Ed., Education

§ 200.15

LEA's whole allocation, funds needed to carry out §200.27.

(ii) The LEA shall reserve the amounts of funds generated by private school children under §200.28 and, in consultation with appropriate private school officials, may—

(A) Combine those amounts to create a pool of funds from which the LEA provides equitable services to eligible private school children, in the aggregate, in greatest need of those services; or

(B) Provide equitable services to eligible children in each private school with the funds generated by children from low-income families under §200.28 who attend that private school.

(b) *Services on an equitable basis.* (1) The services that an LEA provides to eligible private school children must be equitable in comparison to the services and other benefits provided to public school children participating under this subpart.

(2) Services are equitable if the LEA—

(i) Addresses and assesses the specific needs and educational progress of eligible private school children on a comparable basis as public school children;

(ii) Meets the equal expenditure requirements under paragraph (a) of this section; and

(iii) Provides private school children with an opportunity to participate that—

(A) Is equitable to the opportunity provided to public school children; and

(B) Provides reasonable promise of those children achieving the high levels called for by the State's student performance standards.

(3) The LEA shall make the final decisions with respect to the services to be provided to eligible private school children.

(Authority: 20 U.S.C. 6321(a))

§200.12 Requirements to ensure that funds do not benefit a private school.

(a) An LEA shall use funds under this subpart to provide services that supplement, and in no case supplant, the level of services that would, in the absence of title I services, be available to participating children in private schools.

(b) An LEA shall use funds under this subpart to meet the special educational needs of participating private school children, but not for—

(1) The needs of the private school; or

(2) The general needs of children in the private school.

(Authority: 20 U.S.C. 6321(a), 6322(b))

§200.13 Requirements concerning property, equipment, and supplies for the benefit of private school children.

(a) A public agency must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the public agency acquires with funds under this subpart for the benefit of eligible private school children.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall ensure that the equipment and supplies placed in a private school—

(1) Are used only for title I purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment and supplies from a private school if—

(1) The equipment and supplies are no longer needed for title I purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than title I purposes.

(e) No funds under this subpart may be used for repairs, minor remodeling, or construction of private school facilities.

(f) For the purpose of this section, the term *public agency* includes the LEA.

(Authority: 20 U.S.C. 6321(c))

§200.14 [Reserved]

CAPITAL EXPENSES

§200.15 Payments to SEAs for capital expenses.

(a) From the amount appropriated for capital expenses under section 1002(e) of the Act, the Secretary pays a State an amount that bears the same