UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF VOCATIONAL AND ADULT EDUCATION

MAY 28 2009

NON-REGULATORY GUIDANCE

TO: State Directors of Career and Technical Education

FROM: Dennis Berry
Acting Assistant Secretary

SUBJECT: Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 3.0

The Office of Vocational and Adult Education (OVAE) issues this guidance to provide States with further information to implement the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV or the Act). The information included in this guidance document addresses the questions submitted to our office by State career and technical education directors and staff since the second round of questions and answers was published in June 2007.

The purpose of this guidance is to provide information on career and technical education programs funded under Perkins IV. The guidance provides the U.S. Department of Education's (the Department's) interpretation of various statutory provisions and does not impose any requirements beyond those included in Perkins IV and other applicable laws and regulations. In addition, it does not create or confer any rights for or on any person.

The Department will provide additional or updated program guidance as necessary. If you are interested in commenting on this guidance, please send your comments to OVAEGuidance@ed.gov.

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A. STATE PLANS

Note: *All questions received to date pertaining to new Perkins IV State Plans (Questions A.1-A.11) were answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 1.0," which was issued on January 9, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html*

B. ACCOUNTABILITY

Note: *Questions B.1-B.28 pertaining to Perkins IV accountability provisions were answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 1.0," which was issued on January 9, 2007. Questions B.29-B.32 pertaining to Perkins IV accountability provisions were answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 2.0," which was issued on June 7, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html.*

Improvement Plans

B.33 Must a State develop and implement an improvement plan?

Section 123(a)(1) of Perkins IV requires any State that fails to meet at least 90 percent of a State adjusted performance level (90 percent threshold) for any of the core indicators of performance to develop and implement a program improvement plan for each indicator for which the State failed to meet the 90 percent threshold.

B.34 When must a State implement its improvement plan for any core indicator of performance for which the State failed to meet the 90 percent threshold?

A State must implement its improvement plan in the first program year following the program year for which the State failed to meet the 90 percent threshold for one or more of the State adjusted levels of performance. For example, if the State failed to meet the 90 percent threshold for one or more of its adjusted levels of performance on a core indicator of performance for program year one (July 1, 2007, through June 30, 2008), the State must develop and implement an improvement plan in program year two (July 1, 2008, through June 30, 2009).

B.35 How and when must a State submit to the Secretary its improvement plan for the core indicators of performance for which the State failed to meet the 90 percent threshold?

A State must submit its improvement plan as part of the State's narrative report in the State's *Consolidated Annual Report for the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) for the State Basic Grant (Title I)* --

CFDA 084.048A and Tech Prep Grant (Title II) – CFDA 84.243A, OMB NO: 1830-0569 (CAR). A State must submit its improvement plan to the Secretary by December 31 following the program year for which the State failed to meet the 90 percent threshold for one or more of the State adjusted levels of performance. For example, if the State failed to meet one or more of its adjusted levels of performance for the program year beginning July 1, 2007, through June 30, 2008, the State must submit an improvement plan to the Secretary by December 31, 2008.

B.36 What elements must the improvement plan contain?

A State's improvement plan must, at a minimum, include the following items:

- The core indicator(s) of performance for which the State failed to meet the 90 percent threshold.
- The categories of students for which there were quantifiable disparities or gaps in performance compared to all students or any other category of students.
- The action steps which will be implemented, beginning in the current program year, to improve the State's performance on the core indicator(s) of performance and for the categories of students for which disparities or gaps in performance were identified.
- The staff member(s) in the State who are responsible for each action step.
- The timeline for completing each action step. See instructions in the *CAR (OMB No: 1830-0569).*

B.37 Who must a State consult during the development and implementation of the State's program improvement plan?

Section 123(a)(1) of Perkins IV requires the State to develop and implement its improvement plan in consultation with appropriate agencies, individuals, and organizations. The Department believes that, generally, section 123(a)(1) requires a State to consult with those agencies, individuals, and organizations that were impacted by the State's failure to meet a State adjusted level of performance and to work with these groups in implementing its plan to improve student performance.

B.38 What is the Secretary's timeline for reviewing and approving the State's improvement plan?

The Secretary will approve a State's improvement plan and incorporate the plan into the State's July 1 grant award for the subsequent program year after the State makes any revisions to the plan that the Secretary finds necessary. For example, if a State fails to meet the 90 percent threshold for one or more of its performance levels for program year one (July 1, 2007, through June 30, 2008) and submits its improvement plan in its December 31, 2008, *CAR* report, the Secretary would

approve the State's improvement plan and incorporate the plan into the State's July 1, 2009, Perkins grant award notification after the State makes any necessary revisions to the plan.

B.39 Should the State delay the implementation of its improvement plan until the Secretary approves the plan?

No. Section 123 of Perkins IV requires a State to implement its improvement plan no later than the first program year following the program year for which the State failed to meet the 90 percent threshold for one or more of the State adjusted levels of performance. Further, for the State to have as much time as possible for its improvement activities to improve its performance, the Secretary strongly recommends that the State begin its improvement activities as soon as it determines that it has failed to meet at least 90 percent of its level of performance for any core indicator. A State must implement any revisions that the Secretary determines are needed to the State's plan upon notification that the Secretary has approved the State's revised improvement plan.

Performance Level Negotiations

B.40 What factors do the Secretary and a State consider when negotiating the State's adjusted levels of performance for the State's core indicators of performance?

Section 113(b)(3)(A)(vi) of Perkins IV requires that, when reaching agreement on the State's adjusted levels of performance for its core indicators of performance, the Secretary and a State take into account the following factors:

- How the proposed levels of performance compare with the State adjusted levels of performance established for other States, taking into account the characteristics of participants, when the participants entered the program and the services or instruction to be provided.
- The extent to which the State adjusted levels of performance promote continuous improvement on the core indicators of performance.

Congress clearly expects that the Secretary would not impose a minimum or arbitrary across-the-board increase in any State performance targets as the means for ensuring continuous improvement. Instead, the Secretary will also consider, for example, the State's performance compared to the State's prior performance, its improvement plans, changes in baseline data, measurement methods used by the State that may have affected performance levels, and the number of students served. See H.R. Conf. Rep. No. 109-597, 2006, #101, p. 89.

B.41 May a State request a revision to one or more of its adjusted levels of performance and, if so, under what conditions?

Yes. A State may request that the Secretary revise one or more of its agreed-upon adjusted levels of performance if an unanticipated circumstance arises in the State that results in a significant change in the factors that the Secretary and the State considered at the time they negotiated the State's adjusted levels of performance. See section 113(b)(3)(A)(vii) of Perkins IV.

B.42 What would be an unanticipated circumstance?

The Secretary will consider requests to revise a State's adjusted levels of performance on a case-by-case basis, but unanticipated circumstances may include, for example:

- Methodological changes in the way the State collects data, such as State-mandated changes in data-gathering methodologies, or changes in measures of academic achievement;
- Significant shifts in population;
- Economic changes such as spiraling unemployment rates; or
- Natural disasters that close programs for significant periods of time.

B.43 What is the timeframe for a State to request a revision?

If an unanticipated circumstance affects a State's performance for an indicator of performance for the current program year, a State may request a revision of the State adjusted level of performance at any time prior to the end of the program year. If such a circumstance would affect a State's adjusted level of performance for a subsequent program year, a State should request the revision at least 60 days prior to the end of the current program year or as soon as it becomes aware of the effect of the unanticipated circumstance.

B.44 What procedures should the State follow when submitting a request to the Secretary to revise one or more agreed-upon State adjusted levels of performance for its core indicators of performance?

A State seeking to revise a State adjusted level of performance must submit the same form and follow the same procedures that it used in negotiating the performance levels at issue. Thus, a State must submit a revised Final Agreed Upon Performance Levels Form (FAUPL), as required by the Perkins IV Guide for the Submission of State Plans (OMB Control No. 1830-0029), on which the State would include its proposed revised level of performance and the information that supports its request for a revision in lieu of the baseline data that the State originally submitted, for example:

- A description of the nature of the problem or unanticipated circumstance, including a description of when the unanticipated circumstance occurred and its duration or expected duration.
- How the unanticipated circumstance would affect the particular indicator of performance for which the State is requesting a revised adjusted level of performance.
- The proposed revised State adjusted level of performance and program year or years affected by the request.
- Evidence of the change in the factors described in section 113(b)(3)(A)(vi) of Perkins IV that includes a forecast of the impact the unanticipated circumstance will have on the State adjusted level of performance.
- Description of the approach or approaches the State used to determine the revised level of performance.
- The State's computations for the proposed revised level of performance.

B.45 What actions will the Secretary take once a State has provided a proposed revised FAUPL with its proposed revised level of performance and any information or documentation to support its request?

The Secretary and the State will negotiate to reach agreement on whether an unanticipated circumstance would affect a level of performance taking into account the information provided in the State's request and the factors that the State considered at the time it negotiated its adjusted levels of performance, with the Secretary. A revised State adjusted level of performance would take effect on the date an agreement is reached between the Secretary and the State.

C. DEFINITIONS

Note: *All questions pertaining to Perkins IV definitions (C.1-C.2) were answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 2.0," which was issued on June 7, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html.*

D. FISCAL CONSIDERATIONS

Note: *Questions pertaining to Perkins IV fiscal considerations (D.1-D.14) were answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 1.0," which was issued on January 9, 2007. The Department also issued a document entitled "Non-regulatory Guidance Regarding the Consolidation of Title II Tech Prep Funds into Title I Basic Grant Funds" on May 17, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html.*

Small State Set-Asides

D.15 What options are available for a small State that chooses to make more than 5 percent available for State administration consistent with section 112(a)(3) of Perkins IV?

Section 112(a)(3) of Perkins IV authorizes an eligible agency to make available for the administration of the State plan "an amount equal to not more than 5 percent, or $250,000, whichever is greater" of the State's allocation under section 111 of Perkins IV (Title I). Section 112(a)(2) of Perkins IV authorizes the eligible agency to make available for State leadership activities "not more than 10 percent" of the State's allocation. Section 112(a)(1) requires the State to make available "not less than 85 percent" of the State allocation for distribution to eligible recipients under sections 131 and 132 of Perkins IV.

The $250,000 maximum amount permitted for State administration exceeds 5 percent of some States' Title I allocations. Those States may make available up to the full $250,000 for State administration. The Department's long-standing interpretation is that such a State has two options in this circumstance. The State may:

- Subtract the amount necessary to reach the $250,000 permitted by section 112(a)(3) for State administration from funds made available for State leadership activities under section 112(a)(2); or
- Subtract the amount necessary to reach the $250,000 permitted by section 112(a)(3) for State administration on a proportionate basis from funds made available for State leadership activities under section 112(a)(2) and from funds distributed to eligible recipients under section 112(a)(1).

EXAMPLE: A State receives a Title I allocation of $4,000,000. Five percent of the allocation equals $200,000, which is $50,000 less than the maximum permissible amount that may be made available for State administration.

OPTION 1: The State subtracts $50,000 from the funds made available for State leadership for use for State administration, resulting in the following within-State allocations:

Distribution to eligible recipients: not less than 85% of State allocation (85% of 4,000,000)	$ 3,400,000
State leadership activities: not more than 10% of State allocation (10% of $4,000,000) minus $50,000	+ 350,000
State administration: up to 5% or $250,000, whichever is greater (5% of $4,000,000) plus $50,000	+ 250,000
	$4,000,000

OPTION 2: First, the State subtracts $250,000 from the State's $4,000,000 Title I allocation.

State allocation	$ 4,000,000
State administration: up to 5% or $250,000, whichever is greater	- 250,000
	$ 3,750,000

Second, the State determines the amount that would have been made available for State leadership activities and distribution to eligible recipients in the absence of a shortfall in the amount available for State administration:

Distribution to eligible recipients: not less than 85% of State allocation (85% of 4,000,000)	$ 3,400,000
State leadership activities: not more than 10% of State allocation (10% of $4,000,000)	+ 400,000
	$ 3,800,000

Third, the State converts each of these amounts into a percentage by dividing each amount by the sum of the amounts that would have been made available for each purpose in the absence of a shortfall in the amount available for State administration ($3,800,000):

Distribution to eligible recipients ($3,400,000/$3,800,000) x $3,750,000	$ 3,355,263
State leadership activities ($400,000/$3,800,000) x $3,750,000	+ 394,737
	$ 3,750,000

Pooling of Funds

D.16 May secondary and postsecondary recipients pool funds?

Yes. Section 135(c)(19) of Perkins IV permits any eligible recipient to pool a portion of the funds it receives under section 131 or 132 of Perkins IV with a portion of the same funds available to one or more eligible recipients for innovative initiatives, but does not require that the eligible recipients all be secondary-level or postsecondary-level agencies or institutions. This provision permits eligible recipients to combine funds for initiatives that may include improving the initial preparation and professional development of career and technical education teachers, faculty, administrators, and counselors; establishing, enhancing, or supporting systems for accountability data collection or reporting data; implementing career and technical programs of study; or implementing technical assessments.

D.17 If eligible recipients pool funds, which eligible recipient is responsible for the funds?

Each eligible recipient is responsible for any funds that it pools under section 135(c)(19) of Perkins IV and would be subject to the same Federal requirements with respect to the pooled funds as apply to its other subgrant funds. For example, financial management standards in EDGAR at 34 CFR 80.20 require that a subgrantee, such as an eligible recipient under Perkins IV, maintain records that adequately identify the source and application of funds provided for financially assisted activities and accounting records supported by source documentation, such as cancelled checks, paid bills, payrolls, time and attendance records, and contract and subgrant documents. See 34 CFR 80.20(b)(2) and (6), respectively. The Department strongly encourages the recipients that decide to pool funds to develop a written agreement that determines the amount of funds, the use of all pooled funds, and the accounting system that will be used to permit the identification of the costs paid for with the pooled funds.

Funding for Remedial Education

D.18 What is a remedial course?

Perkins IV does not define the term "remedial course," as it is used in the definition of "career and technical education." However, the Department would consider a course to be "remedial" if it were designed to provide instruction in reading, writing, and mathematics for students who have not acquired the basic academic skills necessary to succeed in general or in career and technical education courses.

D.19 May a State or an eligible recipient use Perkins funds for remedial classes?

No. The definition of "career and technical education" in section 3(5) of Perkins IV precludes the use of any Perkins IV funds for remedial classes.

Any course funded under Perkins IV must meet all parts of the definition of "career and technical education," including that the course provide "coherent and rigorous content aligned with challenging academic standards" and "technical skill proficiency," as required by section 3(5)(A)(i) and (ii) of Perkins IV, respectively. A remedial course would not meet the requirements to provide "rigorous content" or "technical skill proficiency."

Further, the definition of "career and technical education" in section 3(5) of Perkins IV specifically excludes prerequisite courses that are remedial. Section 3(5)(A)(iii) of Perkins IV defines "career and technical education" in part as "organized educational activities that offer a sequence of courses that may include prerequisite courses (other than a remedial course)."

D.20 May a State or an eligible recipient use Perkins funds for remedial services that are part of a career and technical education class or program?

Yes. Section 135(c)(6) of Perkins IV allows eligible recipients to use funds "for mentoring and support services." Section 3(31) of Perkins IV defines "support services" to mean services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices. Thus, a State or an eligible recipient could not use Perkins IV funds to provide remedial "courses" but could fund "services" related to career and technical education programs in which students are enrolled even if these services such as tutoring provided by supportive personnel were remedial.

D.21 What other limitations does Perkins IV impose on a State's or an eligible recipient's use of Perkins funding for remedial services?

A State or an eligible recipient must use funds made available under Perkins IV for career and technical education activities that supplement, and not supplant, non-Federal funds expended to carry out career and technical education activities and tech prep program activities, as required by section 311(a) of Perkins IV. See also Question D.22 below.

Supplanting Prohibition

D.22 When would supplanting occur?

A presumption would arise that supplanting has occurred if a State or an eligible recipient used Perkins IV funds to provide services that the State or an eligible recipient (1) was required to make available under other Federal, State or local laws, except as permitted by section 324(c) of Perkins IV; (2) provided with non-Federal funds in the prior year; or (3) provided with non-Federal funds for non-career and technical education students but charged to Perkins IV funds for career and technical education students.

These presumptions are rebuttable if the State or eligible recipient can demonstrate that it would not have provided the services in question with non-Federal funds had the Perkins IV funds not been available.

Section 324(c) of Perkins IV provides that, notwithstanding the above requirements, a State or an eligible recipient may use funds available under Perkins IV to pay for the costs of career and technical education services required in an individualized education program (IEP) developed pursuant to section 614(d) of the Individuals with Disabilities Education Act (IDEA) and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to career and technical education.

Funding for Preparatory Services for Tech Prep Students

D.23 May a consortium use Perkins IV Title II Tech Prep funds for preparatory services?

Yes. Section 203(c)(7) of Perkins IV requires each tech prep program to provide for preparatory services that assist participants in tech prep programs. Therefore, Title II tech prep funds may be used for this purpose.

D.24 What is the definition of preparatory services?

The Department's long-standing interpretation is that the term "preparatory services" means services, programs, or activities designed to assist individuals who are not enrolled in career and technical education programs in the selection of, or preparation for participation in, an appropriate career and technical education training program. Preparatory services may include, but are not limited to (1) services, programs, or activities related to outreach to, or recruitment of, potential career and technical education students; (2) career counseling and personal counseling; (3) career and technical education assessment and testing; and (4) other appropriate services, programs, or activities. See 34 CFR 400.4(b), originally implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins II).

D.25 To which student populations must a consortium provide preparatory services?

It is the Department's long-standing position that Congress intended a consortium to provide preparatory services to all student populations. See 34 CFR 400.4(b) and 406.3(b)(6), originally implementing Perkins II, and Appendix A—Analysis of Comments and Changes at 57 FR 36722-36723, 36851 (August 14, 1992).

Funding for Career and Technical Student Organizations

D.26 May Perkins IV funds be used to support student transportation to, and lodging and meals at, technical skill competitions as part of national career and technical student organization (CTSO) conventions?

No, except in certain limited circumstances as described in the last paragraph of this answer. The Department's long-standing interpretation regarding the types of CTSO costs that may be paid from Federal grant funds is that Perkins funds used for the support of CTSOs may not be used for lodging, feeding, conveying, or furnishing transportation to conventions or other forms of social assemblage. See 34 CFR 403.71(c)(3), originally implementing Perkins II.

Perkins funds may be used for these types of direct assistance if the costs are (1) related to a CTSO that is an integral part of the curriculum, and (2) part of a larger program to serve special populations or nontraditional students, as discussed

below. See Appendix A—Analysis of Comments and Changes at 57 FR 36825-36826 (August 14, 1992). For example, in these limited circumstances as discussed further below, an eligible recipient could use Perkins IV funds for transportation to, and lodging and meals at, a technical skills competition at a national CTSO convention for students were are members of special populations.

Funding for Direct Assistance to Students

D.27 May a State or an eligible recipient use Perkins IV funds to provide direct assistance to students?

It is the long-standing interpretation of the Department that Congress intended to give States and eligible recipients the flexibility to use Perkins funds to provide direct assistance to special populations under certain, limited circumstances. A State or an eligible recipient, as appropriate, may use Perkins IV funds to provide direct assistance, including dependent care, tuition, transportation, books, and supplies, to individuals, if the following conditions are met:

- Recipients of the assistance are individuals who are members of special populations who are participating in career and technical education activities that are consistent with the goals and purposes of Perkins IV.
- Assistance is provided to an individual only to the extent that it is needed to address barriers to the individual's successful participation in career and technical education.
- Direct financial assistance to individuals is part of a broader, more general effort to address the needs of individuals who are members of special populations.
- Direct assistance is one element of a larger set of strategies designed to address the needs of special populations, including those preparing for non-traditional fields. Direct assistance to individuals who are members of special populations does not, by itself, constitute a "program for special populations" that meets the requirements of section 124(b)(8) or 135(c)(4) of Perkins IV, nor does direct assistance to individuals preparing for non-traditional fields, by itself, constitute training and employment activities in non-traditional fields under section 124(b)(5) or 135(c)(17) of Perkins IV.

Funds must supplement, and not supplant, assistance that is otherwise available from non-Federal sources. See Question D.22 above. For example, generally, an LEA could not use Perkins IV funds to provide transportation to a special populations student if non-Federal funds previously were made available for this purpose, or if non-Federal funds are used to provide transportation for special populations students participating in non-career and technical education programs and these services otherwise would have been available to career and technical education students in the absence of Perkins IV funds.

In determining how much of the funds available under section 124 or 135 of Perkins IV may be used for direct assistance, a State or an eligible recipient should consider whether the costs of the specific services (both on an item-by-item basis and in the aggregate compared to the amount of the entire grant or subgrant) are a reasonable and necessary cost of providing programs for special populations. This Department also would expect the amount of a Perkins IV grant or subgrant used for direct assistance to be very limited. Thus, the Department does not envision a circumstance in which it would be a reasonable and necessary expenditure of available funds under section 124 or 135 of Perkins IV for a State or an eligible recipient to utilize a substantial portion of such funds to provide direct assistance to special populations. The bulk of the funds should be used for program costs rather than direct assistance to individual students.

E. INCENTIVES AND SANCTIONS

Note: *Question E.1 pertaining to Perkins IV incentives and sanctions was answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 1.0," which was issued on January 9, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html.*

F. TECH PREP PROGRAMS

Note: *All questions pertaining to Perkins IV tech prep programs (Questions F.1-F.3) were answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 1.0," which was issued on January 9, 2007. The Department also issued non-regulatory guidance on fiscal matters regarding the consolidation of Title I and Title II grant funds, and the treatment of carryover funds from Perkins III to Perkins IV on May 17, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html.*

G. OCCUPATIONAL AND EMPLOYMENT INFORMATION (SECTION 118)

Note: *Question G.1 pertaining to Perkins IV occupational and employment information programs was answered in the non-regulatory guidance memo entitled "Questions and Answers Regarding the Implementation of Perkins IV - Version 1.0," which was issued on January 9, 2007. See OVAE's Web site at: http://www.ed.gov/about/offices/list/ovae/pi/memoperkinsiv.html.*

H. PARTICIPATION OF PRIVATE SCHOOL STUDENTS AND PERSONNEL

H.1 May an eligible recipient allow private school students to participate in its career and technical education programs and activities funded under Perkins IV?

Yes. Section 317(b)(1) of Perkins IV allows, but does not require, an eligible recipient, upon written request, to use its Perkins IV funds to provide for the meaningful participation of secondary students who reside in the geographical area served by the eligible recipient and who are enrolled in a nonprofit private school, except as prohibited by State or local law. An eligible recipient is not required to spend any specific amount of funds on services for private school students. However, the Department encourages recipients to provide services of reasonable scope and usefulness. An eligible recipient, as defined in section 3(14) of Perkins IV, includes, at the secondary level, an LEA (including a public charter school that operates as an LEA), an area career and technical education school, an educational service agency, or a consortium eligible to receive assistance under section 131 of Perkins IV.

H.2 Which private school students are eligible for career and technical education services?

Secondary school students who reside within the eligible recipient's geographical are and who are enrolled in nonprofit private schools, whether or not the private school is located in the eligible recipient's geographical area, are eligible to participate in career and technical education services. For example, secondary school students who reside in Arlington County and attend a private school in the District of Columbia (DC) would be eligible for career and technical education services offered by Arlington County. A representative of the private school in DC would submit a written request to the Arlington County Public Schools (APS) to provide for the students' participation in APS' career and technical education programs and activities.

H.3 What obligation does an eligible recipient have with respect to consulting with private school officials?

An eligible recipient must consult, upon written request, in a timely and meaningful manner, with representatives of nonprofit private schools in the geographical area served by the eligible recipient, regarding the meaningful participation of eligible private school students in its career and technical education programs funded under Perkins IV. See section 317(b)(2) of Perkins IV. An eligible recipient also may consult with private school officials in geographic areas not served by the eligible recipient (e.g., a neighboring LEA), as students who are eligible for career and technical education services might attend those schools.

H.4 What is a State's or eligible recipient's responsibility with respect to allowing private school teachers and other school personnel to participate in its career and technical education in-service or professional development programs?

Section 317(a) of Perkins IV requires that a State or an eligible recipient that uses Perkins IV funds for in-service and preservice career and technical education professional development programs for career and technical education teachers, administrators, and other personnel, *to the extent practicable*, and upon written request, permit private school teachers, administrators, and personnel to participate in such programs. Section 317(a) applies only to those personnel in private schools that offer career and technical secondary education programs and that are located in the geographical area served by the State or the eligible recipient. Section 317(a) does not require the State or the eligible recipient to expend Perkins funds for separate programs and activities for private school personnel.

H.5 Is there a deadline for private school representatives to submit a written request for consultation or services to the State or an eligible recipient?

Perkins IV does not establish a date or deadline for private school representatives to submit a written request for consultation or for services. Private school representatives are encouraged to contact the State or an eligible recipient as early as possible to allow ample time for the State or the eligible recipient to consider the request prior to planning its Perkins IV services and activities for the following school year. Private school representatives may want to contact the State or an eligible recipient to express their interest in career and technical education and obtain the information needed to make a written request for services or consultation. We encourage recipients to advise private school representatives to contact the LEA early so that the LEA may plan for services at the same time it is planning services for all students in the LEA.

H.6 What information should private school representatives include in requests to the State or an eligible recipient?

Perkins IV does not establish any requirements for the content of written requests from private school representatives to the State or an eligible recipient for career and technical education services or consultation. The Department recommends that private school representatives first contact the State or an eligible recipient to ascertain what information the State or eligible recipient may require in a written request. The Department suggests that a written request include, at a minimum, a statement regarding the services or consultation requested, the numbers and types of personnel or students to be served, the geographical area in which the students reside, and the private school's address and contact information.

H.7 What Perkins IV funds would the State or an eligible recipient use to fund programs and activities for private school personnel and students?

The State or an eligible recipient would use the same type of funds to provide programs and activities for private school personnel and students as it uses to provide the same services to public school students. A State, for example, would use its State leadership funds under section 124 of Perkins IV to provide the same training and professional development of private school career and technical education teachers, counselors, and administrators, as the State provides to public school career and technical education personnel. As a second example, an eligible recipient would use its funds under section 135 of Perkins IV to provide the same teacher training, in-service, and preservice activities for private school career and technical education personnel as the eligible recipient provides to its own public school career and technical education personnel.

I. ARTICULATION AGREEMENTS

I.1 To which programs does the new definition of "articulation agreement" in Perkins IV apply?

The definition of "articulation agreement" that is set forth in section 3(4) of Perkins IV applies to all programs under Perkins IV whether the programs are authorized by Title I (basic State grant) or Title II (tech prep). Title II does not include any definitions applicable only to tech prep programs, as the definitions in section 202 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), including the definition of "articulation agreement," were removed by the Perkins IV amendments.

I.2 Does the definition of the term "articulation agreement" under Perkins IV differ significantly from the Perkins III definition of this term?

Yes. The definition of the term "articulation agreement" in section 3(4) of Perkins IV is significantly different from the definition in section 202(a)(1) of Perkins III. The Perkins IV definition of "articulation agreement," like the Perkins III definition, requires a written commitment to a program that is designed to provide students with a non-duplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree. The Perkins IV definition further requires that this program be linked through credit transfer agreements between a secondary institution and a postsecondary educational institution, or a subbaccalaureate degree granting postsecondary educational institution and a baccalaureate degree granting postsecondary educational institution. See section 3(4) of Perkins IV. Further, the Perkins IV definition requires that an articulation agreement be (1) approved by the State or (2) approved annually by the lead administrators of a secondary institution and a postsecondary education institution, or a subbaccalaureate degree granting postsecondary education institution and a baccalaureate degree granting postsecondary education institution.

I.3 Does Perkins IV require an articulation agreement for a tech prep program funded under Title II of the Act?

Yes. Section 203(c)(1) of Perkins IV requires that a tech prep program be carried out under an articulation agreement between the participants in the consortium. Further, section 203(c)(3)(B)(ii) of Perkins IV requires that each tech prep program include the development of tech prep activities for secondary education and postsecondary education that link secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education, through the use of articulation agreements. The definition of "articulation agreement" in section 3(4) of Perkins IV, as discussed above, applies to tech prep programs funded under Title II.

I.4 May a tech prep program develop an articulation agreement with entities other than the educational agencies and institutions participating in the consortium?

Yes. Section 203(d)(3) of Perkins IV permits tech prep programs to establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

I.5 May a State and its subrecipients implement articulation agreements in programs funded under Title I of Perkins IV?

Yes. With its emphasis on programs of study, secondary and postsecondary linkages, and two-year and four-year postsecondary linkages, Title I requires or supports the use of articulation agreements in several ways. Section 122(c)(1)(C) of Perkins IV requires that the State's Plan include information that describes the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of how the eligible agency will support eligible recipients in developing and implementing articulation agreements between secondary education and postsecondary education institutions. This provision, thus, requires a State to indicate how it will support articulation agreements for career and technical education programs in addition to those required for tech prep programs by Title II.

Additionally, section 124 of Perkins IV permits a State to use its State leadership funds for articulation agreements. Section 124(c)(2) authorizes the State to establish agreements, including articulation agreements between secondary schools and postsecondary institutions, in order to provide postsecondary education and training opportunities for students participating in career and technical education programs. Additionally, section 124(c)(3)(A) of Perkins IV authorizes the State's use of State leadership funds for Statewide articulation

agreements for initiatives fostering student transition between subbaccalaurate programs and baccalaureate programs.

Further, section 135(c)(10)(A) of Perkins IV specifically permits eligible recipients to use funds awarded under Title I to develop initiatives, including articulation agreements, that facilitate the transition of students from subbaccalaureate programs to baccalaureate programs.

I.6 Does Perkins IV require that a program of study be implemented through an articulation agreement, as defined in section 3(4) of Perkins IV?

No. Section 122(c)(1)(B) of Perkins IV does not require a State or its subrecipients to use an articulation agreement to implement the programs of study that the State must describe in its State Plan. However, the Department encourages the State and its subrecipients to consider the use of articulation agreements, as defined in section 3(4) of Perkins IV, as a mechanism to strengthen programs of study.

I.7 Must a program of study be implemented through a formal articulation agreement as set forth in section 3(4) of Perkins IV?

No. Section 122(c)(1)(B) of Perkins IV does not require a State or its subrecipients to use any type of agreement to implement its programs of study. However, a State and its subrecipients would likely find that some type of formal agreement that lays out the parameters for undertaking activities would greatly accelerate and improve the implementation of programs of study.