

# **SAFE AND DRUG-FREE SCHOOLS COORDINATOR HANDBOOK**

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# SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT



## **BRIEF PROGRAM DESCRIPTION**

The program provides support to State Education Agencies (SEA) for a variety of drug- and violence-prevention activities focused primarily on school-age youths. SEAs are allocated eighty percent of the total allocation and the Governor's Office receives twenty percent. SEAs are required to distribute 93 percent of the allocation to Local Education Agencies (LEA) (School Divisions) for drug- and violence-prevention activities authorized under the statute. Seven percent is maintained by the SEA for administration and programs.

LEA activities may include: developing instructional materials; providing counseling services and professional development programs for school personnel; implementing community service projects, conflict resolution, peer mediation, mentoring and character education programs; establishing safe zones of passage for students to and from school; acquiring and installing metal detectors; and hiring security personnel. The formula for the distribution of funds to LEAs is based on the state's prior year share of Title I funds (60 percent) and enrollment (40 percent).

## **TYPES OF PROJECTS**

Activities frequently funded by LEAs include staff training; student instruction; curriculum development or acquisition; parent education and involvement; conflict resolution; peer mediation and student assistance programs, such as counseling, mentoring, identification and referral services.

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## **State and local school division Grants**

### **SEC. 4002. PURPOSE.**

The purpose of this part is to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities; and that are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement, through the provision of Federal assistance to —

- (1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention and early intervention;
- (2) States for grants to, and contracts with, community-based organizations and public and private entities for programs of drug and violence prevention and early intervention, including community-wide drug and violence prevention planning and organizing activities;
- (3) States for development, training, technical assistance, and coordination activities; and
- (4) public and private entities to provide technical assistance; conduct training, demonstrations, and evaluation; and to provide

supplementary services and community-wide drug and violence prevention planning and organizing activities for the prevention of drug use and violence among students and youth.

#### **SEC. 4003. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated —

- (1) \$650,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years, for State grants under subpart 1; and
- (2) such sums for fiscal year 2002, and for each of the 5 succeeding fiscal years, for national programs under subpart 2.

#### **SEC. 4111. RESERVATIONS AND ALLOTMENTS.**

##### **(a) RESERVATIONS-**

- (1) **IN GENERAL-** From the amount made available under section 4003(1) to carry out this subpart for each fiscal year, the Secretary —
  - (A) shall reserve 1 percent or \$4,750,000 (whichever is greater) of such amount for grants to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs and to carry out programs described in this subpart;
  - (B) shall reserve 1 percent or \$4,750,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs described in this subpart for Indian youth; and
  - (C) shall reserve 0.2 percent of such amount for Native Hawaiians to be used under section 4117 to carry out programs described in this subpart.

- (2) **OTHER RESERVATIONS-** From the amount made available under section 4003(2) to carry out subpart 2 for each fiscal year, the Secretary —
  - (A) may reserve not more than \$2,000,000 for the national impact evaluation required by section 4122(a);
  - (B) notwithstanding section 3 of the No Child Left Behind Act of 2001, shall reserve an amount necessary to make continuation grants to grantees under the Safe Schools/Healthy Students initiative (under the same terms and conditions as provided for in the grants involved).

##### **(b) STATE ALLOTMENTS-**

- (1) **IN GENERAL-** Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allot among the States —

- (A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and
- (B) one-half of such remainder according to the ratio between the amount each State received under section 1124A for the preceding year and the sum of such amounts received by all the States.

(2) MINIMUM- For any fiscal year, no State shall be allotted under this subsection an amount that is less than the greater of —

- (A) one-half of 1 percent of the total amount allotted to all the States under this subsection; or
- (B) the amount such State received for fiscal year 2001 under section 4111 as such section was in effect the day preceding the date of enactment of the No Child Left Behind Act of 2001.

(3) REALLOTMENT-

(A) REALLOTMENT FOR FAILURE TO APPLY- If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallocate the amount of the State's allotment to the remaining States in accordance with this section.

(B) REALLOTMENT OF UNUSED FUNDS- The Secretary may reallocate any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallocations shall be made on the same basis as allotments are made under paragraph (1).

(4) DEFINITION- In this section the term State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) LIMITATION- Amounts appropriated under section 4003(2) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 4003(1) for the fiscal year involved are at least 10 percent greater than the amounts appropriated under such section 4003(1) for the previous fiscal year.

#### SEC. 4112. RESERVATION OF STATE FUNDS FOR SAFE AND DRUG-FREE SCHOOLS.

(a) STATE RESERVATION FOR THE CHIEF EXECUTIVE OFFICER OF A STATE-

(1) IN GENERAL- The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 4111(b) for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations (including community anti-drug coalitions) other public entities and private organizations, and consortia thereof. Such grants and contracts shall be used to carry out the comprehensive State plan described in section 4113(a) through programs or activities that complement and support

activities of local educational agencies described in section 4115(b). Such officer shall award grants based on —

- (A) the quality of the program or activity proposed; and
- (B) how the program or activity meets the principles of effectiveness described in section 4115(a).

(2) **PRIORITY-** In making such grants and contracts under this section, a chief executive officer shall give priority to programs and activities that prevent illegal drug use and violence for —

- (A) children and youth who are not normally served by State educational agencies or local educational agencies; or
- (B) populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

(3) **SPECIAL CONSIDERATION-** In awarding funds under paragraph (1), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program.

(4) **PEER REVIEW-** Grants or contracts awarded under this section shall be subject to a peer review process.

(5) **USE OF FUNDS-** Grants and contracts under this section shall be used to implement drug and violence prevention activities, including —

- (A) activities that complement and support local educational agency activities under section 4115, including developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;
- (B) dissemination of information about drug and violence prevention; and
- (C) development and implementation of community-wide drug and violence prevention planning and organizing.

(6) **ADMINISTRATIVE COSTS-** The chief executive officer of a State may use not more than 3 percent of the amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

(b) **IN STATE DISTRIBUTION-**

(1) **IN GENERAL-** A State educational agency shall distribute not less than 93 percent of the amount made available to the State under section 4111(b), less the amount reserved under subsection (a) of this section, to its local educational agencies.

(2) STATE ADMINISTRATION COSTS-

(A) IN GENERAL- A State educational agency may use not more than 3 percent of the amount made available to the State under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for State educational agency administrative costs, including the implementation of the uniform management information and reporting system as provided for under subsection (c)(3).

(B) ADDITIONAL AMOUNTS FOR THE UNIFORM MANAGEMENT INFORMATION SYSTEM- In the case of fiscal year 2002, a State educational agency may, in addition to amounts provided for in subparagraph (A), use 1 percent of the amount made available to the State educational agency under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for implementation of the uniform management information and reporting system as provided for under subsection (c)(3).

(c) STATE ACTIVITIES-

(1) IN GENERAL- A State educational agency may use not more than 5 percent of the amount made available to the State under section 4111(b) for each fiscal year less the amount reserved under subsection (a) of this section, for activities described in this subsection.

(2) ACTIVITIES- A State educational agency shall use the amounts described in paragraph (1), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance and training, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public and private entities. Such uses —

(A) shall meet the principles of effectiveness described in section 4115(a);

(B) shall complement and support local uses of funds under section 4115(b);

(C) shall be in accordance with the purposes of this part; and

(D) may include, among others activities —

(i) identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;

(ii) training, technical assistance, and demonstration projects to address violence that is associated with prejudice and intolerance; and

(iii) financial assistance to enhance drug and violence prevention resources available in areas that serve large

numbers of low-income children, are sparsely populated, or have other special needs.

**(3) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM-**

**(A) INFORMATION AND STATISTICS-** A State shall establish a uniform management information and reporting system.

**(B) USES OF FUNDS-** A State may use funds described in subparagraphs (A) and (B) of subsection (b)(2), either directly or through grants and contracts, to implement the uniform management information and reporting system described in subparagraph (A), for the collection of information on —

- (i) truancy rates;
- (ii) the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State;
- (iii) the types of curricula, programs, and services provided by the chief executive officer, the State educational agency, local educational agencies, and other recipients of funds under this subpart; and
- (iv) the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

**(C) COMPILATION OF STATISTICS-** In compiling the statistics required for the uniform management information and reporting system, the offenses described in subparagraph (B)(ii) shall be defined pursuant to the State's criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

**(D) REPORTING-** The information described under subparagraph (B) shall be reported to the public and the data referenced in clauses (i) and (ii) of such subparagraph shall be reported to the State on a school-by-school basis.

**(E) LIMITATION-** Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes committed on school property or school security.

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 —

(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer of the State to provide safe, orderly, and drug-free schools and communities through programs and activities that complement and support activities of local educational agencies under section 4115(b), that comply with the principles of effectiveness under section 4115(a), and that otherwise are in accordance with the purpose of this part;

(2) describes how activities funded under this subpart will foster a safe and drug-free learning environment that supports academic achievement;

(3) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

(4) describes how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies and other programs, as appropriate, in accordance with the provisions in section 9306;

(5) provides an assurance that funds reserved under section 4112(a) will not duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based drug and violence prevention activities and that those funds will be used to serve populations not normally served by the State educational agencies and local educational agencies and populations that need special services, such as school dropouts, suspended and expelled students, youth in detention centers, runaway or homeless children and youth, and pregnant and parenting youth;

(6) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 4122;

(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;

(8) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(9) contains the results of a needs assessment conducted by the State for drug and violence prevention programs, which shall be based on ongoing State evaluation activities, including data on —

- (A) the incidence and prevalence of illegal drug use and violence among youth in schools and communities, including the age of onset, the perception of health risks, and the perception of social disapproval among such youth;
- (B) the prevalence of risk factors, including high or increasing rates of reported cases of child abuse or domestic violence;
- (C) the prevalence of protective factors, buffers, or assets; and
- (D) other variables in the school and community identified through scientifically based research;

(10) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this subpart that will be focused on student behavior and attitudes, derived from the needs assessment described in paragraph (9), and be developed in consultation between the State and local officials, and that consist of —

- (A) performance indicators for drug and violence prevention programs and activities; and
- (B) levels of performance for each performance indicator;

(11) describes the procedures the State will use for assessing and publicly reporting progress toward meeting the performance measures described in paragraph (10);

(12) provides an assurance that the State application will be available for public review after submission of the application;

(13) describes the special outreach activities that will be carried out by the State educational agency and the chief executive officer of the State to maximize the participation of community-based organizations of demonstrated effectiveness that provide services such as mentoring programs in low-income communities;

(14) describes how funds will be used by the State educational agency and the chief executive officer of the State to support, develop, and implement

community-wide comprehensive drug and violence prevention planning and organizing activities;

(15) describes how input from parents will be sought regarding the use of funds by the State educational agency and the chief executive officer of the State;

(16) describes how the State educational agency will review applications from local educational agencies, including how the agency will receive input from parents in such review;

(17) describes how the State educational agency will monitor the implementation of activities under this subpart, and provide technical assistance for local educational agencies, community-based organizations, other public entities, and private organizations;

(18) describes how the chief executive officer of the State will award funds under section 4112(a) and implement a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds; and

(19) includes any other information the Secretary may require.

(b) INTERIM APPLICATION-

(1) AUTHORITY- Notwithstanding any other provision of this section, a State may submit for fiscal year 2002 a 1-year interim application and plan for the use of funds under this subpart that is consistent with the requirements of this section and contains such information as the Secretary may specify in regulations.

(2) PURPOSE- The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section.

(3) EXCEPTION- A State may not receive a grant under this subpart for a fiscal year after fiscal year 2002 unless the Secretary has approved such State's application and comprehensive plan as described in subsection (a).

(c) APPROVAL PROCESS-

(1) DEEMED APPROVAL- An application submitted by a State pursuant to this section shall undergo peer review by the Secretary and shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

(2) DISAPPROVAL- The Secretary shall not finally disapprove the application, except after giving the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing.

(3) NOTIFICATION- If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall —

(A) give the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing; and  
(B) notify the State educational agency and the chief executive officer of the State of the finding of noncompliance, and in such notification, shall —

(i) cite the specific provisions in the application that are not in compliance; and

(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(4) RESPONSE- If the State educational agency and the chief executive officer of the State respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmit the application with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such application prior to the later of —

(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) FAILURE TO RESPOND- If the State educational agency and the chief executive officer of the State do not respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

SEC. 4114. LOCAL EDUCATIONAL AGENCY PROGRAM – (LOCAL SCHOOL  
DIVISION  
PROGRAMS)

(a) IN GENERAL-

(1) FUNDS TO LOCAL EDUCATIONAL AGENCIES- A State shall provide the amount made available to the State under this subpart, less the amounts reserved under section 4112 to local educational agencies for drug and violence prevention and education programs and activities as follows:

(A) 60 percent of such amount based on the relative amount such agencies received under part A of title I for the preceding fiscal year.

(B) 40 percent of such amount based on the relative enrollments in public and private nonprofit elementary schools and secondary schools within the boundaries of such agencies.

(2) ADMINISTRATIVE COSTS- Of the amount received under paragraph (1), a local educational agency may use not more than 2 percent for the administrative costs of carrying out its responsibilities under this subpart.

(3) RETURN OF FUNDS TO STATE; REALLOCATION-

(A) RETURN- Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date on which a local educational agency receives its allocation under this subpart

(i) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

(ii) the State educational agency shall reallocate any such amount to local educational agencies that have submitted plans for using such amount for programs or activities on a timely basis.

(B) CARRYOVER- In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year--

(i) an amount equal to not more than 25 percent of the allocation it received under this subpart for such fiscal year; or

(ii) upon a demonstration of good cause by such agency and approval by the State educational agency, an amount that exceeds 25 percent of such allocation.

(C) REALLOCATION- If a local educational agency chooses not to apply to receive the amount allocated to such agency under this subsection, or if such agency's application under subsection (d) is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

(b) ELIGIBILITY- To be eligible to receive a subgrant under this subpart, a local educational agency desiring a subgrant shall submit an application to the State educational agency in accordance with subsection (d). Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

(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).

(B) CONTINUED CONSULTATION- On an ongoing basis, the local educational agency shall consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

(2) DESIGN AND DEVELOPMENT- To ensure timely and meaningful consultation under paragraph (1), a local educational agency at the initial stages of design and development of a program or activity shall consult, in accordance with this subsection, with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 4115(a).

(d) CONTENTS OF APPLICATIONS- An application submitted by a local educational agency under this section shall contain--

(1) an assurance that the activities or programs to be funded comply with the principles of effectiveness described in section 4115(a) and foster a safe and drug-free learning environment that supports academic achievement;

(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, including a description of--

(A) how the plan will be coordinated with programs under this Act, and other Federal, State, and local programs for drug and violence prevention, in accordance with section 9306;

(B) the local educational agency's performance measures for drug and violence prevention programs and activities, that shall consist of--

(i) performance indicators for drug and violence prevention programs and activities; including--

(I) specific reductions in the prevalence of identified risk factors; and

(II) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; and

(ii) levels of performance for each performance indicator;

(C) how such agency will assess and publicly report progress toward attaining its performance measures;

(D) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 4115(a), and the means of evaluating such activity or program; and

(E) how the services will be targeted to schools and students with the greatest need;

(3) a description for how the results of the evaluations of the effectiveness of the program will be used to refine, improve, and strengthen the program;

(4) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(5) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this subpart;

(6) an assurance that drug and violence prevention programs supported under this subpart convey a clear and consistent message that acts of violence and the illegal use of drugs are wrong and harmful;

(7) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes--

(A) appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

(B) security procedures at school and while students are on the way to and from school;

(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments;

(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

(E) a code of conduct policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that--

(i) allows a teacher to communicate effectively with all students in the class;

- (ii) allows all students in the class to learn;
- (iii) has consequences that are fair, and developmentally appropriate;
- (iv) considers the student and the circumstances of the situation; and
- (v) is enforced accordingly;

(8) an assurance that the application and any waiver request under section 4115(a)(3) will be available for public review after submission of the application; and

(9) such other assurances, goals, and objectives identified through scientifically based research that the State may reasonably require in accordance with the purpose of this part.

(e) REVIEW OF APPLICATION-

(1) IN GENERAL- In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

(2) CONSIDERATIONS- In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of application and the extent to which the application meets the principles of effectiveness described in section 4115(a).

(f) APPROVAL PROCESS-

(1) DEEMED APPROVAL- An application submitted by a local educational agency pursuant to this section shall be deemed to be approved by the State educational agency unless the State educational agency makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the State educational agency received the application, that the application is not in compliance with this subpart.

(2) DISAPPROVAL- The State educational agency shall not finally disapprove the application, except after giving the local educational agency notice and opportunity for a hearing.

(3) NOTIFICATION- If the State educational agency finds that the application is not in compliance, in whole or in part, with this subpart, the State educational agency shall--

- (A) give the local educational agency notice and an opportunity for a hearing; and

(B) notify the local educational agency of the finding of noncompliance, and in such notification, shall--

- (i) cite the specific provisions in the application that are not in compliance; and
- (ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(4) RESPONSE- If the local educational agency responds to the State educational agency's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in paragraph (3)(B)(ii), the State educational agency shall approve or disapprove such application prior to the later of--

- (A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or
- (B) the expiration of the 120-day period described in paragraph (1).

(5) FAILURE TO RESPOND- If the local educational agency does not respond to the State educational agency's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

#### 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;

(B) be based on an established set of performance measures aimed at ensuring that the elementary schools and secondary schools and communities to be served by the program have a safe, orderly, and drug-free learning environment;

(C) be based on scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use;

(D) be based on an analysis of the data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; or other variables in schools and communities in the State identified through scientifically based research; and

(E) include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity.

(2) PERIODIC EVALUATION-

(A) REQUIREMENT- The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use in schools to be served based on performance measures described in section 4114(d)(2)(B).

(B) USE OF RESULTS- The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures, and shall also be made available to the public upon request, with public notice of such availability provided.

(3) WAIVER- A local educational agency may apply to the State for a waiver of the requirement of subsection (a)(1)(C) to allow innovative activities or programs that demonstrate substantial likelihood of success.

(b) LOCAL EDUCATIONAL AGENCY ACTIVITIES-

(1) PROGRAM REQUIREMENTS- A local educational agency shall use funds made available under section 4114 to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall —

(A) foster a safe and drug-free learning environment that supports academic achievement;

(B) be consistent with the principles of effectiveness described in subsection (a)(1);

(C) be designed to —

(i) prevent or reduce violence; the use, possession and distribution of illegal drugs; and delinquency; and

(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

(D) include activities to —

(i) promote the involvement of parents in the activity or program;

(ii) promote coordination with community groups and coalitions, and government agencies; and

(iii) distribute information about the local educational agency's needs, goals, and programs under this subpart.

(2) **AUTHORIZED ACTIVITIES**- Each local educational agency, or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities that comply with the principles of effectiveness described in subsection (a), such as the following:

(A) Age appropriate and developmentally based activities that —

(i) address the consequences of violence and the illegal use of drugs, as appropriate;

(ii) promote a sense of individual responsibility;

(iii) teach students that most people do not illegally use drugs;

(iv) teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use;

(v) teach students about the dangers of emerging drugs;

(vi) engage students in the learning process; and

(vii) incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.

(B) Activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.

(C) Dissemination of drug and violence prevention information to schools and the community.

(D) Professional development and training for, and involvement of, school personnel, pupil services personnel, parents, and interested

community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.

(E) Drug and violence prevention activities that may include the following:

- (i) Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.
- (ii) Acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies.
- (iii) Reporting criminal offenses committed on school property.
- (iv) Developing and implementing comprehensive school security plans or obtaining technical assistance concerning such plans, which may include obtaining a security assessment or assistance from the School Security and Technology Resource Center at the Sandia National Laboratory located in Albuquerque, New Mexico.
- (v) Supporting safe zones of passage activities that ensure that students travel safely to and from school, which may include bicycle and pedestrian safety programs.
- (vi) The hiring and mandatory training, based on scientific research, of school security personnel (including school resource officers) who interact with students in support of youth drug and violence prevention activities under this part that are implemented in the school.
- (vii) Expanded and improved school-based mental health services related to illegal drug use and violence, including early identification of violence and illegal drug use, assessment, and direct or group counseling services provided to students, parents, families, and school personnel by qualified school-based mental health service providers.
- (viii) Conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.
- (ix) Alternative education programs or services for violent or drug abusing students that reduce the need for suspension or expulsion or that serve students who have been suspended or expelled from the regular educational settings, including programs or services to assist students to make continued progress toward meeting the State

academic achievement standards and to reenter the regular education setting.

(x) Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.

(xi) Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.

(xii) Drug and violence prevention activities designed to reduce truancy.

(xiii) Age-appropriate, developmentally-based violence prevention and education programs that address victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence.

(xiv) Consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect.

(xv) Emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident that have disrupted the learning environment.

(xvi) Establishing or implementing a system for transferring suspension and expulsion records, consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), by a local educational agency to any public or private elementary school or secondary school.

(xvii) Developing and implementing character education programs, as a component of drug and violence prevention programs, that take into account the views of parents of the students for whom the program is intended and such students, such as a program described in subpart 3 of part D of title V.

(xviii) Establishing and maintaining a school safety hotline.

(xix) Community service, including community service performed by expelled students, and service-learning projects.

(xx) Conducting a nationwide background check of each local educational agency employee, regardless of when hired, and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's fitness —

(I) to be responsible for the safety or well-being of children;

(II) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

(III) to otherwise be employed by the local educational agency.

(xxi) Programs to train school personnel to identify warning signs of youth suicide and to create an action plan to help youth at risk of suicide.

(xxii) Programs that respond to the needs of students who are faced with domestic violence or child abuse.

(F) The evaluation of any of the activities authorized under this subsection and the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives.

(c) LIMITATION-

(1) IN GENERAL- Except as provided in paragraph (2), not more than 40 percent of the funds available to a local educational agency under this subpart may be used to carry out the activities described in clauses (ii) through (vi) of subsection (b)(2)(E), of which not more than 50 percent of such amount may be used to carry out the activities described in clauses (ii) through (v) of such subsection.

(2) EXCEPTION- A local educational agency may use funds under this subpart for activities described in clauses (ii) through (v) of subsection (b)(2)(E) only if funding for these activities is not received from other Federal agencies.

(d) RULE OF CONSTRUCTION- Nothing in this section shall be construed to prohibit the use of funds under this subpart by any local educational agency or school for the establishment or implementation of a school uniform policy if such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other scientifically based research information.

SEC. 4116. REPORTING.

(a) STATE REPORT-

(1) IN GENERAL- By December 1, 2003, and every 2 years thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report —

(A) on the implementation and outcomes of State programs under section 4112(a)(1) and section 4112(c) and local educational agency programs under section 4115(b), as well as an assessment of their effectiveness;

(B) on the State's progress toward attaining its performance measures for drug and violence prevention under section 4113(a)(10); and

(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

(2) SPECIAL RULE- The report required by this subsection shall be —

(A) in the form specified by the Secretary;

(B) based on the State's ongoing evaluation activities, and shall include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

(C) made readily available to the public.

(b) LOCAL EDUCATIONAL AGENCY REPORT-

(1) IN GENERAL- Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (a), including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

(2) AVAILABILITY- Information under paragraph (1) shall be made readily available to the public.

(3) PROVISION OF DOCUMENTATION- Not later than January 1 of each year that a State is required to report under subsection (a), the Secretary shall provide to the State educational agency all of the necessary documentation required for compliance with this section.

Reprinted from USDOE Web site:

<http://www.ed.gov/policy/elsec/leg/esea02/pg52.html#sec4111>

**State Safe and Drug-Free Schools  
and Communities Act:  
Guidance for State and Local Implementation of  
Programs: Questions and Answers**

# **Safe and Drug-Free School and Communities Act**

## **State Grants**

### **Guidance for State and Local Implementation of Programs**

# DRAFT



**Title IV, Part A, Subpart 1  
Elementary and Secondary Education Act of 1965  
as amended by the  
No Child Left Behind Act of 2001  
Public Law 107- 110**

**U.S. Department of Education  
Office of Safe and Drug-Free Schools  
December 2002**

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**Safe and Drug-Free Schools and Communities Act**

**State Grants**

**Guidance for**

## State and Local Programs

### Introduction

On January 8, 2002 President Bush signed into law the No Child Left Behind Act (NCLB) of 2001, Public Law 107-110, which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). The NCLB emphasizes the Administration's "four pillars" for education reform – accountability, use of science-based programs, parental and community involvement, and local decision making – and is designed so that Federal support for elementary and secondary education ensures that every student achieves academic success.

The Safe and Drug-Free Schools and Communities Act (SDFSCA) (Title IV, Part A of the ESEA) is a critical part of President Bush's national effort to ensure academic success for all students. Effective July 1, 2002, the SDFSCA State Grants (Subpart 1) program authorizes a variety of activities designed to prevent school violence and youth drug use, and to help schools and communities create safe, disciplined, and drug-free environments that support student academic achievement. Some significant changes in the SDFSCA include:

A requirement that State and local prevention programs and activities meet the Principles of Effectiveness. Under the reauthorized SDFSCA, the Principles of Effectiveness include a requirement that funds be used to support only programs grounded in scientifically based research. In addition, States and local recipients must have meaningful and ongoing consultation with, and input from, parents in the development of applications and administration of programs or activities. In 1998, the Principles of Effectiveness were developed by the U.S. Department of Education to provide a framework for State and Local Grant funds recipients to improve the quality of drug and violence prevention programming implemented with SDFSCA funds.

A requirement that each State establish a uniform management information and reporting system to support decision-making in each State.

A requirement that limits the amount of funds for local administrative costs to 2 percent of the amount of SDFSCA formula grant funds that the local educational agency (LEA) receives from the State educational agency (SEA).

The cap on funds for security-related expenses (see (a) through (e) below) remains at 20 percent; however, an additional 20 percent may be used to hire and train school security personnel (see item (e) below). Funds may be used for the following activities only to the extent that funding for activities is not received from other Federal agencies: (a) acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies; (b) reporting criminal offenses committed on school property; (c) developing and implementing comprehensive school security plans or obtaining technical assistance concerning such plans; (d) supporting safe zones of passage activities that ensure that students travel safely to and from school,

including bicycle and pedestrian safety programs; (e) hiring and mandatory training of school security personnel who interact with students in support of youth drug and violence prevention activities implemented in schools.

SEA allocations to LEAs are now based 60 percent on LEA relative shares of ESEA Title I basic and concentration grant funding, and 40 percent on school enrollment. There is no longer a requirement, or the authority, for SEAs to target a portion of their SDFSCA formula grant funding to LEAs based on “greatest need” factors.

LEAs that receive SDFSCA funds are now required to have a plan for keeping their schools safe and drug-free that includes appropriate and effective discipline policies, security procedures, prevention activities, a student code of conduct, and a crisis management plan for responding to violent or traumatic incidents on school grounds.

### **Purpose of the SDFSCA**

The purpose of the SDFSCA is to support programs that: (1) prevent violence in and around schools; (2) prevent the illegal use of alcohol, tobacco, and drugs; (3) involve parents and communities; and, (4) are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that promotes student academic achievement. Federal assistance is provided to States for:

Grants to LEAs (and consortia of LEAs) to establish, operate, and improve local programs of school drug and violence prevention and early intervention;

Grants to, or contracts with, community-based organizations and public and private entities for programs of drug and violence prevention and early intervention, including community-wide drug and violence prevention planning and organizing activities; and

Development, training, technical assistance, and coordination activities.

### **Purpose of this Guidance**

The SDFSCA State Grants legislation (Title IV, Part A, Subpart 1 of the ESEA), “General Provisions” (located in Title IX of the ESEA), and “flexibility provisions” (located in Title VI of the ESEA) provide the statutory basis for the U. S. Department of Education’s (ED) administration of the Safe and Drug-Free Schools and Communities State Grants Program. This guidance highlights some important aspects of these statutory provisions and of the applicable Education Department General Administrative Regulations (EDGAR) that govern the program. It also interprets certain key provisions that may be of use in administering the SDFSCA State Grants Program.

States and local entities may rely on this guidance in administering their SDFSCA State Grants Program. This guidance does not impose any requirements beyond those imposed by the statute and the applicable portions of EDGAR. ED officials, including the Inspector General, will consider State and

local recipients that follow approaches contained in this guidance to be in compliance with the applicable Federal statutes and regulations.

Some features to watch for as you use this guidance package include:

In addition to the provisions in Titles IV, VI, and IX of the ESEA, ED's administration of the SDFSCA's State Grants Program is guided by applicable sections of EDGAR (Parts 76, 77, 79, 80, 81, 82, 85, 97, 98, and 99). An understanding of the applicable provisions in EDGAR is an important component of the administration of the SDFSCA State Grants Program. This guidance does not discuss all EDGAR provisions that apply to the administration of the SDFSCA State Grants Program, but will highlight provisions from EDGAR that are relevant to major sections of the guidance.

This guidance package was developed after consultation with State and local program officials around the country. In addition to highlighting important provisions and providing interpretations concerning some key provisions, it also contains questions and answers that respond directly to questions raised by State and local officials since the enactment of the reauthorized ESEA. These questions and answers appear at the conclusion of each major section of the guidance.

## **I. Principles of Effectiveness**

The SDFSCA is a central part of the Federal Government's effort to encourage safe and drug-free learning environments that support student academic achievement. Funded programs provide support for school- and community-based programs to help our Nation's communities prevent alcohol and other drug use, as well as youth violence. Along with the inherent flexibility for implementing programs, State and local entities are accountable for achieving measurable results.

Coordination and collaboration are critical themes that are interwoven throughout the SDFSCA; the legislation calls for Governors and SEAs to work with individuals and organizations that represent all facets of our schools and communities to develop and implement plans that will effectively foster a safe learning environment and prevent illegal use of drugs and alcohol,

LEAs must consult, on an ongoing basis, State and local governments, school representatives, parents, teachers, students, community-based organizations and others in the development of applications as well as the design and development of programs and activities implemented under the SDFSCA.

The Principles of Effectiveness provide the framework to assist States and local entities in designing, implementing, and evaluating high-quality programs and achieving measurable results. Programs or activities must:

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. This assessment must include an objective analysis of the current conditions and consequences regarding violence and illegal drug use that is based on ongoing local assessment or evaluation activities. Analysis of the conditions and consequences must include delinquency and serious discipline problems among students who attend such schools (including private school students who participate in the drug and violence prevention program).

be based on an established set of performance measures aimed at ensuring that the elementary schools and secondary schools and communities to be served have a safe, orderly, and drug-free learning environment.

be based on scientifically based research demonstrating that the program to be used will reduce violence and illegal drug use.

- be based on an analysis of the data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; or other variables identified through scientifically based research that occur in schools and communities.

include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity.

## **Questions about the Principles of Effectiveness**

Q1. Who must implement the Principles of Effectiveness?

A1. All entities that receive SDFSCA State Grants Program funds, either through grants or contracts, must comply with the Principles of Effectiveness.

Q2. What are the responsibilities of the State and local entities that receive SDFSCA State Grants Program funds in implementing the Principles of Effectiveness?

A2. States and local entities play a significant role in implementing the Principles of Effectiveness. States are responsible for disseminating information and providing technical assistance and guidance to LEAs and other entities receiving SDFS funds. State and local entities will need to examine needs assessment information, review goals and objectives, and determine if the programs proposed meet standards established by the Principles of Effectiveness. These entities may use a variety of processes and procedures to make these determinations, including applications or progress reports.

Q3. We believe that our LEA is experiencing some unique challenges with regard to drug use and violence, and have ideas for new approaches that

have not yet been fully tested. May we implement a program that does not meet the standard established for “scientifically based research”?

- A3. Consistent with Section 4115(a)(3) of the SDFSCA, LEAs may apply to their SEA for a waiver of the requirement to implement programs that are scientifically based programs. However, LEAs applying for waivers must demonstrate that funded programs or activities are innovative and have a substantial likelihood of success. SEAs must establish a process to consider such requests and must have documented how the requested waiver meets the standard established in the statute.

### Needs Assessments

- Q4. What is meant by “objective data” in conducting a needs assessment?  
A4. “Objective data” generally means information not influenced by emotion, surmise, or personal opinion. This definition is consistent with ED’s intent to have recipients use concrete information to assess problems and programs. It is important for recipients to base decisions about programs, and the allocation of SDFSCA resources, on objective data that can form the basis for achieving consensus on activities and assessing real, measurable progress toward a safe and drug-free learning environment.

Examples of objective data include information from records that detail the number of referrals to law enforcement for bringing a firearm to school, or results from student surveys about the proportion of students engaged in binge drinking. In contrast, subjective data might include information collected in a focus group about teacher perceptions of safety, or student evaluations of a program that assess how much they enjoyed the lessons presented.

- Q5. Will a needs assessment that contains only “process” data meet the Principles of Effectiveness requirement?  
A5. Because States and local entities are to develop measurable goals and objectives for prevention programs linked to changes in student attitudes and behaviors, needs assessment information that focuses only on process and implementation issues (such as the number of teachers trained or the number of hours of instruction provided) will not provide sufficient support for the goal-setting or evaluation processes embodied in the Principles of Effectiveness.
- Q6. How often must data be collected for the needs assessment?  
A6. States and local entities must collect data on an ongoing basis, through assessments or evaluation activities. States and local entities are in the best position to identify rapidly changing situations in their communities and to know whether existing data should still be included in a strong

needs assessment process.

- Q7. Must an LEA needs assessment include both drug use and violence?
- A7. All assessment efforts must include data about both problems. The decision to focus programs exclusively on a particular problem area should be based on the results of the needs assessment process, and should not precede collection and analysis of information on the nature and extent of the problem in a particular school or neighborhood. LEAs (or other entities receiving State Grants Program funds) should use the results of their needs assessment to help them select programs or activities for implementation.
- Q8. Do the Protection of Pupil Rights Amendment (PPRA) requirements apply to surveys used to collect information about drug use and violent behavior?
- A8. PPRA applies to surveys, analyses, or evaluations that: (1) reveal information in eight different categories – political affiliations or beliefs of the student or their parents; mental or psychological problems of the student or the students family; sex behavior or attitudes; illegal, anti-social, self-incriminating, or demeaning behavior; critical appraisal of individuals with whom the respondents have close family relationships; legally recognized privileged relationships such as those of lawyers, physicians and ministers; religious practices, affiliations, or beliefs of the student or student’s parents; or income – (2) are not voluntary (“required”) by LEAs; and (3) are conducted by an LEA that receives funds under any applicable ED program. ED’s Family Policy Compliance Office can provide detailed technical assistance about implementation of the PPRA; contact information for that office is provided in the Appendix D of this guidance.
- Q9. Must the data used in the assessment reflect information about drug use and violence problems in schools and neighborhoods, or are State-level or national data sufficient?
- A9. To the extent possible, data used in the assessment should be focused on the drug use and violence problems in your school or neighborhood. While State-level or national data, taken from surveys, such as Monitoring the Future or the Youth Risk Behavior Surveillance System (YRBSS), may provide interesting benchmarks for comparison, analyses of existing data at those levels indicate that there are regional and other differences that are likely to affect significantly the development of local needs assessment information, measurable goals and objectives, and program selection decisions.
- Q10. Must the applicant gather all the data used in the assessment process?

A10. States and local entities are encouraged to identify data collected by other programs or agencies that may be incorporated into their needs assessment process. We strongly encourage collaborative efforts with other agencies that result in multiple uses of data.

Q11. What do recipients do with data after they are collected?

A11. Activities following data collection are the most important part of a needs assessment process. Data collected (or gathered from other sources)

should be made an integral part of the planning process. For example, an analysis of various pieces of data collected might help identify:

- what drugs are used in the area;
- whether drugs are used by many students or if their use is concentrated in a more limited segment of the population;
- whether particular drugs are used more prevalently by some student age groups;
- what other prevention resources are available or activities are being implemented in the school or community

Similar analysis can be conducted of data about violence. The answers to these and similar questions should help States and local entities understand and prioritize their needs, identify a specific problem for attention, develop measurable goals related to that problem, and select effective programs for implementation. For more information on data collection, storage and uses, please refer to the section on the Uniform Management Information and Reporting System later in this guidance.

### Performance Measures

Q12. What is a performance measure and how many must a recipient have?

A12. A performance measure is one that permits a quantitative assessment of progress. An example of a performance measure that might be adopted by an LEA is: "To reduce the number of fights between students in the upcoming school year by one-half compared to the previous year." It will be easy to assess progress toward achieving this goal because it includes a quantifiable outcome [provided that baseline (or beginning) data exist and that a process is in place for counting fights during the school year.]

Contrast this with a performance measure on a similar topic that is not as easily measured: "To provide a safe learning environment during the upcoming school year." While the goal is a laudable one, it is difficult to measure success in achieving progress unless quantifiable outcomes are specified and a data collection process is in place.

Local performance measures should be directly related to the results of the local needs assessment, and linked to performance measures established by the State. An analysis of data collected as part of the needs assessment should help focus attention on the most problematic issues and guide the development of performance measures that relate to improvement in those areas.

The number of performance measures should be based on individual needs and reflect adequately the outcomes to be achieved. A few, well-chosen performance measures are probably sufficient for most programs.

Q13. Must performance measures focus on “behavioral” or “attitudinal” program outcomes?

A13. The Principles of Effectiveness require that programs implemented with SDFSCA funds be designed to prevent or reduce violence and illegal drug use. Performance measures, thus, must include goals that relate to reduced violence or drug use. Recipients may also adopt goals related to changing attitudes that are predictors of or precursors to youth drug use or violent behavior or goals related to the quality of program implementation.

#### Scientifically Based Research

Q14. What is the definition of “scientifically based research”?

A14. Title IX, Part A, Section 9101(37) defines scientifically based research as:

-- research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

-- includes research that –

employs systematic, empirical methods that draw on observation or experiment;

involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

relies on measurement or observational method that provide reliable and valid data across evaluators and observers, and across studies by the same or different investigators;

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;

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

has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Q15. How can I find scientifically based research programs?

A15. Several of the agencies listed in Appendix D (Resources) in this guidance have identified exemplary prevention programs. Information about identified programs is available on their web sites.

Q16. Has ED published an “official” or exhaustive list of drug and violence prevention programs that can be supported with SDFSCA funds?

A16 No, ED has not issued, nor does it have any plans to issue, such a list. Recipients of SDFSCA funds must use funds to implement programs that meet the Principles of Effectiveness. Programs that meet these standards have demonstrated effectiveness in preventing youth drug use, violence, or disruptive behavior.

### Risk Factors

Q17. Programs and activities must be based on data on risk factors, protective factors, buffers and assets. What is meant by those terms?

A17. The terms protective factor, asset, or buffer mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illegal drug use, as well as violent behavior, by youth in the community, and which promote positive youth development. For example, one protective factor in the community domain is the establishment of community norms that support students who abstain from drug use.

The term risk factor means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illegal drug use, as well as violent behavior, by youth in the school and community. An example of a risk factor in the family domain is inconsistent family management and disciplinary practices.

### Consultation with Parents

Q18. Do parents have a role to play in implementing programs and activities supported with State Grants Program funds?

A18. The statute requires that parents be consulted in the development of, and have an opportunity to provide input concerning, the application for program funds and the administration of any program or activity implemented with State Grants Program funds. Although the statute doesn't specify how often consultation must take place, it does prescribe a meaningful and ongoing consultation and input process.

### Periodic Evaluation

Q19. The Principles of Effectiveness in Section 4115 requires programs and activities supported with State Grants Program funds to undergo a periodic evaluation. What kinds of evaluation activities are required?

A19. Evaluation is the systematic collection and analysis of data needed to make decisions. Periodically, recipients will need to examine the programs they implement to determine if they meet established performance measures. The nature and extent of such evaluation activities will vary, and evaluation methods should be selected that are appropriate and feasible to measure success of a particular intervention.

Q20. How often should a "periodic evaluation" be conducted?

A20. States and local entities, in the context of any requirement that may be established by the Governor's Office or SEA, must determine how often they need to re-examine their progress toward reducing violence and illegal drug use in schools to be served, based on established performance measures.

Q21. How must the results be used?

A21. Evaluation results must be used to refine, improve, and strengthen the program, and to refine the performance measures. In addition, the results must be made available to the public upon request with public notice that results can be obtained.

Q22. If a review of the effectiveness of an LEA program results in a need to modify its goals and objectives, is it possible to make other changes in materials on file with the SEA or Governor's office?

A22. Consistent with Section 76.770 of EDGAR, the Governor's office or SEA will have procedures for amending applications and will provide guidance to recipients in their State about when modifications may be required and how they should be submitted.

Q23. When must a program that cannot demonstrate reduced drug use or violent behavior be terminated?

A23. Decisions regarding the termination of locally executed programs are

made at the State level. In determining the effectiveness of a program, States should consider (in addition to the Principles of Effectiveness and other SDFSCA State Grants Program requirements) the needs of the area, the goals of the program, and the evaluation results. As soon as a program has been determined to be ineffective, funding should not be renewed in future funding cycles.

## **II. How to Apply for Funds**

### **Single State Applications for Governors and SEAs**

#### **Application Options**

The State may:

for fiscal year 2002, submit a single, SDFSCA program-specific interim application, the purpose of which is to provide opportunity for the State to develop and review its application and comprehensive plan. States that elect this option must complete a comprehensive application in order to receive SDFSCA funding in fiscal year 2003 and future years.

submit a single, SDFSCA program-specific comprehensive application that responds to the application requirements in Section 4113 of the SDFSCA.

submit a single State application for the Governor and SEA in the form of a consolidated application. In the interest of simplification and enhanced coordination, Section 9302 of the ESEA allows eligible recipients, after consultation with the Governor, to submit a consolidated application. In this option, States are not required to submit separate applications under any of the ESEA programs to which the consolidated State application applies.

#### **Contents of State Applications**

If the State elects to submit an SDFSCA program-specific application, the SEA and the Governor's office must jointly submit a single application for the Governor and SEA that addresses the components listed in Section 4113 of the SDFSCA. Successful applications will demonstrate consultation and coordination with the appropriate state officials and others listed in Section 4113(a)(3) and (4) of that section.

Information about the contents of the consolidated application is available from the Safe and Drug-Free Schools and Communities Program (see Appendix D – Resources for information about how to contact the Safe and Drug-Free Schools and Communities Program. You may also consult [www.ed.gov/offices/OESE/SDFS](http://www.ed.gov/offices/OESE/SDFS) for more information). It is important to note that, if a State chooses to submit a consolidated application, all the requirements listed in Section 4113 of the SDFSCA must be met even though the consolidated application may not ask for submission of that information in writing.

## **An EDGAR Highlight: Amendments to Applications** (Section 76.140 of EDGAR)

On some regular basis, States must re-examine their plans to ensure the goals and objectives for programs remain appropriate and that significant changes in the plan have been addressed.

Section 76.140 of EDGAR discusses when a State must amend a State plan. It requires that a State amend its State plan whenever there is a significant and relevant change in:

--information or assurances in the plan; --the administration or operation of the plan; or --the organization, policies, or operations of the State agency that received the grant, if the change materially affects the information or assurances in the plan.

A State must also amend its plan if the Secretary determines that an amendment is essential. For example, the Secretary might make such a determination in response to a statutory change concerning program administration.

A State must also ensure that procedures for amending applications are implemented at the local level. Section 76.770 of EDGAR discusses State administrative responsibilities to ensure compliance.

### Review and Approval Process

The single State application will undergo a review and will be considered approved unless the Secretary makes a written determination, within 120 days of having received the application that the application is not in compliance with the SDFSCA.

If the Secretary disapproves a State plan, the Secretary must notify the State of the specific areas of noncompliance and request additional information needed to bring the State application into compliance. In addition, the SDFSCA gives a State 45 days within which to provide a response to the Secretary for approval. If a State fails to respond within that period, the application will be considered disapproved.

### **Questions about the State application**

Q24. May a State submit an individual application for the SEA and a separate application for the Governor?

A24. No. Section 4113(a)(1) of the SDFSCA requires a State to submit an application that contains a comprehensive plan for the use of funds by the SEA and the Governor. Therefore, a single State application for the receipt of SDFSCA State Grants Program funds is necessary.

Q25. Who must sign the single State application?

A25. The Chief State School Officer (CSSO) and the Governor both must sign the single State application.

Q26. The SEA and the Governor must submit a single application. Does that mean ED will distribute all funds under one grant?

A26. Generally, no. The SEA and the Governor's Program will receive their funding separately. However, if the Governor elects not to reserve any of the funds available, the total amount available to the State would be awarded under a single grant to the SEA.

Q27. The consolidated application does not request all the items listed in Section 4113 of the SDFSCA, as required for a program-specific application. Must a State that chooses to submit a consolidated application comply with all the requirements found in Section 4113 of the SDFSCA?

A27. Yes. Although the consolidated application instructions require that only certain information be submitted to ED, States must comply with all the elements listed in Section 4113 of the SDFSCA. States are encouraged to document compliance for monitoring and audit purposes.

Q28. Section 4113(a)(9) of the SDFSCA requires that a State's application contain the results of a needs assessment that is based on ongoing State evaluation activities. How recent must the data be and what data elements must be included?

A28. States are encouraged to include in their applications the most recent available data from their ongoing evaluation activities. Although the SDFSCA does not limit the types of information that must be included, data on the following are required:

The incidence and prevalence of illegal drug use and violence among youth in schools and communities, including the age of onset, the perception of health risks, and the perception of social disapproval among such youth;

The prevalence of "risk factors", including high or increasing rates of reported cases of child abuse or domestic violence;

The prevalence of "protective factors, buffers, or assets"; and  
Other variables in the school and community identified through scientifically based research.

States may also wish to explore the possibility of obtaining relevant data from other State agencies including State agencies that administer alcohol and other drug prevention and rehabilitation programs and State criminal justice agencies.

Q29. Must performance measures address both drug use and violence?

A29. The performance measures must be related to the goals of the program. Unless the grantee has chosen, based on needs assessment information (see Question 7), to focus the program exclusively on either drug use or violence, performance measures should be included that address both areas. Periodic needs assessments of both illegal drug use and violence will help States and localities determine whether programs need to expand or shift their focus.

## **LEA Application for Funds**

### Application Options

LEAs have the following application options:

An LEA receiving funds under more than one covered program may submit a consolidated application to the SEA. The SEA will make those consolidated local plans and applications available to the Governor. In cases where the SEA has an approved consolidated State application under Section 9302 of the ESEA, the SEA may require those LEAs receiving funds from more than one program included in the consolidated State plan to submit a consolidated application for covered programs.

Except in the situation described above, an LEA may submit an SDFSCA-specific application under Section 4114 of the SDFSCA. Each SEA will determine the period of time covered by LEA applications and will require amendments to an LEA's application to reflect changes in the LEA's SDFSCA program [See Section 4114 of the SDFSCA].

### Consultation on Applications

LEAs are no longer required to establish or consult with an existing advisory council. However, in order to receive funds, LEAs must develop their applications through consultation with State and local representatives, school representatives (including private schools), teachers, school staff, parents, students, community-based organizations, and others with expertise in violence-and drug-prevention efforts, such as medical, mental health, and law enforcement professionals. This consultation must be ongoing as LEAs seek advice on how best to coordinate their activities and related strategies. LEAs may elect to employ an advisory council in this role.

LEAs are required to consult with appropriate representatives and organizations at the initial stages of the design and development of programs and activities, including on efforts to meet the Principles of Effectiveness. [See Section 4114(c)(2) of the SDFSCA.]

### Contents of LEA Applications

Title IX authorizes the SEA, in collaboration with the State's LEAs, to determine the contents of a consolidated LEA application. The consolidated LEA application developed by the State need not include all of the LEA application requirements contained in the SDFSCA [Section 4114(d)]. However, it is important to remember that even if an LEA is not required by the SEA to supply all information in the application, LEAs must still gather data to meet the requirements listed in Section 4114 (d) of the SDFSCA.

If States do not implement a consolidated LEA application process, LEAs must develop an application that responds to the requirements contained in Section 4114(d) of the SDFSCA.

### Review process

SEAs must carry out a peer or other review process to ensure the quality of LEA applications. The SEA must consider the quality of the application and the degree to which the proposed activities meet the Principles of Effectiveness under Section 4115 of the SDFSCA. LEA applications will be considered approved unless the SEA makes a written determination within 120 days of receiving the application that the application is not in compliance with the statute.

An SEA must notify an LEA of the specific areas of noncompliance and request additional information needed to bring the application into compliance. The SEA may not finally disapprove an LEA application until after giving the LEA notice and opportunity for a hearing. The SDFSCA gives an LEA a period of 45 days to provide a response to the SEA for approval. If an LEA fails to respond within that period, the application will be considered approved.

**An EDGAR Highlight: Record Keeping**  
(Section 76.730-731 and Section 80.42 of EDGAR)

Sections 76.730 and 76.731 of EDGAR (Records) provide information about record keeping requirements for States and subgrantees funded under the SDFSCA Subpart 1 program, including what must be included in those records. Section 80.42 of EDGAR establishes a minimum period of time that records must be retained (three years). These two portions of EDGAR provide a framework that will help States establish and maintain the required records appropriately.

### **Questions about the LEA Application**

Q30. Do SEAs have to use a peer review process for LEA applications?

A30. SEAs must use a peer review process or other method of assuring the quality of LEA applications. The review must consider the quality of applications and the extent to which the applications meet the Principles of Effectiveness. [See Section 4114(e) of the SDFSCA.]

## **Governor's Subgrantee Applications**

### Eligible Applicants

The Governor may award competitive grants and contracts to LEAs, community-based organizations (including community anti-drug coalitions), other public entities and private organizations, and consortia of these agencies. In making awards, the Governor must give priority to programs and activities that prevent illegal drug use and violence for:

children and youth who are not normally served by SEAs or LEAs; or populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

Additionally, the Governor must give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program. [See Section 4112(a) of the SDFSCA.]

How to Apply Applicants apply for funds directly to the Governor's office or the designated agency responsible for administering funds under the Governor's program. The procedures for awarding and administering subgrants will be based on the State's own procedures and laws. Similarly, when procuring property and services under the SDFSCA, the Governor must follow the same State policies and procedures used for procurements from non-Federal funds.

### **An EDGAR Highlight: Procurement and Subgrant Procedures** (Sections 80.36 and 80.37 of EDGAR)

A State is expected to follow the same policies and procedures it has established for procurement from non-Federal funds when awarding subgrants and making procurements with Federal funds. Minimum Federal requirements are established in Section 80.36 and 80.37 of EDGAR for subgrants and contracts.

The Governor is given discretion as to the contents of applications submitted for consideration. However, the Governor must award grants based on the quality of the program or activities proposed and how the program or activity meets the Principles of Effectiveness as described in Section 4115(a) of the SDFSCA.

Applications submitted to the Governor for consideration must undergo a peer review process.

### **Questions about the Governor's subgrantee application**

Q31. The statute requires that Governors give priority to programs and activities

that prevent illegal drug use and violence for children who are not normally served by SEAs or LEAs or populations that need special services or additional resources, such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts. Does this mean that Governors must use all their funding for these populations?

A31. No. The statute does not require Governors to use a specific amount of their funding for services to the identified groups. Governors must give precedence to providing services to these groups and make sure that needed services are provided to these populations before competing alternatives are addressed.

Q32. May the Governor choose a population other than those explicitly mentioned in the SDFSCA to receive special services or additional resources as provided in Section 4112(a)(2)(B) of the SDFSCA?

A32. The Governor may choose to provide special services or additional resources to populations other than those mentioned in the SDFSCA; however, a justification for the selection of a population should be developed and maintained.

Q33. Will ED impose additional requirements concerning the peer review requirement contained in Section 4112(a)(4) of the SDFSCA?

A33. ED will not propose any additional requirements. Governors have the flexibility to develop and implement their own procedures for peer review of grants and contracts awarded under the SDFSCA Governor's Program. Governors may choose to use an existing peer review mechanism, or develop a process that is appropriate for State needs and conditions.

Q34. May faith-based organizations receive funds under the Governors Program?

A34. Yes, as long as educational services or other benefits including materials and equipment provided are secular, neutral, and non-ideological.

### **III. Distribution of Funds**

#### **Allocations from ED to States**

ED uses the formula provided in Section 4111 of SDFSCA to determine how funds are distributed to States. The formula is based on a State's relative share of the country's school-aged population, and its share of the Title I concentration grant funds. More specifically, after reservations for the territories, the Bureau of

Indian Affairs, and the Native Hawaiians Program, ED distributes the remaining funds:

- one-half according to the ratio between the school-aged population of the State and that of all the States; and
- one-half according to the ratio between the amount each State received under section 1124A of the ESEA for the preceding year and the sum of such amounts received by all States. (Section 1124A of the ESEA governs the distribution of Title I, Concentration Grant allocations.)

The new statute continues the “small-State minimum” (no less than one-half of one percent of the total allocated to all the States) that has been part of the program for many years, and adds a “hold harmless” provision at the Fiscal Year 2001 level. The statute provides for every State to receive at least the greater of these two amounts.

#### **Distribution of Funds to Governors**

Under Section 4112(a) of the SDFSCA, the Governor may reserve no more than 20 percent of the total amount allocated to a State for awards to subgrantees. The Governor may not use more than 3 percent of the amount available to the Governor for the administrative costs incurred in carrying out related duties.

#### **Distribution of Funds to SEAs**

The SEA will receive at least 80 percent of a State’s allotment under the program. An SEA may reserve not more than 5 percent of its total allocation for State-level activities as authorized under Section 4112(c) of the SDFSCA. An SEA may also reserve not more than 3 percent of its total allocation for administrative costs, including the implementation of the Uniform Management Information and Reporting System as provided under Section 4112(b)(2)(A) of the SDFSCA. (However, in fiscal year 2002, the SEA may reserve up to an additional 1 percent of its total allocation for administrative costs, provided that the additional reservation is used to support the Uniform Management Information and Reporting System.)

#### **SEA Distribution of Funds to LEAs**

SEAs must distribute at least 93 percent of the funds they receive to LEAs. Of the funds available for distribution to LEAs, SEAs must distribute 60 percent based on the relative amount LEAs received under Part A of Title I for the preceding fiscal year, and 40 percent based on relative enrollments in private and public elementary and secondary schools within the boundaries of the LEAs.

#### **An EDGAR Highlight: Program and Administrative Costs** (Section 80.3 of EDGAR)

Section 80.3 of EDGAR (Uniform Administrative Requirements – Definitions) provides a definition for the term “administrative” and distinguishes administrative costs from “programmatic” costs. Costs associated with the kinds of activities described in this section of EDGAR as administrative can be supported only with funds reserved for administrative costs. Under the definition, administrative costs would be costs expended to meet requirements common to grants in general, such as financial management and retention of records. Programmatic costs are typically those associated with carrying out specific program activities.

### **Redistribution of Funds to LEAs**

If an LEA does not apply to its SEA for funds, or if the SEA disapproves an LEA’s application for funds, the SEA must reallocate the LEA’s funds to one or more of its other LEAs.

If an LEA is unable to obligate a portion of its allocation within one year after it has been awarded by the SEA, the funds must be returned to the SEA. (See “Carryover of Funds by LEA” below for an exception.) In this case, the SEA reallocates the funds to LEAs that have submitted plans for using the funds on a timely basis. [See Section 4114(a)(3) of the SDFSCA]

### **Carryover of Funds by LEAs**

An LEA may keep up to 25 percent of its allocation for the following fiscal year. An LEA may retain an amount greater than 25 percent of its fiscal year allocation for use in the following year if it can demonstrate, to the satisfaction of the SEA, that it has “good cause” for such a carryover. [See Section 4114(a)(3) of the SDFSCA]

### **Question about the SEA/LEA Program**

Q35. May SDFSCA funds be awarded to individual schools rather than LEAs?

A35. No. Section 4112(b)(1) of the SDFSCA explicitly requires the SEA to award funds to its LEAs. Therefore, unless a “school” meets the definition of an LEA and is considered an LEA by the SEA, SDFSCA funds cannot be awarded to an individual school.

### **Question about the Governor’s Program**

Q36. Can the Governor choose not to implement programs under the SDFSCA?

A36. Yes. According to Section 4112(a) of the SDFSCA, the Governor has the option of reserving an amount up to 20 percent of the amount awarded to the State to implement drug and violence prevention programs. However,

should the Governor choose not to reserve any funds, the total amount available to the State would be awarded to the SEA.

## **IV. Program Implementation**

### **SEA Programs**

The ESEA, as reauthorized by NCLB, encourages greater accountability by emphasizing cross-agency efforts, both in development of applications and in the implementation of programs, including through the Uniform Management Information and Reporting System.

SEAs are authorized to use SDFSCA funds to plan, develop, and implement capacity-building, technical assistance and training, evaluation, program improvement services, and coordination activities for LEAs, community-based organizations and other public and private entities. Funded programs must be consistent with the Principles of Effectiveness, which were expanded to emphasize the importance of risk factors in analyzing data and parental involvement in the development of applications and the implementation of programs and activities under the SDFSCA. [See Section 4115(a) of the SDFSCA.]

In addition to meeting the Principles of Effectiveness, SEA programs must:

- Complement and support local uses of funds implemented by LEAs under Section 4115(a) of the SDFSCA; and
- Be in accordance with the purposes of the SDFSCA.

Section 4112(c)(2)(D) of the SDFSCA authorizes SEA activities to include, among other activities:

- Identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;
- Training, technical assistance, and demonstration projects to address violence that is associated with prejudice and intolerance; and
- Financial assistance to enhance drug and violence prevention resources available in areas of the State that serve large numbers of low-income children, are sparsely populated, or have other special needs.

### **Message and Materials**

Drug and violence prevention programs supported under the State Grants Program must convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.

### **LEA Programs**

LEAs may carry out a broad range of drug and violence prevention programs with SDFSCA funds. Funded programs and activities must be coordinated with other school and community-based services and programs and must:

Foster a safe and drug-free learning environment that supports academic achievement;

Be consistent with the Principles of Effectiveness;

- Be designed to—
  - o Prevent or reduce violence; the use, possession and distribution of illegal drugs; and delinquency; and
  - o Create a well-disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and
- Include activities to—
  - o Promote the involvement of parents in the activity or program;
  - o Promote coordination with community groups and coalitions, and with government agencies; and
  - o Distribute information about the LEA's needs, goals, and programs under the SDFSCA

The list of activities in Section 4115(b)(2) of the SDFSCA that may be implemented by LEAs includes: age-appropriate and developmentally based activities; activities that engage families, community sectors, and a variety of prevention providers in setting clear expectations against violence and illegal drug use; drug and violence prevention activities; and the evaluation of any activities authorized under SDFSCA. A full list of authorized activities can be found in Section 4115(b)(2) of the SDFSCA. LEAs may use no more than 2 percent of their allocation to carry out the administrative responsibilities associated with the implementation of these programs [See Section 4114(a)(2) of the SDFSCA].

### **An EDGAR Highlight: Necessary and Reasonable Costs**

(Section 80.22 of EDGAR and OMB Circular A-87—Cost Principles)

Although Title IV of ESEA authorizes a broad range of activities, these statutory provisions are not the only requirements governing expenditure of funds. SEAs and LEAs must also consider the requirements at Section 80.22 of EDGAR (Allowable Costs), which specify that allowable costs under a grant to a State, local, or Indian tribal government are determined under OMB Circular A-87. This Circular provides general guidelines on allowable costs, as well as specific determinations regarding certain kinds of costs.

### **Prohibited LEA Activities**

Section 4154 of the SDFSCA details the prohibited uses of funds. According to this section, construction (except minor remodeling needed to accomplish

SDFSCA purposes) medical services, and drug treatment and rehabilitation are prohibited activities. Pupil services, or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs, are allowed.

### **Parental Consent**

LEAs must make a reasonable effort to inform parents or legal guardians of students of the contents of programs or activities funded under the State Grants Program (except in the case of classroom instruction). LEAs must withdraw a student from any program or activity supported with State Grants Program funds upon written notification from the parents or legal guardians of students.

### **Supplement, Not Supplant**

A State must ensure that SDFSCA funds awarded under State Grants Program are used only to supplement the level of State, local, and other non-Federal funds and not to replace funds that would have been available to conduct activities if SDFSCA funds had not been available. [For more information, see Section 4113(a)(8) of the SDFSCA]

### **Question about Supplement, Not Supplant**

Q37. What restrictions does the supplement, not supplant requirement impose on the use of SDFSCA funds under the State Grants Program?

A37. By enacting the supplement, not supplant provision contained in Section 4113(a)(8) of the SDFSCA, the Congress intended that SDFSCA funds be used only to supplement the level of funds from non-Federal sources that would, in the absence of the SDFSCA funds, be available for the purposes listed in Sections 4112(a), 4112(c) and 4115 of the SDFSCA. To be in compliance with this requirement, therefore, grantees or subgrantees may not divert State and local funds from an activity merely because SDFSCA funds are available. In other words, the use of SDFSCA funds may not result in a decrease in State and local funds for a particular activity, which, in the absence of SDFSCA funds, would have been available to conduct the activity.

Although the application of the supplement, not supplant provision must be analyzed in the context of the facts and circumstances of each particular case, it is possible to give general guidance by way of examples. Two examples of the application of the supplanting prohibition follow:

- Assume that State law requires each LEA to provide at least five hours of classroom instruction each semester on conflict resolution to all ninth grade students. Because each LEA is required to provide the five hours of instruction from its own or the State's resources regardless of the existence of SDFSCA funds, the LEAs may not use SDFSCA funds to comply with the State

mandate. SDFSCA funds are intended to supplement State and local expenditures for the purposes of the State Grants Program; they are not intended to replace State or local funds that

would have been spent for the purposes of the State Grants Program in the absence of Federal funds. In this particular case, the Federal funds could be used to supplement the expenditure of State and local funds for instruction on conflict resolution to ninth grade students and to expand programs and services beyond the level that would be provided in the absence of Federal funds. But they could not be used to provide the five basic hours of instruction.

An LEA, on its own initiative, already provides with its own resources what it regards as an appropriate drug and violence prevention program for its seventh grade students. The program is successful, and the LEA would continue it with its own funds, but intends instead to continue that same seventh grade program with SDFSCA funding and spend its own funds for another activity not authorized by SDFSCA, such as providing drug treatment or rehabilitation services for school dropouts. Shifting the support of the seventh grade program from local funds to SDFSCA in these circumstances would violate the supplement, not supplant provision. By using SDFSCA funds to continue the seventh grade drug and violence prevention program, the LEA is merely replacing local funds that would have been expended anyway – not supplementing or expanding the amount of program activities authorized by the SDFSCA.

### **Cap on Spending for Some Activities**

Section 4115(b)(2)(E) of the SDFSCA imposes limits on funding certain activities with SDFSCA funds. A cap is imposed on the following LEA activities:

- (a) acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies
- (b) reporting criminal offenses committed on school property
- (c) developing and implementing comprehensive school security plans or obtaining technical assistance concerning those plans
- (d) supporting safe zones of passage activities, including bicycle and pedestrian safety programs, that ensure that students can travel safely to and from school
- (e) hiring and mandatory training of school security personnel who interact with students in support of youth drug and violence prevention activities implemented in schools

An LEA may use up to 40 percent of its allocation to support the activities described in clauses (a) through (e), but not more than half of that amount (or a maximum of 20 percent) may be used to support the activities described in clauses (a) through (d). LEAs may use the entire 40 percent to support the hiring and training activities in clause (e).

Funds may be used for the activities in clauses (a) through (e) only to the extent that an LEA does not receive funding for those activities from other Federal agencies. These activities are also subject to the requirements of the Principles

of Effectiveness.

### *An Example*

ABC School District receives a grant of \$10,000 under the program. The district can use no more than \$4,000 in total for the “capped” activities. Of that \$4,000, no more than \$2,000 can be used for the activities described in clauses (a) through (d) above.

ABC could use the entire \$4,000 for hiring and training school security personnel, or could choose spend \$1,000 on safe zones of passage, and \$3,000 on hiring and training school security personnel, or could shift its planned spending to include \$2,000 for school security plans and \$2,000 for school security personnel.

### **Questions about SEA/LEA Programs**

Q38. What kinds of purchases for “school security” are covered?

A38. Section 4115(b)(2)(E)(ii) of the SDFSCA lists the types of security hardware that may be purchased with SDFSCA funds. Funds may be used to buy and install metal detectors, electronic locks, surveillance cameras, and other related equipment and technologies.

Q39. May the whole security cap be used for equipment and technology?

A39. No, only half of the total security cap (i.e., a maximum of 20 percent of an LEA’s allocation) may be spent on school security items listed in Section 4115(b)(E)(ii-v) of the SDFSCA. See “Cap on Spending on Some Activities”, above.

Q40. May Title IV funds be used for drug testing students and employees? For background checks of employees?

A40. Section 4115(b)(2)(E)(xiv) of the SDFSCA states that authorized LEA activities include testing students for illegal drugs, consistent with the Fourth Amendment to the Constitution. Allowable activities include tests that are at the request, or have the consent, of parents or legal guardians. Inspections of students’ lockers for weapons or illegal drugs may also be conducted.

Section 4115(b)(2)(E)(xx) of the SDFSCA authorizes the use of funds to conduct national background checks of LEA employees to determine

whether an employee or prospective employee has been convicted of a crime that bears on the employee's ability to be responsible for the safety of children, serve in the particular capacity for which he or she was hired, or be otherwise employed by the LEA.

Q41. The statute contains an extensive list of authorized activities for LEAs, but some of those activities might not be supported by a research base that meets the definition of "scientifically based" research. May LEAs implement activities from the "authorized" list that do not meet the requirements of the Principles of Effectiveness?

A41. The SDFSCA requires an LEA to use program funds in a manner consistent with the Principles of Effectiveness. The Principles of Effectiveness require that programs supported with SDFSCA funds be based on scientifically based research that provides evidence that the program will reduce violence and illegal drug use. An LEA may use funds only for authorized activities that meet this standard, unless it receives a waiver from its SEA.

Q42. May an LEA apply for a waiver of the requirement to implement programs that are scientifically based?

A42. Consistent with Section 4115(a)(3) of the SDFSCA, LEAs may apply to their SEA for a waiver of the requirement to implement programs that are scientifically based. However, LEAs applying for waivers must demonstrate that funded programs or activities are innovative and have a substantial likelihood of success.

The Department encourages SEAs, in considering requests for waivers, to apply criteria that will permit the implementation of services and activities highly likely to be successful. For example, SEAs may want to consider to what extent proposed programs address the elements of the definition of scientifically based research.

Q43. May SDFSCA funds be used to support the work of social workers, counselors or mental health professionals?

A43. The SDFSCA authorizes the use of funds for a broad range of drug and violence prevention programs and activities including counseling, mentoring, referral services, and other student assistance practices and programs provided by qualified school-based mental health services providers. LEAs may also use funds for the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.

Q44. Are academic activities (such as a tutoring program) that are unrelated to

drug and violence prevention allowable activities under Section 4115(b)(2)(A)(vi), which authorizes the use of funds for activities that “engage students in the learning process”?

- A44. While effective drug and violence prevention programs create safe and drug-free learning environments and foster academic achievement, activities funded under SDFSCA must directly support a safe and drug-free learning environment.
- Q45. Are costs associated with evaluation of drug and violence prevention programs considered program costs?
- A45. Yes, the evaluation of drug and violence prevention programs can be considered a program cost.
- Q46. Section 4114(d)(2)(E) of the SDFSCA requires LEAs to describe how they will target schools and students with the greatest need. May LEAs make subgrants to schools with the greatest need?
- A46. LEAs must target *services and activities* on high-need schools and students; however, the SDFSCA does not authorize LEAs to subgrant funds. While staff at individual schools may be heavily involved in determining the kinds of activities that will be implemented in their schools, LEAs must maintain administrative control over grant funds.
- Q47. May LEAs use State Grants program funds to support programs or activities designed to prevent victimization associated with prejudice and intolerance?
- A47. Yes. However, the implementation of any curricula, programs, or activities designed to prevent victimization associated with prejudice and intolerates must include safeguards to prevent harassment directed against any particular religion, religious practice, or religious organization.

### **Governor’s Programs**

Section 4112(a) of the SDFSCA describes authorized uses of SDFSCA funds allocated to Governors. This section requires Governors to use their funds for competitive grants and contracts to LEAs, community-based organizations, or public entities and private organizations, and consortia thereof. In awarding these funds, the Governor must give priority to children and youth who are not normally served by SEAs or LEAs, or populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts). Additionally, the Governor must give special consideration to grantees that pursue a comprehensive approach that includes incorporation of mental health services related to drug and violence prevention.

Funds under this section must be used to implement drug and violence prevention activities, which must include: activities that complement and support LEA activities; dissemination of information about drug and violence prevention; and development and implementation of community-wide drug and violence prevention planning and organizing.

### **Message and Materials**

Drug and violence prevention programs supported under the State Grants Program must convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.

### **Question on Governor's Programs**

Q48. Are Governors limited to implementing only those activities specifically authorized in Section 4112(a)(5) of the SDFSCA?

A48. No. Although the Governors must implement the authorized activities contained in Section 4112(a) of the SDFSCA, other activities may be implemented with Governor's funds if they are consistent with the purposes of the SDFSCA and comply with the Principles of Effectiveness in Section 4115.

## **V. Technical Assistance and Reporting**

### **Technical Assistance and Monitoring**

Each SEA and Governor must provide technical assistance to LEAs, community-based organizations, other public entities and private organizations on their implementation of SDFSCA, and must monitor the activities of these entities. A State's SDFS program-specific plan must include a description of how the SEA and the Governor will carry out these monitoring and technical assistance responsibilities. [See Section 4113(a)(17) and (18) of the SDFSCA]

### **An EDGAR Highlight: Monitoring** (Section 80.40 of EDGAR)

In accordance with Section 80.40 of EDGAR, a State is responsible for managing the day-to-day operations of grant- and subgrant-supported activities. A State must monitor grant- and subgrant-supported activities to ensure compliance with the SDFSCA.

To assist the SEA and the Governor in carrying out specific duties to monitor and provide technical assistance, Section 4113(a)(17) and (18) of the SDFSCA requires a description of how the SEA and the Governor will monitor the implementation of SDFSCA-supported activities and provide technical assistance to LEAs, community-based organizations, other public entities, and private organizations.

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### **An EDGAR Highlight: Technical Assistance, Evaluation and Procedures to Ensure Compliance** (Section 76.770 of EDGAR)

A State must establish procedures that will allow for the review and approval of applications for subgrants, and amendments to those applications. Section 76.770 of EDGAR further explains that the procedures must include a plan for technical assistance, evaluating projects, and performing other administrative responsibilities the State considers necessary to ensure compliance with the SDFSCA.

### State Reports

Section 4116 of the SDFSCA requires that States submit periodic reports to the Secretary of Education. As part of the ESEA consolidated reporting process, the first report is due by December 1, 2003; succeeding reports will be due every two years. The State reports must be a cooperative effort of the Governor and the Chief State School Officer and must include information on the implementation and outcomes of State programs assisted with Governor's program funds as well as SEA and LEA programs. Reports must also include an assessment of the effectiveness of these programs, as well as a report on the State's progress toward achieving its performance measures for drug and violence and the State's efforts to inform and include parents in its drug and violence prevention efforts. The report must be based on ongoing evaluation activities and include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities. In addition to being submitted to the Secretary, the report must also be made readily available to the public. [See Section 4116 of the SDFSCA]

### Uniform Management Information and Reporting System

The Uniform Management Information and Reporting System is a new requirement under the SDFSCA. The Uniform Management Information and Reporting System will provide the public with data about youth drug use and school violence at the State and local levels. States must provide information on

a school-by-school basis on: truancy rates; the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State; the types of curricula, programs, and services provided by the States and local entities with SDFSCA funds; and the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

### Compilation of Statistics

The offenses included in the State's Uniform Management Information and Reporting System data base must be defined according to the State's criminal code, but must not identify victims of crimes or persons accused of crimes. The collected data must include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

### **Questions about the Uniform Management Information and Reporting System**

Q49. Who is responsible for establishing a State's Uniform Management and Information Reporting System?

A49. The Governor and the SEA are jointly responsible for establishing the Uniform Management and Information System. Note that the SDFSCA does not specify where the State should locate the system. Each State will make its own decisions about where Uniform Management and Information Reporting System will be located.

Q50. When must States establish a Uniform Management Information and Reporting System?

A50. While the statute does not prescribe a deadline for implementation of the Uniform Management and Information Reporting System, the Department will ask States to provide information that is part of Uniform Management Information and Reporting System in the performance reports due on December 1, 2003.

Q51. How is the Uniform Management Information and Reporting System to be funded?

A51. The SEA may use a portion or all of its set-aside for administrative costs to fund Uniform Management Information and Reporting System. In fiscal year 2002, the SEA may reserve an additional 1 percent of its allocation for administrative costs (but not more than a maximum of 4 percent), provided that those additional funds are used to implement the Uniform Management and Information Reporting System. [See Section 4112(b)(2) of the SDFSCA]

Q52. Do both the SEA and the Governor need to report data under the system?

A52. Yes, both the SEA and Governor must report data under the Uniform Management Information and Reporting System. States and local recipients of SDFSCA funds must provide information on the types of curricula, programs, and services provided and the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

Q53. How often is the Uniform Management Information and Reporting System information required to be collected?

A53. The frequency of reporting to the public data housed in the Uniform Management Information and Reporting System will be determined by the State. The Uniform Management Information and Reporting System will contain data from several different sources, which may collect data at different times and with differing frequencies. In that sense, the Uniform Management Information and Reporting System does not collect the data, but rather houses it to make dissemination to the public easier.

Q54. How are the terms “incidence and prevalence” defined?

A54. Incidence is a rate that measures the frequency with which a health problem, such as a new injury or illness, occurs in a population. In calculating incidence, the numerator is the number of cases occurring in the population during a given period of time, and the denominator is the total population at risk during that same time.

Prevalence is the number or proportion of cases or events or conditions in a given population. In calculating prevalence, the numerator is the number of cases and the denominator is the total population at risk.

Q55. In collecting data required for the Uniform Management Information and Reporting System, must an SEA or LEA survey all students, or is a sample of students sufficient?

A55. SEAs or LEAs may choose to survey a sample of students when collecting data for the Uniform Management Information and Reporting System. Are there other requirements concerning collection and release of data from students about use and prevalence of drugs in schools?

A56. The Protection of Pupil Rights Amendments (PPRA) and the Federal Educational Rights and Privacy Act (FERPA) contain requirements designed to ensure appropriate parental involvement and privacy for surveys and student records, respectively. Detailed information about these provisions can be obtained from ED’s Family Policy Compliance

Office and additional information about PPRA and FERPA can be found in the Appendix D – Resources of this guidance.

## **Appendix A.**

### **Flexibility and Accountability Provisions**

Title VI of the ESEA contains flexibility and accountability provisions that apply to the implementation of both the Governor's and SEA's program under SDFSCA. . The provisions are described in greater detail on the Department's website at <http://www.ed.gov/offices/OESE/esea/index.html>.

#### **State-Flex (ESEA Section 6141 through 6144)**

An SEA with State-Flex authority may consolidate SDFSCA State Grant funds that are available for State-level activities and State administration with certain other State-level funds, and use those funds for any ESEA purpose in order to make adequate yearly progress and advance the educational priorities of the State and the LEAs with which the State enters into performance agreements.

Similarly, an LEA that enters into a performance agreement with its SEA in a State-Flex State may consolidate its SDFSCA State Grant funds with certain other Federal funds, and use those funds for any ESEA purpose consistent with the SEA's State-Flex plan in order to meet the State's definition of adequate yearly progress, improve student academic achievement, and narrow achievement gaps.

The SEAs, and the LEAs with which the SEA enters into performance agreements, will provide for the equitable participation of students and professional staff in private schools, consistent with Section 9501. Sections 9502, 9503, and 9504 shall apply to all services and assistance provided with funds in the same manner as such sections apply to services and assistance provided in accordance with Section 9501. (See Section 6141(c)(1)(K))

#### **Local Flexibility Demonstration (ESEA Sections 6151 through 6156)**

An LEA that enters into a Local-Flex agreement with the Secretary may consolidate its SDFSCA State Grant funds with certain other Federal funds and, consistent with the purposes of the Local-Flex program, use those funds for any ESEA purpose in order to meet the State's definition of adequate yearly progress, improve student academic achievement, and narrow achievement gaps. Participation in this demonstration is competitive and limited. (See Sections 6151 – 6156 of Title VI, Part A, Subpart 3, Chapter B of the ESEA)

The local flexibility demonstration agreement must contain an assurance that the LEA agrees that in consolidating and using funds under the agreement, the LEA will provide for the equitable participation of students and professional staff in private schools consistent with Section 9501. Sections 9502, 9503, and 9504

shall apply to all services and assistance provided with funds in the same manner as such sections apply to services and assistance provided in accordance with Section 9501. (See Section 6151(c)(8)(A and B))

### **Transferability (ESEA Sections 6121 through 6123)**

Transferability is a new ESEA flexibility authority that allows States and LEAs to transfer a portion of the funds that they receive under certain Federal programs to other programs that most effectively address their unique needs. Both Governor's (with the agreement of the Governor) and SEA SDFS funds may be transferred.

Under this authority, a State may transfer up to 50 percent of the nonadministrative funds allotted to it to carry out State-level activities under each of the following provisions to one or more of its allotments under any of the other programs listed below:

- Section 2113(a)(3) (Teacher and Principal Training and Recruitment)
- Section 2412(a)(1) (Enhancing Education Through Technology)
- Section 4112(a)(1) (Safe and Drug-Free Schools and Communities Governor's funds, with the agreement of the Governor)
- Section 4112(c)(1) (Safe and Drug-Free Schools and Communities SEA funds)
- Section 4202(c)(3) (21<sup>st</sup> Century Community Learning Centers)
- Section 5112(b) (Innovative Programs)

Subject to the 50 percent limitation, a State may also transfer funds allotted to it under the provisions listed above to its allotment under Part A of Title I to carry out State-level activities under Part A of Title I. A State may not transfer funds allocated under Part A of Title I to any other program.

Likewise, an LEA (except an LEA identified for improvement or subject to corrective action under section 1116(c)(9)) may transfer up to 50 percent of the funds allocated to it by formula under certain other programs to its SDFSCA allocation (or to other specified allocations) or to its allocation under Part A of Title I. An LEA may also transfer up to 50 percent of its SDFSCA allocation to certain other programs. An LEA identified for improvement under Title I may transfer not more than 30 percent of the funds allocated to it under the programs listed above to its allocation for school improvement under section 1003 or to any other allocation provided that funds are used only for LEA improvement activities consistent with Section 1116(c). An LEA identified corrective action may not transfer funds under these provisions.

Each SEA or LEA that transfers funds under this section must conduct consultation in accordance with Section 9501, if that action transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools. (See Section 6123(e)(2)) For more

information on transferability, please visit the U.S. Department of Education's ESEA website and discussion of flexibility provisions:  
[http://www.ed.gov/offices/OESE/esea/flex\\_summary.pdf](http://www.ed.gov/offices/OESE/esea/flex_summary.pdf)

## **Rural Education Initiatives**

An LEA eligible under the Rural Education Initiative (Title VI, Part B Section 6202) may combine its SDFSCA funds with certain other Federal funds and use its funding to carry out local programs. Accordingly, an LEA may spend all or part of its SDFSCA funds for this purpose.

Similarly, an LEA that receives funds under the Rural and Low-Income School Program may use those funds for activities authorized under the SDFSCA. (See Section 6211 of Title VI, Part B, Subpart 1 of the ESEA)

## **Appendix B.**

### **General Provisions**

Title IX of the ESEA contains definitions and general provisions that apply to the implementation of both the Governor's and SEA's program under the SDFSCA State Grants Program. The following is a brief discussion of those provisions.

#### **Maintenance of Effort**

The "maintenance of effort" provisions are designed to ensure continuing financial support from State and local funding for education. An LEA may receive funding under a "covered program" for any fiscal year only if the SEA finds that either the combined fiscal effort per student, or the aggregate expenditures, of the LEA and the State with respect to the provisions of free public education by the LEA was at least 90 percent of the combined fiscal effort or aggregate expenditure for the second preceding year.

If an LEA fails to meet this requirement, its SEA must reduce its allocation of funds from the "covered" programs. This reduction must be made in the exact proportion by which the LEA failed to meet the 90 percent requirement. In making the reduction, SEAs must use the measure (either combined fiscal effort per student or aggregate expenditures) that is most favorable to the LEA. The State may not consider funding provided under the ESEA (other than Title VIII, Impact Aid) in determining an LEA's eligibility for State aid or the amount of State aid for education for children.

The Secretary may waive the maintenance-of-effort requirement if he determines that such a waiver would be equitable because of exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resources of the LEA (See Section 9521 of Title IX, Part E, Subpart 2 of the ESEA).

## **Private School Participation**

States and local recipients of SDFSCA are subject to the requirements in Section 9501 regarding participation of private school children and teachers. These requirements extend to discretionary grant programs authorized under Title IV, Part A and to the Community Service Grant Program (a formula program authorized by Section 4126 of the SDFSCA). Generally, the provisions require that children enrolled in private elementary and secondary schools (and their teachers) must be provided equitable educational services or other benefits, compared to services and benefits received by public school children and teachers.

LEAs must consult with appropriate private school officials during the design, development, and implementation of programs on issues such as how the children's and teachers' needs will be identified; what services will be offered; how, where, and by whom the services will be provided; how the services will be assessed and how the results of the assessment will be used to improve those services; the size and scope of the equitable services; the amount of funds available for those services; how and when the LEA will make decisions about the delivery of services; and a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers. If the needs of private school students and teachers are different from those of public school students and teachers, the LEA, in consultation with private school representatives, is required to develop a separate program. Decisions affecting the opportunities of eligible private school students' and teachers' participation in Title IV, Part A programs are made only after consultation has taken place.

The services must be secular, neutral, and non-ideological, and must be furnished following timely and meaningful consultation with private school officials.

Funds provided for programs and services for private school students and teachers must be equal on a per-pupil basis, taking into account the number and educational needs of the children to be served, to the funds provided for participating public school students and teachers. Hence, on a per-pupil basis, expenditures for public and private school students and teachers must be equal. Costs for administering programs for public and private school students and teachers must come "off the top" of the allocation before determining how much of the allocation should be used for public and private school students and teachers. In addition, funds used to provide services to private school students and their teachers must remain under the control of the LEA or public agency; title to materials, equipment, or property purchased to support services or benefits to private school children must remain with a public agency. (See Section 9501, Title IX, Part E, Subpart 1 of the ESEA).

In order to facilitate consultation between public and private school officials and the effective implementation of programs and services for private school students

and teachers, SEAs/LEAs are encouraged to create *Non-Public School Working Groups* made up of representatives from the full spectrum of private schools. Such groups exist in some States and LEAs, meet on a regular basis, and smooth the progress of federal education program implementation for private school students and teachers.

### **Consolidated Administrative Funds**

If an SEA can demonstrate that the majority of its resources are derived from non-Federal sources, it may consolidate funds made available to it for State administration under the SDFSCA and other ESEA programs, as well as other programs that the Secretary may designate. The consolidated administrative funds may be used to administer the programs included in the consolidation and for administrative activities designed to enhance the effective and coordinated use of funds under those programs.

Similarly, with approval of its SEA, an LEA may consolidate SDFSCA funds available for administration, as well as other local administrative funds, to administer the programs included in the consolidation and for uses, at the district and school levels, designed to enhance the effective and coordinated use of funds under those programs. [See Sections 9201-9203 of Title XI, Part B of the ESEA].

### **Waivers**

The Secretary may waive any of the statutory and regulatory requirements for programs covered under the ESEA, except requirements pertaining to: -the allocation or distribution of funds to States, LEAs, or other recipients of funds under the ESEA; -maintenance of effort; -comparability of services; - use of Federal funds to supplement, not supplant non-Federal funds; - equitable participation of private school students and teachers; -parental participation and involvement; -applicable civil rights requirements; -the requirement for a charter school under Subpart 1 of Part B of Title V; -the prohibitions regarding State aid in Section 9522 of the ESEA and the use of funds for religious worship or instruction in Section 9505 of the ESEA and activities in section 9526 of the ESEA and; -the selection of a school attendance area or school under subsections (a) and (b) of Section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under Part A of Title I if the percentage of children from low-income families in the school attendance area or who attend the school is not more than the 10 percentage points below the lowest percentage of the local educational agency that meets the requirements in subsections (a) and (b) of Section 1113 of Title I of the ESEA.

Waivers may initially be approved by the Secretary for no longer than 4 years.

However, the Secretary may extend the period if the waiver has been effective and has contributed to improving student achievement, or if the extension of the waiver is in the public interest.

Information about these Title IX provisions may be obtained from Safe and Drug-Free Schools Program staff (see Appendix D – Resources).

## **Appendix C.**

### **Other Provisions**

States and local entities that are participating in the SDFSCA State Grants Program should also be familiar with the following other provisions related to the implementation of drug and violence prevention programs.

#### **Unsafe School Choice Option**

The Unsafe School Choice Option (USCO) (Section 9532 of Title IX, Part E, Subpart 2 of the ESEA) requires that each State receiving funds under the ESEA establish and implement a statewide policy requiring that students attending a persistently dangerous public school, or students who become victims of a violent criminal offense while in or on the grounds of a public school that they attend, be allowed to attend a safe public school. As a condition of receiving ESEA funds, each State must certify in writing to the Secretary that the State is in compliance with these requirements.

Detailed guidance about these provisions is available from the SDFSP regional program officer or on the Department's web site at <http://www.ed.gov/offices/OESE/SDFS/unsafeschoolchoice.doc>

#### **Gun-Free Schools Act**

The Gun-Free Schools Act (GFSA) was re-enacted as Subpart 3 of Title IV of the ESEA. The GFSA requires that each State receiving Federal funds under ESEA have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a firearm to school or to have possessed a firearm at a school. Each State's law also must allow the chief administering officer of the LEA to modify the expulsion requirement on a case-by-case basis, if that modification is in writing. The GFSA also requires that any LEA receiving funds under the ESEA have a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by that LEA. In general, private schools, including private schools whose students and teachers participate in federal education programs, are not subject to the provisions of the GFSA.

Additional information concerning GFSA provisions is available from the Safe and Drug-Free Schools Program (see Appendix D – Resources)

## **Pro-Children Act**

The Pro-Children Act (PCA) of 2001 was re-enacted as Part C of Title IV of the ESEA. The PCA requires that smoking not be permitted in any indoor facility, or in some cases a portion of a facility, used routinely or regularly for the provision of certain types of “children’s services” to persons under age 18, if the services are funded by specified Federal programs either directly or through State or local governments. Applicable Federal funds for these types of children’s services include grants, cooperative agreements, loans, loan guarantees, contracts, and funds for construction, maintenance, and operations awarded by the Departments of Health and Human Services, Education or Agriculture. For Agriculture, the requirements apply only for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)]. In general, private schools, including private schools whose students and teachers participate in federal education programs, are not subject to the provisions of the PCA.

Additional information concerning PCA provisions is available from the Safe and Drug-Free Schools Program (see Appendix D – Resources).

## **Protection of Pupil Rights Amendment (PPRA)**

The NCLB contains a major amendment to the Protection of Pupil Rights Amendment (PPRA) that gives parents more rights with regard to the surveying of minor students, the collection of information from students for marketing purposes, and certain non-emergency medical examinations. PPRA has been referred to as the “Hatch Amendment” and the “Grassley Amendment”. The recent changes to the law may be referred to as the “Tiahrt Amendment.” The statute is found in 20 U.S.C. 1232h and the regulations (not yet updated) are found in 34 CFR Part 98. In general, private schools, including private schools whose students and teachers participate in federal education programs, are not subject to the provisions of the PPRA.

Additional information concerning PPRA provisions is available from the Family Policy Compliance Office (see Appendix D – Resources).

## **Family Educational Rights and Privacy Act (FERPA)**

FERPA is a Federal law that applies to educational agencies and institutions that receive Federal funds under any program administered by the Secretary of Education. Generally, FERPA prohibits the funding of an educational agency or institution that has a policy or practice of disclosing a student’s “education record” without the consent of the parent or eligible student. The FERPA statute is found in 20 U.S.C. 1232g and the regulations (not yet amended to reflect the most recent legislative changes and Supreme Court decisions) are found in 34 CFR Part 99. In general, private schools, including private schools whose students and teachers participate in federal education programs, are not subject to the provisions of FERPA.

Additional information concerning FERPA provisions is available from the Family Policy Compliance Office (see Appendix D – Resources).

### **Transfer of School Disciplinary Records**

FERPA permits schools to transfer education records on a student who is transferring to another school. See Section 99.31(a)(2) and Section 99.34 of the FERPA regulations. A new provision requires States that receive funds under the ESEA, within two (2) years, to provide an assurance to the Secretary that the State “has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.”

Additional information concerning these provisions is available from the Family Policy Compliance Office (see Appendix D – Resources).

## **Appendix D.**

### **Resources**

#### **Organizations**

##### *Office of Safe and Drug-Free Schools*

U.S. Department of Education 400 Maryland Avenue, SW FB-6 Washington, DC 20202-6123 Telephone: 202-260-3954 Fax: 202-260-7767 Web: [www.ed.gov/offices/OESE/SDFS](http://www.ed.gov/offices/OESE/SDFS)

The Safe and Drug-Free School Program staff provides additional information about the administration of SDFSCA programs, as well as implementation of the Gun-Free Schools Act, the Unsafe School Choice Option, and Pro-Children Act provisions.

##### *Family Policy Compliance Office*

U.S. Department of Education 400 Maryland Avenue, S.W. Washington, DC 20202-4605 Web: <http://www.ed.gov/offices/OM/fpc/index.html>

The Family Policy Compliance Office provides information concerning the Family Education Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA). Questions concerning administration of student surveys and confidentiality of education records should be addressed to this office.

##### *Office of Special Education and Rehabilitation Services (OSERS)*

Office of Special Education Programs (OSEP)

U.S. Department of Education

400 Maryland Ave., S.W.

Washington, DC 20202

Telephone: (202) 205-5507

Web: <http://www.ed.gov/offices/OSERS/OSEP/index.html>

The Special Education Programs staff provide information about requirements governing disciplining of students covered by the Individuals with Disabilities Education Act (IDEA), and how the requirements of the Gun-Free Schools Act can be applied to students covered by IDEA.

*Office for Civil Rights*

U.S. Department of Education Customer Service Team Mary E. Switzer Building  
330 C Street, SW Washington, D.C. 20202

Telephone: 1-800-421-3481

FAX: 202-205-9862

Email: [OCR@ed.gov](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/offices/OCR/>

OCR enforces five Federal statutes that prohibit discrimination in education programs and activities that receive Federal financial assistance. These laws prohibit discrimination on the bases of race, color, and national origin, on the basis of sex, on the basis of disability, and on the basis of age. OCR also has been given responsibility for enforcing Title II of the Americans with Disabilities Act of 1990.

*National Resource Center for Safe Schools*

101 SW Main, Suite 500, Portland, OR 97204 Telephone: 1-800-268-2275 or (503) 275-0131 Fax: (503) 275-0444 Web: [www.safetyzone.org](http://www.safetyzone.org)

The National Resource Center for Safe Schools provides training and technical assistance on a variety of issues related to school safety. The Center is supported jointly by the U.S. Department of Justice and the U.S. Department of Education.

*National Institute on Alcohol Abuse and Alcoholism (NIAAA)*

National Institutes of Health Department of Health and Human Services 6000 Executive Boulevard - Willco Building Bethesda, Maryland 20892-7003 Web: <http://www.niaaa.nih.gov/>

NIAAA is one of 19 institutes that comprise the National Institutes of Health. It supports and conducts research on the causes, consequences, treatment, and prevention of alcoholism and alcohol-related problems.

*National Institute on Drug Abuse (NIDA)*

National Institutes of Health Department of Health and Human Services 6001 Executive Boulevard Bethesda, Maryland 20892-9561 Ph: (301) 443-1124 Web: <http://www.nida.nih.gov>

Another of the National Institutes of health's 19 institutes, NIDA supports and conducts research across a broad range of disciplines that improve drug abuse and addiction treatment, prevention, and policy.

*Office of National Drug Control Policy (ONDCP)*

Correspondence can be sent to:  
Drug Policy Information Clearinghouse

P.O. Box 6000 Rockville, MD 20849-6000

Ph: 1-800-666-3332

Fax: 301-519-5212

email: [ondcp@ncjrs.org](mailto:ondcp@ncjrs.org)

Web: <http://www.whitehousedrugpolicy.gov/>

ONDCP establishes policies, priorities and objectives for the nation's drug control programs. The Director of ONDCP produces the National Drug Control Strategy, which is designed to help achieve ONDCP's goals of reducing illicit drug use, manufacturing and trafficking, drug-related crime and violence, and drug-related health consequences. The Strategy directs the Nation's anti-drug efforts and establishes a program, a budget, and guidelines for cooperation among Federal, state and local entities.

*Division of Adolescent and School Health (DASH)*

Centers for Disease Control and Prevention Department of Health and Human Services Web: <http://www.cdc.gov/nccdphp/dash>

DASH seeks to prevent the most serious health risks among children, adolescents, and young adults by identifying and monitoring high risk behaviors; synthesizing and applying research; supporting its constituents in implementing comprehensive adolescent and school health programs; and providing technical assistance to State and local educational agencies evaluate their school health policies, teacher training and curricula.

*Center for Substance Abuse Prevention (CSAP)*

Substance Abuse and Mental Health Services Administration Ph: (301) 443-0365  
Web: <http://www.prevention/samhsa.gov>

CSAP is responsible for improving the quality and accessibility of substance abuse prevention services. The Center provides national leadership in programs, policies, and services to prevent the onset of illegal drug use, underage alcohol and tobacco use, and to reduce the negative consequences of using substances.

*Center for Mental Health Services (CMHS)*

Substance Abuse and Mental Health Services Administration

Department of Health and Human Services  
P.O. Box 42490 Washington, DC 20015 Ph: (800) 789-7647 Web:  
<http://www.mentalhealth.org>

CMHS is charged with leading the national system that delivers mental health services. In that role, CMHS leads federal efforts to treat mental illness by promoting mental health and preventing development or worsening of mental illness. CMHS pursues its mission by helping States improve the quality and range of their treatment, rehabilitation, and support services for people with mental illnesses, their families and communities.

*Office of Juvenile Justice and Delinquency Prevention (OJJDP)*  
Office of Justice Programs Department of Justice 810 7<sup>th</sup> Street, NW Washington,  
DC 20531 Ph: (202) 307-5911 Web: <http://www.ojjdp.ncjrs.org>

OJJDP provides national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization. OJJDP supports States and local communities in their efforts to develop and implement coordinated prevention and intervention, and to improve the juvenile justice system so that it protects the public safety, holds offenders accountable, and provides treatment and rehabilitative services to juveniles and their families.

**GUIDANCE CONCERNING STATE AND LOCAL  
RESPONSIBILITIES UNDER THE  
GUN-FREE SCHOOLS ACT**

# Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act

## I. Introduction

This guidance provides information concerning State and local responsibilities under the Gun-Free Schools Act (GFSA), which was reauthorized by the No Child Left Behind (NCLB) Act of 2001 (Public Law 107-110), as Section 4141 of the Elementary and Secondary Education Act of 1965 (ESEA). This guidance addresses changes made as a result of the NCLB reauthorization.

## II. Background

As originally enacted on March 31, 1994, as part of the Goals 2000: Educate America Act (Public Law 103-227), and reauthorized on October 20, 1994, as part of the Improving America's Schools Act of 1994 (Public Law 103-382), the GFSA required each State receiving ESEA funds to have in effect a State law requiring local educational agencies (LEAs) to expel from school for a period of not less than one year a student who was determined to have brought a weapon to school. The GFSA also required that a State's law allow the chief administering officer of the LEA in question to modify the expulsion requirement on a case-by-case basis. The U.S. Department of Education (Department) provided nonregulatory guidance on previous GFSA provisions to Governors and Chief State School Officers on August 1, 1994; January 20, 1995; November 3, 1995; and October 2, 2000.

## III. Summary of the New Law

### A. What stayed the same?

LEAs are still required to have an expulsion policy consistent with the required State law to be eligible to receive ESEA funds. LEAs must have a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm to a school under the control and supervision of an LEA. In accordance with the GFSA, no ESEA funds may be made available to an LEA unless that LEA has the required referral policy.

The GFSA still must be construed in a manner consistent with the Individuals with Disabilities Education Act (IDEA). By using the case-by-case exception, LEAs will be able to discipline students with disabilities in accordance with the requirements of Part B of the IDEA and Section 504 of the Rehabilitation Act (Section 504) and maintain eligibility for Federal financial assistance. The Department has issued separate, more detailed guidance on discipline of students with disabilities, which includes clarification on the implementation of the

GFSAs consistent with IDEA and Section 504. More information can be found at [www.ed.gov/offices/OSERS/Policy/IDEA/Discipline\\_qa.doc](http://www.ed.gov/offices/OSERS/Policy/IDEA/Discipline_qa.doc)

B. What changed?

Under the NCLB, certain statutory provisions were clarified to ensure that States and LEAs comply fully with the intent of the GFSAs. Clarifications to the GFSAs include:

- (1) That the existing one-year expulsion requirement in each State's law include students who are determined to have possessed a firearm at school;
- (2) A requirement that the chief administering officer of the LEA develop a written record of any case-by-case modifications of the one-year expulsion requirement;
- (3) That the GFSAs do not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency (LEA), so long as the LEA adopts appropriate safeguards to ensure student safety.

Although States are not required to revise their State laws as a result of these clarifications, a State or LEA may consider implementing or revising its policies to address the revised GFSAs requirements.

The Department has prepared the following questions and answers to assist States, State educational agencies (SEAs), and LEAs in implementing the GFSAs requirements. Please note that most of the questions and answers have been revised as a result of the reauthorized GFSAs.

IV. Questions and Answers

Q1. What entities do the provisions of the GFSAs affect?

A1. Each State, as well as its SEA and LEAs, has responsibilities under the GFSAs.

Q2. Are private schools subject to the requirements of the GFSAs?

A2. Private schools are not subject to the provisions of the GFSAs, but private school students who participate in LEA programs or activities are subject to the one-year expulsion requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who participates in a Federal program, such as Title I, is subject to a one-year expulsion, from participating in any Federal program funded under the

- ESEA, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school or possesses a weapon at school.
- Q3. Is compliance with the requirements of the GFSA a condition for the receipt of Federal financial assistance under the ESEA?
- A3. Yes, compliance with the requirements of the GFSA is a condition for the receipt of funds made available to the State under the ESEA (and also under Title VII of the McKinney-Vento Homeless Assistance Act).
- Q4. Will failure to comply with the requirements of the GFSA result in the termination or withholding of funds made available to the State under the ESEA?
- A4. Under the provisions of the General Education Provisions Act, failure to comply with the requirements of the GFSA could result in the withholding of funds made available to the State under the ESEA (and under Title VII of the McKinney-Vento Homeless Assistance Act).
- Q5. Does the GFSA's one-year expulsion requirement preclude any due process proceedings?
- A5. No. Students facing expulsion from school are entitled under the U.S. Constitution and most State constitutions to the due process protection of notice and an opportunity to be heard. If, after due process has been accorded, a student is found to have brought a firearm to school, or to have possessed a firearm at school, the GFSA requires an expulsion for a period of not less than one year (subject to the case-by-case exception discussed below).
- Q6. What does the GFSA require of States?
- A6. The GFSA requires that each State receiving Federal funds under the ESEA: (1) have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a firearm to school, or to have possessed a firearm at school; (2) have in effect a State law allowing an LEA's chief administering officer to modify the expulsion requirement on a case-by-case basis, if such modification is in writing; and (3) report to the Secretary on an annual basis concerning information submitted by LEAs to the SEA. SEAs must also ensure that no ESEA funds are made available to an LEA that does not have a referral policy consistent with Section 4141(h) of the GFSA. Details on these requirements follow.

### One-Year Expulsion Requirement

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a firearm to school, or possesses a firearm at school, must be expelled for not less than one year.

### Case-By-Case Exception

Each State's law must allow the chief administering officer of an LEA to modify the one- year expulsion requirement on a case-by-case basis, but only if the modification is in writing. For children with disabilities, the provisions of IDEA apply. The GFSA must be construed in a manner consistent with IDEA.

### Annual Reporting

Each State must report annually on LEA compliance with the one-year expulsion requirement, and on the circumstances surrounding any expulsions imposed under the State law, including the number of students expelled in each LEA and the types of firearms involved.

Q7. What does the GFSA require of LEAs?

A7. The GFSA requires that LEAs (1) comply with the State law requiring the one-year expulsion; (2) provide an assurance of compliance to the SEA; (3) provide descriptive information to the SEA concerning the circumstances surrounding any LEAs' expulsions; and (4) adopt a referral policy for students who bring a firearm to school or possess a firearm at school. Details follow.

#### **I. One-Year Expulsion Requirement**

LEAs must comply with the State law requiring a one-year expulsion; that is, subject to the case-by-case exception, and for children with disabilities, the requirements of IDEA, any student who brings a firearm to school, or possesses a firearm at school, must be expelled for not less than one year. A case-by-case exception must be in writing and may include children with disabilities in order to meet the requirements of IDEA.

### LEA Assurance

An LEA must include in its application to the SEA for ESEA assistance an assurance that the LEA is in compliance with the State law requiring the one-year expulsion.

### Descriptive Report to SEA

An LEA must include in its application for ESEA assistance a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of firearms concerned.

### Referral Policy

LEAs must also implement a policy requiring referral to the criminal justice  
or  
juvenile delinquency system of any student who brings a firearm to school  
or possesses a firearm at school.

- Q8. In annual compliance reports, must LEAs and SEAs include information about an infraction under the GFSA even if the case-by-case modification provisions are used and no penalty is imposed?
- A8. Information about any incidents covered by the GFSA must be included in annual reports furnished by LEAs and SEAs. Each incident in which a student is found to have brought a firearm (meeting the definition at 18 U.S.C. 921) to school, or to have possessed a firearm at school, must be reported as an infraction, even if the chief administering officer elects to shorten the expulsion or impose no penalty. Any incidents in which a student covered by the provisions of the IDEA brings a firearm to school must also be included, even if it is determined that the incident is a manifestation of the student's disability and that the GFSA penalties should be modified or not imposed. Modifications of the one-year expulsion requirement must also be reported.
- Q9. When must an LEA submit the required assurance?

A9. In its application to the SEA for ESEA funds, the LEA must include an assurance that the LEA is in compliance with the State law. The assurance must be included each time the LEA files such an application.

Q10. What is the role of the SEA in determining whether an LEA is in compliance with the GFSA?

A10. The GFSA requires States to report to the Secretary on an annual basis concerning LEA compliance. Therefore, before awarding any ESEA funds to an LEA, the SEA must ensure that the LEA has: (1) implemented a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm to school; and (2) included in its application for ESEA funds the assurance and other information required by the GFSA. SEAs must ensure that the LEA application contains:

- (1) an assurance that the LEA is in compliance with the State law requiring the one-year expulsion; and
- (2) a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:
  - (A) the name of the school concerned;
  - (B) the number of students expelled from the school; and
  - (C) the type of firearms concerned.

Q11. Who is an LEA's "chief administering officer"?

A11. The GFSA allows only the LEA's chief administering officer to modify the one-year expulsion requirement on a case-by-case basis. However, the term "chief administering officer" is not defined by the GFSA. Each LEA should determine, using its own legal framework, which officer or authority (e.g., Superintendent, Board, etc.) is the chief administering officer under the GFSA and has the power to modify the expulsion requirement.

Q12. May any individual or entity other than the LEA's "chief administering officer" modify the one-year expulsion requirement on a case-by-case basis?

A12. No. While, the chief administering officer may allow another individual or entity to carry out preliminary information-gathering functions and prepare a recommendation for the chief administering officer, the chief administering officer retains the responsibility for the final decision.

Q13. What procedural requirements must the LEA's chief administering officer follow in modifying the one-year expulsion requirement?

A13. Modifications of the one-year expulsion requirement must be issued in writing by the chief administering officer.

Q14. Is it permissible for an LEA to use the case-by-case exception to avoid compliance with the one-year expulsion requirement?

A14. No, this exception may not be used to avoid over-all compliance with the one-year expulsion requirement.

Q15. How is the term "firearm" defined?

A15. For the purposes of the GFSA, the term "firearm" is defined in Section 921(a) of Title 18 of the United States Code.

According to Section 921(a), the following are included within the definition:

--any weapon (including a starter gun) that will be, or is designed to or may readily be, converted to expel a projectile by the action of an explosive

--the frame or receiver of any weapon described above

--any firearm muffler or firearm silencer

--any destructive device, which includes:

(a) any explosive, incendiary, or poison gas, including a

- (1) bomb,
- (2) grenade,
- (3) rocket having a propellant charge of more than four ounces,
- (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
- (5) mine, or
- (6) similar device

(b) any weapon that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter

(c) any combination or parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

According to Section 921, antique firearms are not included in the definition. In addition, we have been advised by the Bureau of Alcohol, Tobacco, and Firearms that Class-C common fireworks are not included in the definition of firearm. For additional information about whether a particular weapon is a "firearm" under this definition, contact the Safe and Drug-Free Schools Program at (202) 260- 3954 for a referral to the nearest Bureau of Alcohol, Tobacco, and Firearms field office.

Q16. Does the GFSA preclude classes such as hunting safety or military education, or activities such as before- or after-school hunting, or rifle clubs, that may involve the handling or use of weapons?

A16. No. The statute specifically states that the requirements of the GFSA do not apply to a firearm lawfully stored inside a locked vehicle on school property, or to activities approved and authorized by an LEA, provided that the LEA has adopted appropriate safeguards to ensure student safety.

The Secretary interprets the GFSA not to forbid school districts from allowing firearms at school when students intend to use firearms solely for before- or after-school hunting purposes, provided the school district's determination to permit firearms is made and disseminated in advance, as part of LEA policy, and is consistent with the intent and purposes of the GFSA to prevent violence and create an environment conducive to learning. For example, if a local school district approves an extra-curricular program such as a rifle club, or allows students to bring firearms solely for before- or after-school hunting, the activities would not violate the GFSA if the school district:

- determines that the activity is consistent with the intent and purposes of the GFSA;
- provides notice as part of its GFSA policy that the activities are approved and authorized; and
- adopts appropriate safeguards to ensure student safety.

If any firearms are to be allowed for these limited purposes, local school districts are cautioned to consider all applicable local, State, and Federal laws pertaining to the possession of firearms. In particular, school districts should be aware that Federal and some State laws prohibiting juveniles from possessing handguns may be applicable. School districts that permit students to bring firearms to school for these limited purposes must adopt appropriate safeguards to ensure student safety, consistent with the purposes of the GFSA.

Q17. Are knives considered firearms under the GFSA?

A17. No, for the purposes of the GFSA, the definition of firearm does not include knives.

Q18. What is meant by the term "expulsion"?

A18. The term "expulsion" is not defined by the GFSA; however, at a minimum, expulsion means removal from the student's regular educational program. Expulsion does not mean merely moving a student from a regular program in one school to a regular program in another school. Care should be taken by local officials to ensure that a student who is determined to have brought a firearm to school, or to have possessed a firearm at school, is effectively removed from that setting.

Q19. Is a State, SEA, or LEA required to provide alternative educational services to students who have been expelled for bringing a firearm to school?

A19. The GFSA neither requires nor prohibits the provision of alternative educational services to students who have been expelled. Other Federal, State, or local laws may, however, require that students receive alternative educational services in certain circumstances.

Q20. What is an "alternative setting" for the provision of educational services to an expelled student?

A20. An alternative setting is one that is clearly distinguishable from the student's regular school placement. Alternative settings are typically established for students who have been removed from the regular school program.

Q21. Is Federal funding available to provide educational services in alternate settings?

A21. Yes, formula grants awarded under the Safe and Drug-Free Schools and Communities Act (SDFSCA) may be used for alternative educational services. However, SDFSCA funds may be used only to supplement, and not supplant, existing funds that support such activities. In addition, other Federal funds may be available for alternative educational services, consistent with each program's statutory and regulatory requirements.

Q22. Do the requirements of the GFSA conflict with requirements that apply to students with disabilities?

A22. No. Compliance with the GFSA may be achieved consistent with the requirements that apply to students with disabilities, so long as discipline

of those students is determined on a case-by-case basis in accordance with the IDEA and Section 504. The Department has issued separate, more detailed guidance on discipline of students with disabilities, which includes clarification on the implementation of the GFSA consistent with IDEA and Section 504

[www.ed.gov/offices/OSERS/Policy/IDEA/Discipline\\_qa.doc](http://www.ed.gov/offices/OSERS/Policy/IDEA/Discipline_qa.doc)

Q23. Is it permissible to expel a student for a school year rather than a year?

A23. No. The statute explicitly states that expulsion shall be for a period of not less than one year.

Q24. Does the expulsion requirement apply only to violations occurring in the school building?

A24. No. The one-year expulsion requirement applies to students who bring firearms to, or possess firearms at, any setting that is under the control and supervision of the LEA.

**DISCIPLINE, CRIME AND VIOLENCE  
(DCV) REPORTING INFORMATION**

## DISCIPLINE, CRIME AND VIOLENCE REPORTING INFORMATION

The Discipline, Crime, and Violence (DCV) report is required by Virginia Code (§22.1-279.3:1) which states that school divisions statewide must submit data annually to the Virginia Department of Education (VDOE) on incidents of discipline, crime, and violence. Virginia uses incident-based reporting consistent with federal standards. The reporting process employs a set of offense definitions and a system of offense codes that are consistent with recommendations of the National Center for Education Statistics and the Nation Forum on Education Statistics. "Incidents" range from criminal acts that result in law enforcement action to minor acts of misbehavior. A single incident may involve multiple students and could result in multiple disciplinary actions. A single incident may also involve more than one offense. The reporting process is by definition a self-reporting system. The data collected is also utilized by the Safe Schools Information Resource System. Thus the DCV data has multiple uses to enable a safe, disciplined and drug-free learning environment.

The following information can be found on the Virginia Department of Education Web site at:

<http://www.doe.virginia.gov/VDOE/Publications/Discipline/datacoll/2006-2007/06coll.html>

- [Comprehensive User Guide 2006-07](#)
- Addendum to Comprehensive DCV User's Guide Reporting Data for Regional Centers or Programs (effective January 19, 2007)
- [Addendum to Comprehensive DCV User's Guide Reporting Data on In-School Suspension of Students with Disabilities \(effective January 1, 2007\)](#)
- [New Offense Codes for 2006-2007 School Year](#)
- [Sample Discipline Data Form](#)