ESTADO LIBRE ASOCIADO DE PUERTO RICO
DEPARTAMENTO DE EDUCACION
OFICINA DE ASUNTOS FEDERALES

TÍTULO IX - DISPOSICIONES GENERALES APLICABLES A LOS PROGRAMAS DE ESEA

DEFINICIONES SECCIÓN 9101

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TITLE IX—GENERAL PROVISIONS

SEC. 901. GENERAL PROVISIONS.

Title IX (20 U.S.C. 7801 et seq.) is amended to read as follows:

"TITLE IX—GENERAL PROVISIONS

"PART A—DEFINITIONS

"SEC. 9101. DEFINITIONS.

"Except as otherwise provided, in this Act:

"(1) AVERAGE DAILY ATTENDANCE.—

"(A) IN GENERAL.—Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during that year.

"(B) CONVERSION.—The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

"(C) SPECIAL RULE.—If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located

in another school district, the Secretary shall, for the purpose of this Act—

"(i) consider the child to be in attendance at a school of the agency making the payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

"(D) CHILDREN WITH DISABILITIES.—If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act, the Secretary shall, for the purpose of this Act, consider the child to be in attendance at a school of the agency making the payment.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for the operation of those agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

"(3) BEGINNING TEACHER.—The term 'beginning teacher' means a teacher in a public school who has been teaching less than a total of three complete school years.

"(4) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

"(5) CHILD WITH A DISABILITY.—The term 'child with a disability' has the same meaning given that term in section 602 of the Individuals with Disabilities Education Act.

"(6) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(7) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 9305.

"(8) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 9305.

"(9) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 9302.

"(10) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 9302.

"(11) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

"(12) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(13) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;
"(B) subpart 3 of part B of title I;
"(C) part C of title I;
"(D) part D of title I;
"(E) part F of title I;
"(F) part A of title II;
"(G) part D of title II;
"(H) part A of title III;
"(I) part A of title IV;
"(J) part B of title IV;
"(K) part A of title V; and
"(L) subpart 2 of part B of title VI.

"(14) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and part A of title V.

"(15) DEPARTMENT.—The term 'Department' means the Department of Education.

"(16) DISTANCE LEARNING.—The term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

"(17) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(18) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

"(19) EXEMPLARY TEACHER.—The term 'exemplary teacher' means a teacher who—

"(A) is a highly qualified teacher such as a master teacher;

"(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

"(C) is recommended to be an exemplary teacher by administrators and other teachers who are knowledgeable about the individual's performance;

"(D) is currently teaching and based in a public school; and

"(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs teacher mentoring, develops curricula, and offers other professional development.

"(20) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

"(C) Parent literacy training that leads to economic self-sufficiency.

"(D) An age-appropriate education to prepare children for success in school and life experiences.

"(21) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

"(22) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

"(23) HIGHLY QUALIFIED.—The term 'highly qualified'—

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

"(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and

"(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

"(B) when used with respect to—

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

"(I) holds at least a bachelor's degree; and

"(II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills

in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

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

"(I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

"(II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

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

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

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

"(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

"(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

"(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

"(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

"(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;

"(VI) is made available to the public upon request; and

"(VII) may involve multiple, objective measures of teacher competency.

"(24) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965.

"(25) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient', when used with respect to an individual, means an individual—

"(A) who is aged 3 through 21;

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

"(C)(i) who was not born in the United States or whose native language is a language other than English;

"(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

"(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

"(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

"(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

"(i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);

"(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

"(iii) the opportunity to participate fully in society.

"(26) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

"(B) ADMINISTRATIVE CONTROL AND DIRECTION.—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

"(C) BIA SCHOOLS.—The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(D) EDUCATIONAL SERVICE AGENCIES.—The term includes educational service agencies and consortia of those agencies.

"(E) STATE EDUCATIONAL AGENCY.—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

"(27) MENTORING.—The term 'mentoring', except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

"(28) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' have the same meaning given those terms in section 103 of the Native American Languages Act of 1990.

"(29) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(30) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121(b) and any other discretionary grant program under this Act, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau until an agreement for the extension of United States education assistance under the Compact of Free Association for each of the freely associated states becomes effective after the date of enactment of the No Child Left Behind Act of 2001.

"(31) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

"(32) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

"(A) that parents play an integral role in assisting their child's learning;

"(B) that parents are encouraged to be actively involved in their child's education at school;

"(C) that parents are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child;

"(D) the carrying out of other activities, such as those described in section 1118.

"(33) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

"(34) PROFESSIONAL DEVELOPMENT.—The term 'professional development'—

"(A) includes activities that—

"(i) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;

"(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

"(iii) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;

"(iv) improve classroom management skills;

"(v)(I) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and

"(II) are not 1-day or short-term workshops or conferences;

"(vi) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;

"(vii) advance teacher understanding of effective instructional strategies that are—

"(I) based on scientifically based research (except that this subclause shall not apply to activities carried out under part D of title II); and

"(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and

"(viii) are aligned with and directly related to—

"(I) State academic content standards, student academic achievement standards, and assessments; and

"(II) the curricula and programs tied to the standards described in subclause (I) except that this subclause shall not apply to activities described in clauses (ii) and (iii) of section 2123(3)(B);

"(ix) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this Act;

"(x) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

"(xi) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;

"(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

"(xiii) provide instruction in methods of teaching children with special needs;

"(xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and

"(xv) include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and

"(B) may include activities that—

"(i) involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

"(iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

"(35) PUBLIC TELECOMMUNICATIONS ENTITY.—The term 'public telecommunications entity' has the meaning given that term in section 397(12) of the Communications Act of 1934.

"(36) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—

"(A) PUPIL SERVICES PERSONNEL.—The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) PUPIL SERVICES.—The term 'pupil services' means the services provided by pupil services personnel.

"(37) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research'—

"(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

"(B) includes research that—

"(i) employs systematic, empirical methods that draw on observation or experiment;

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

"(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

"(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

"(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

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

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

"(39) SECRETARY.—The term 'Secretary' means the Secretary of Education.

STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(41) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

"(42) TEACHER MENTORING.—The term 'teacher mentoring' means activities that—

"(A) consist of structured guidance and regular and ongoing support for teachers, especially beginning teachers, that—

"(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

part of an ongoing developmental induction process—

"(I) involve the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

"(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

"(B) may include the establishment of a partnership by a local educational agency with an institution of higher

education, another local educational agency, a teacher organization, or another organization.

"(43) TECHNOLOGY.—The term 'technology' means state-of-the-art technology products and services.

"SEC. 9102. APPLICABILITY OF TITLE.

"Parts B, C, D, and E of this title do not apply to title VIII of this Act.

"SEC. 9103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

"For the purpose of any competitive program under this Act—

"(1) a consortium of schools operated by the Bureau of Indian Affairs;

"(2) a school operated under a contract or grant with the Bureau of Indian Affairs in consortium with another contract or grant school or a tribal or community organization; or

"(3) a Bureau of Indian Affairs school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 9201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

"(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2) if the State educational agency can demonstrate that the majority of its resources are derived from non-Federal sources.

"(2) APPLICABILITY.—This section applies to any program under this Act under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a), such as—

"(A) the coordination of those programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices;

"(E) technical assistance under any program under this Act;