



UNITED STATES DEPARTMENT OF EDUCATION

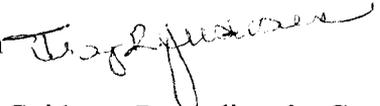
OFFICE OF VOCATIONAL AND ADULT EDUCATION

THE ASSISTANT SECRETARY

MAY 17 2007

**PROGRAM MEMORANDUM**

**TO:** State Directors of Career and Technical Education

**FROM:** Troy R. Justesen 

**SUBJECT:** Non-Regulatory Guidance Regarding the Consolidation of Title II Tech Prep Funds into Title I Basic Grant Funds

Section 202(b) of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV or Act) permits an eligible agency, upon appropriate notification to the Secretary, to consolidate all or a portion of its available Title II tech prep funds with its Title I basic grant funds to carry out the activities described in the State plan submitted under section 122 of the Act.

In addition, section 202(c) of Perkins IV notes that any Title II funds consolidated with Title I shall be distributed in accordance with section 112 of the Act.

Many questions arise with respect to the mechanics of an eligible agency consolidating Title II funds with its Title I allocation. Below are responses to questions on the consolidation process.

**1. Must an eligible agency consolidate any Title II funds with its Title I allocation?**

No. The eligible agency may retain all or any portion of its Title II allocation to operate tech prep programs through its tech prep consortia. If it does so, a State and all funded tech prep consortia that receive Title II funds must meet all legal requirements applicable to Title II funds under Perkins IV, including the performance requirements outlined in section 203(e) of the Act and administrative requirements, such as requirements for accounting for the funds that the State consolidates.

2. **May an eligible agency consolidate Title II funds with its Title I allocation one year, but choose not to consolidate its Title II funds the following grant year?**

Yes. An eligible agency may treat each new grant award as a new event in making the decision to consolidate or not consolidate Title II funds with its Title I allocation, but each time it elects to consolidate a State must meet the notification and State plan requirements described in section 202 of the Act.

3. **May an eligible agency choose not to consolidate Title II funds in the first year of fund availability, but choose to consolidate any Title II carryover funds in the second year of fund availability?**

Yes. A State may consolidate Title II funds that it carries over and treat the consolidated Title II funds as Title I funds in the second year of fund availability, subject to the requirements of sections 112 and 202 of the Act, as discussed above. In this case, the Title II carryover funds consolidated with Title I funds and reserved for distribution to eligible recipients under section 112(a)(1) would be subject to the fund distribution requirements of sections 131, 132, 133, and section 112(c) of the Act, as applicable. Please note that consolidating carryover funds does not change the period of availability for those funds.

4. **If an eligible agency consolidates all of its Title II funds with its Title I funds, must the Title II funds be split along the 85%/10%/5% breakouts required by section 112 of the Act?**

Yes. Once an eligible agency consolidates Title II funds with Title I funds, a State would have to satisfy the requirement for within-State allocations in section 112 with respect to all funds that it uses under Title I. Eligible agencies, however, have a great deal of flexibility in the application of the percentage breakouts in section 112. Section 112(a)(1) of the Act requires that “not less than 85 percent” must be made available for eligible recipients. Section 112(a)(2) of the Act provides that “not more than 10 percent” can be used for State leadership activities. State plan administration discussed in section 112(a)(3) of the Act has a 5 percent cap (or \$250,000, whichever is greater). For both State leadership and State plan administration, an eligible agency can expend lower percentages than permitted by these caps. If an eligible agency decides to make available less than the maximum levels allowed for either or both State leadership and State administration, the State must add any un earmarked funds to the funds made available to eligible recipients, thereby increasing the 85 percent.

Additionally, making less than the maximum funds allowed available for State plan administration, a State could avoid having to increase the amount of State funds needed under section 112(b) to match the Federal funds used for State plan administration in the current year or under section 323(a) to maintain the higher level of State expenditures in future years.

5. **If an eligible agency consolidates its Title II funds into Title I funds, what may the eligible agency expend funds for?**

Once a State distributes Title II funds that are consolidated with Title I funds to an eligible recipient, the eligible recipient must expend these funds only for the required or permissive purposes authorized in section 135 of the Act consistent with all other applicable programmatic and administrative requirements. While section 135 of the Act authorizes many of the activities that a tech prep consortium could fund under section 203(c) of the Act, the use of funds consolidated with Title I is controlled by section 135, not Title II.

Furthermore, the types of activities that could be funded under Title I and Title II of Perkins IV are affected by the new definition of “career and technical education” (CTE) in Perkins IV. Section 3(5) of the Act defines CTE to include “prerequisite courses (other than a remedial course)” that meet the other requirements of the CTE definition, e.g., that provide technical skill proficiency. We are considering whether further guidance is needed to clarify the specific activities that would be allowable under either Title I or Title II in view of the effect of the definition of “CTE” generally on the allowability of costs.

6. **May an eligible agency use its section 112(c) reserve for funding elements of a tech prep program?**

Funds reserved under section 112(c) of the Act must be expended for allowable activities described in section 135 of Perkins IV. The eligible agency may permit expenditures for tech prep activities by the eligible recipient to the extent that those activities are allowable under section 135 of the Act.

7. **Are consolidated Title II funds subject to the performance indicators in sections 113 and 203(e) of the Act?**

Consolidated Title II funds are treated as Title I funds. Therefore, the consolidated Title II funds are subject to the performance requirements of sections 113 and 123 of the Act. However, consolidated Title II funds are not subject to the performance indicators found in section 203(e) of the Act.