

Decision Guide for Implementing ESSA: **State Considerations for** **Effective Grant Programs**

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THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS

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DECISION GUIDE FOR IMPLEMENTING ESSA: STATE CONSIDERATIONS FOR EFFECTIVE GRANT PROGRAMS

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DECISION GUIDE FOR IMPLEMENTING ESSA: STATE CONSIDERATIONS FOR EFFECTIVE GRANT PROGRAMS

The Every Student Succeeds Act (ESSA) is known mostly for its changes to state accountability systems, but ESSA also includes other important changes that affect the way states and school districts spend ESSA grant funds. These changes will affect the services states and districts deliver to schools and students.

ESSA's non-accountability changes include:

- Changes to the way certain grants are distributed to states, districts and schools,
- New program design options (that is, new options for the kinds of services states and districts can deliver under ESSA),
- New spending options and requirements,
- New planning requirements, and
- New reporting requirements on spending.

These changes will require state educational agencies (SEAs) to update their administration of ESSA grants. They also present an opportunity for SEAs to rethink their administration of ESSA programs to drive better results for students. This includes everything from rethinking how SEAs spend state-level funds, to how they oversee local ESSA programs.

This decision guide highlights some of the most significant non-accountability changes affecting:

- Title I, including School Improvement, Direct Student Services, and the Part A program,
- Title II, Part A, and
- Title IV, Part A.

It also asks questions SEAs might consider as they think through what changes will be needed to their policies, procedures, practices, organizational structure, and staff roles and responsibilities. These questions are designed to help SEAs:

- Identify connections between spending rules and program delivery. For example, ESSA makes it easier for secondary schools, especially high schools, to receive Title I funds. This could be an important school improvement tool for districts with low-performing secondary schools, but helping districts connect Title I funding opportunities with school improvement might require closer coordination between the SEA's Title I and school improvement staff.
- Identify connections between state administrative processes and program delivery. For example, ESSA clarifies the broad range of services Title I schools can offer to students to provide a well-rounded education, including non-academic supports. Districts can only support these services with Title I, however, if the SEA permits it. Opening up new spending options for districts might require SEAs to: change district-to-state application and budget tools, update guidance documents, and change monitoring protocols used to evaluate local compliance with federal rules.

- Understand how ESSA changes affect SEA capacity. For example, ESSA requires SEAs to play a greater role in overseeing local school improvement efforts. Implementing this new role might require staff to take on new responsibilities that require a different kind of expertise.

This decision guide builds on an earlier publication called *Maximizing ESSA Formula Funds for Students: State Readiness Self-Assessment*,¹ which helps SEAs analyze the extent to which their policies and practices in three areas are aligned to state priorities: (1) state spending policies for federal funds, (2) the state-developed application, planning and budget tools districts must submit to receive ESSA funds, and (3) paperwork reduction opportunities. While that publication focuses broadly on state policy and practice, this guide provides more specific information about implementing ESSA's non-accountability requirements.

This paper also draws on CCSSO's *Summary of Significant Spending and Fiscal Rules in the Every Student Succeeds Act*.²

How to Use this Decision Guide

This guide is designed primarily for SEA staff involved in implementing ESSA, including (but not limited to):

- SEA leadership,
- Federal program staff,
- School improvement staff,
- Staff involved with teaching and learning, and
- Finance staff.

This guide might also be relevant for LEAs interested in learning more about ESSA's non-accountability changes, as well as other stakeholders with an interest in SEA oversight of ESSA programs.

This guide is organized by grant program, with a final section on cross-cutting rules that affect all of the programs covered in this guide. The sections on Title I, Part A, Title II, Part A and Title IV, Part A are further broken down by (A) changes to allocation rules, (B) changes on program design and spending, and (C) changes to reporting requirements on spending.

We encourage readers not only to look at the parts of this decision guide that are most relevant to the reader's work, but also the guide as a whole, as it tries to highlight SEA opportunities for more holistic approaches to ESSA implementation.

1 <http://www.ccsso.org/Documents/2016/ESSA/MaximizingESSAFormulaFundsforStudentsApril2016.pdf>

2 <http://www.ccsso.org/Documents/Summary%20of%20Significant%20Spending%20and%20Fiscal%20Rules%20in%20ESSA%20-%202003092016.pdf>

A Note about Citations and Acronyms

- All citations are to the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act unless otherwise noted.
- Acronyms used in this guide include:
 - ESEA – the Elementary and Secondary Education Act
 - ESSA – the Every Student Succeeds Act (the newest version of ESEA)
 - NCLB – the No Child Left Behind Act (the version of ESEA prior to ESSA)
 - IDEA – the Individuals with Disabilities Education Act
 - SEA – state educational agency (such as a state department of education)
 - LEA – local educational agency (such as school districts, charter schools with LEA status under state law, and other agencies with LEA status under state law)
 - CSI – comprehensive support and improvement school
 - TSI – targeted support and improvement school

TITLE I SCHOOL IMPROVEMENT SET-ASIDE: SECTION 1003

Beginning with 2017-2018 funds, SEAs must reserve 7% of their Title I, Part A grant to support school improvement activities.³ This is an increase from the 4% required under NCLB; however, ESSA eliminates NCLB's School Improvement Grant (SIG) program.

It is important to note that beginning with the 2018-2019 grant year, when making the 1003(a) reservation, an SEA may not reduce the amount of Title I, Part A funds any LEA received the prior year. This may result in SEAs reserving less than the full 7% for school improvement activities.⁴

SEAs must allocate at least 95% of the reserved funds to LEAs to serve schools implementing:

- Comprehensive support and improvement activities, or
- Targeted support and improvement activities.⁵

SEAs may spend the remaining 5% to support their statewide systems of technical assistance and support to LEAs, including:

- Establishing the method the SEA will use to allocate 1003 funds to LEAs, which must ensure:
 - Geographic diversity among LEA recipients,
 - Allocations sufficient to effectively implement selected strategies,⁶ and
- Monitoring and evaluating how LEAs spend 1003 funds, and
- Reducing barriers and providing operational flexibilities for schools implementing comprehensive or targeted support and improvement activities.⁷

In addition, SEAs must annually report which LEAs and schools received 1003 funds, including the amount each school received and the types of strategies they implemented with the funds.⁸

³ Or an amount that equals what the SEA received in 1003(a) and 1003(g) in FY 2016, whichever is greater. Section 1003(a).

⁴ Section 1003(h). Please note this limitation on the 1003(a) reservation is consistent with current law. In plain language, this means that beginning in 2018-2019, if reserving funds for school improvement under 1003(a) would result in an LEA receiving less "normal" Title I, Part A funds than they received in 2017-2018 then the SEA must reduce the percentage it reserves for school improvement activities.)

⁵ Section 1003(b)(1).

⁶ On May 31, 2016, the U.S. Department of Education proposed regulations that would require SEAs to award a minimum of \$500,000 per year for each comprehensive support and improvement school an LEA plans to serve, and a minimum of \$50,000 per year for each targeted support and improvement school an LEA plans to serve. 81 Fed. Reg. 34,608 (May 31, 2016). These regulations are not yet final (as of this guide's publication date). Readers are encouraged to review the final regulations when published for more details about the 1003(a) award process.

⁷ Section 1003(b)(2).

⁸ Section 1003(i).

Transitioning from SIG	
<p>What state-level SIG activities will the SEA transition to ESSA?</p>	<p style="text-align: center;"><u>Reassessing State Activities in Light of New ESSA Responsibilities</u></p> <p>Many SEAs currently support at least part of their school improvement work with SIG state-level funds. Likely much of that work can be transitioned to other federal grants (see below); but, before considering what to fund, SEAs have an opportunity to assess the work they are currently doing.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • How much of an SEA’s existing SIG work aligns to ESSA’s new requirements that SEAs: <ul style="list-style-type: none"> ◦ Approve, and monitor the implementation of, LEA-developed comprehensive school support and improvement plans,⁹ and ◦ Provide ongoing support to LEAs with low-performing schools?¹⁰ • What has been effective? • Where does the state need to build additional capacity? • How well is the state’s school improvement work aligned to and integrated with the rest of the SEA’s operations? <p style="text-align: center;"><u>Funding State-Level School Improvement Activities</u></p> <p>ESSA grants that can support state-level school improvement activities include:</p> <ul style="list-style-type: none"> • Section 1003(a) funds (state funds), • Title I, Part A (state administrative funds), • Title II, Part A (state administrative funds or state activities funds to the extent school improvement activities relate to supporting school leaders, teachers and other school staff), • Title III, Part A (state administrative funds or state activities funds to the extent school improvement activities relate to English learners), and • Title IV, Part A funds (state administrative or state activities funds to the extent activities are consistent with Section 4104 of ESSA). <p>SEAs can also consolidate administrative funds from ESSA programs to support school improvement work (among other activities).¹¹</p> <p>In addition, other ED grants that can support state-level school improvement activities include:</p> <ul style="list-style-type: none"> • IDEA, Part B funds (state administrative funds or state activities funds to the extent activities relate to students with disabilities),¹² and • Carl D. Perkins funds (state leadership funds to the extent activities relate to career and technical education students).

9 Section 1111(d)(1)(B)(v)&(vi).

10 Section 1111(d)(3).

11 Section 8201.

12 See, for example, this letter from the U.S. Department of Education’s Office of Special Education Programs describing how an SEA could use IDEA, Part B state activities funds to contribute to the cost of state support teams that work with low-performing districts and schools (January 2009), available at <https://www2.ed.gov/policy/speced/guid/idea/letters/2009-1/detemple011509stateactivities112009.pdf>.

How will the SEA assist LEAs in transitioning from SIG to ESSA?	<p>As with SEAs, many of the school improvement activities LEAs support with SIG funds can be transitioned to other federal grants.</p> <p>To help LEAs with the transition, SEAs could develop guidance that helps LEAs identify and coordinate funding sources to support school improvement initiatives. Local-level funds from the grant programs listed in the row above can support local school improvement activities. To help LEAs maximize these grants, SEAs could develop guidance explaining how LEAs can coordinate funds to implement or sustain school improvement initiatives.</p> <p>SEAs could also help districts and schools maximize the Title I schoolwide model. Many of the activities supported with SIG funds likely could be supported with Title I, Part A funds in a school that operates a schoolwide program. An SEA could develop schoolwide guidance tailored to SIG schools to help ease the transition from SIG to other funding sources and to provide additional clarity about schoolwide program spending options.¹³</p> <p>Where appropriate, SEAs could also use the new authority granted to them under ESSA to waive the 40% poverty threshold required to operate a schoolwide program for any SIG school that does not meet the threshold.¹⁴ For a SIG school with less than 40% poverty, such a waiver would be necessary if the school wanted to use its Title I, Part A funds to implement comprehensive, schoolwide improvement activities.</p>
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Distributing Section 1003 Funds

How will the SEA distribute Section 1003 funds to eligible LEAs?	<p>SEAs have some discretion over how they distribute Section 1003 funds to eligible LEAs so long as they follow requirements in Section 1003(b)-(f), such as ensuring geographic diversity among LEA recipients, applying the appropriate priorities when awarding grants, following the limits on the duration of Section 1003 grants, developing application tools that address all federally-required elements, and other requirements.¹⁵</p> <p>If the SEA obtains an LEA's approval, it may provide Section 1003 school improvement activities to the LEA on its own or arrange for their provision through other entities such as school support teams, educational service agencies, or non-profit or for-profit external providers.¹⁶</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • Who within the SEA will be responsible for the 1003 grant, and how will that person or office coordinate with other parts of the SEA connected to school improvement? • Does the SEA want to explore providing school improvement services directly? <ul style="list-style-type: none"> ○ If so, what method will it use to obtain approval from its LEAs? • Will the SEA award Section 1003 funds on a formula or competitive basis? • How will the SEA ensure Section 1003 funds are distributed to geographically diverse LEAs? • What will the local application for funds look like? Related: <ul style="list-style-type: none"> ○ How will the SEA encourage coordination with Title I, Part A and other federal programs that relate to school improvement?¹⁷ Can the application be designed in a way that fosters coordination? ○ Will the SEA use the application to collect information for Section 1003's new reporting requirements (see "Reporting" below), or can the SEA gather that information through another process? <ul style="list-style-type: none"> ◇ If the SEA uses the application process to collect information, are there ways to design the application that do not inadvertently narrow spending options? For example, reporting might be easier if LEAs and schools must select from a standardized set of activities; however, that could limit the ability of schools to customize their activities to their needs.
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¹³ For background on schoolwide programs, please see U.S. Department of Education, Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program (September 2016) [hereinafter referred to as *ED 2016 Schoolwide Guidance*], available at <http://www2.ed.gov/policy/elsec/leg/essa/essaswpguidance9192016.pdf>.

¹⁴ Section 1114(a)(1)(B).

¹⁵ The U.S. Department of Education has proposed regulations that affect the distribution of Section 1003 funds. See 81 Fed. Reg. 34,608 (May 31, 2016). These regulations are not yet final (as of this decision guide's publication date). Readers are encouraged to review the final regulations when published for more details about the 1003(a) award process.

¹⁶ Section 1003(b)(1)(B).

¹⁷ Technically, the local-to-state application for Section 1003 funds cannot be consolidated with other ESSA applications under Section 8305 because it does not meet the definition of "covered program" under Section 8101(11). In practice, this means the local-to-state application must address all of the components listed in Section 1003(e), giving the SEA less discretion over the application's design than it has in some other ESSA programs. The application can, however, be integrated into or aligned with other applications.

Evidence-Based Requirement

How will the SEA oversee the new “evidence-based” requirement for the use of Section 1003 funds?

Section 1003 funds can only be used to support “evidence-based” activities that meet a rigorous standard of evidence. Specifically, an activity, strategy, or intervention funded with Section 1003 must demonstrate a statistically significant effect on improving student outcomes or other relevant outcomes based on:

- Strong evidence from at least one well-designed and well-implemented experimental study,
- Moderate evidence from at least one well-designed and well-implemented quasi-experimental study, or
- Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias.¹⁸

Questions to consider include:

- What state guidance will the SEA provide to LEAs on identifying evidence-based interventions? (Please note ED issued non-regulatory guidance *Using Evidence to Strengthen Education Investments* in September 2016, available at <http://www2.ed.gov/policy/elsec/leg/essa/guidanceusesinvestment.pdf>.)
- Will the SEA establish a list of state-approved, evidence-based interventions?¹⁹
- Who within the SEA will be responsible for determining if an activity is evidence-based? If that person or office is different from the person or office that oversees Section 1003 spending, how will they coordinate?
- How much information will the SEA require from LEAs to show an activity is evidence-based and when will the SEA review that information? Through the local-to-state application process? During state monitoring?

Reporting

How will the SEA administer the requirement to report the strategies individual schools implement with 1003 funds?

SEAs must report on the state report card a list of all the LEAs and schools that received 1003 funds, the amount of funds each school received, and the strategies each school implemented with 1003 funds.²⁰

Questions to consider include:

- Will the SEA have access to the necessary reporting information through existing processes, or will it need to establish new processes to collect the information?
- Will the SEA use the local-to-state application process to help with reporting? (See “Distributing Section 1003 funds” above.)
- If new data collection is necessary, how will the SEA design reporting so as to be minimally burdensome on LEAs and schools?

¹⁸ Section 8101(21)(B).

¹⁹ The proposed accountability regulations would allow a State to establish an exhaustive or non-exhaustive list of State-approved, evidence-based interventions for use in schools implementing comprehensive or targeted support and improvement plans. Readers are encouraged to review the final regulations when published for more information.

²⁰ Section 1003(i).

DIRECT STUDENT SERVICES: SECTION 1003A

Summary of Change

Beginning in 2017-2018, SEAs have a new option to reserve up to 3% of their Title I, Part A allocation to award LEA grants to pay for direct student services such as academic courses not offered at a student’s school, credit recovery, Advanced Placement/college credit bearing classes, personalized learning, and in some cases public school choice transportation.²¹ States must consult with geographically diverse LEAs before deciding whether to reserve funds for this purpose.²²

Implementation Considerations

Deciding Whether to Reserve Funds for Direct Student Services	
<p>What process will the SEA use to consult with geographically diverse LEAs?</p>	<p>Questions to consider include:</p> <ul style="list-style-type: none"> • Does the SEA have an existing process for consulting with LEAs on federal grant issues? <ul style="list-style-type: none"> ○ If so, could the process be used to consult on direct student services? ○ If not, will the SEA establish a process that extends beyond direct students services to help the SEA gather feedback on a bigger range of federal grant issues such as burden reduction opportunities, user-friendliness of grant processes, guidance documents, technical assistance needs, and the like?
<p>In addition to the feedback from LEAs, what factors will the SEA consider when deciding whether to reserve funds for direct student services?</p>	<p>Questions to consider include:</p> <ul style="list-style-type: none"> • How will the reservation affect LEA Title I, Part A allocations? <ul style="list-style-type: none"> ○ Taking the reservation for direct student services will permit an SEA to give some LEAs additional money for students in low-performing schools, but will reduce the overall amount of Title I, Part A money available to distribute through the normal Title I formula. • How will the reservation affect staffing/SEA administrative responsibilities? <ul style="list-style-type: none"> ○ SEAs that take the direct student services reservation must take on new administrative and oversight tasks.²³ For example, SEAs must monitor the quality of services provided by direct student services providers.²⁴ SEAs must also compile and maintain a list of high-quality academic tutors for LEAs to select from.²⁵ (LEAs may use funds to provide high-quality academic tutoring to students, but they may only use tutoring providers that are approved by SEA.²⁶)

21 Section 1003A(a) & (c).
 22 Section 1003A(a)(1)(B).
 23 Section 1003A(e).
 24 Section 1003A(e)(4).
 25 Section 1003A(e)(2).
 26 Section 1003A(d)(5)(E).

Implementing the Program

<p>If the SEA decides to reserve funds for direct student services, how will the SEA implement the program?</p>	<p>While there are many issues to consider, some short-term questions include:</p> <ul style="list-style-type: none"> • Who will be responsible for implementing the program? • Will the SEA consolidate any funds it reserves for administering the direct student services program²⁷ with other administrative funds as authorized under Section 8201? • What will the application process look like? How will it be aligned with other application processes?²⁸ • How will the SEA ensure LEAs know about the program’s grant requirements and spending options (guidance, webinars, trainings, etc.)? • What process will the SEA use to compile and maintain a list of high-quality academic service providers? • How will the SEA monitor and oversee the quality of services provided by direct service providers as required? • Will monitoring be integrated into existing monitoring processes or will it be separate?
<p>How will the SEA oversee the LEA reporting requirements for direct student services?</p>	<p>Section 1003A requires LEAs to publicly report the results of direct student service providers in improving relevant student outcomes in a manner accessible to parents.²⁹ Issues to consider include:</p> <ul style="list-style-type: none"> • Who within the SEA will be responsible for ensuring LEAs report the data? • What role, if any, will the SEA play in facilitating LEA reporting? • What technical assistance and other supports will LEAs need to comply with the reporting requirements?

²⁷ The state may reserve up to 1% of the direct student services funds for administration. Section 1003A(a)(2).

²⁸ Technically, the local-to-state application for direct student services cannot be consolidated with other ESSA applications under Section 8305 because it does not meet the definition of “covered program” under Section 8101(11). In practice, this means the local-to-state application must address all of the components listed in Section 1003A(d), giving the SEA less discretion over the application’s design than it has in some other programs. The application can, however, be integrated into or aligned with other applications.

²⁹ Section 1003A(d)(7).

TITLE I, PART A

A. Allocations

1. Title I, Part A District-Level Set-Aside Changes that Could Affect Title I School-Level Allocations

Before distributing Title I money to schools, LEAs must (and in some cases may) keep money for certain activities. These are known as set-asides, and ESSA changes how some of them are calculated. These changes could affect how much Title I money is available to schools.

First, ESSA potentially enlarges two existing LEA set-asides:

- The set-aside for homeless and neglected and delinquent students,³⁰ and
- The set-aside for private school services (also known as equitable services).³¹

ESSA makes clear both of these set-asides must be based on an LEA's total Title I, Part A allocation, prior to any allowable expenditures or transfers by the LEA. This is a particularly significant change to the private school set-aside, which excluded parts of an LEA's Title I allocation under prior law.³² As a result, the private school set-aside could be larger in some districts under ESSA, which could result in smaller school-level allocations to Title I schools. (Please note that ESSA now requires SEAs to provide timely notice to appropriate private school officials throughout the state about the amounts LEAs have determined are available for equitable services under Title I, Part A.³³)

Second, ESSA includes two "new" set-asides that LEAs may but are not required to reserve:

- o Transportation as part of a public school choice program if the LEA has schools identified for comprehensive support and improvement (up to 5% of their Title I, Part A allocation),³⁴ and
- o Early childhood education programs for Title I eligible children.³⁵

Third, there are new clarifications and options for the parent and family engagement set-aside. As under NCLB, LEAs receiving more than \$500,000 of Title I, Part A funds must reserve 1% for parent and family engagement; however, ESSA clarifies an LEA may reserve more than 1% if it chooses.³⁶ ESSA requires LEAs to allocate at least 90% of the amount they set aside for parent and family engagement to Title I schools, with priority given to high-needs schools.³⁷ This is a change from NCLB, which required LEAs to allocate 95% of the set-aside to schools.

³⁰ Section 1113(c)(3)(B).

³¹ Section 1117(a)(4).

³² While some of the money kept by LEAs under NCLB had to be set aside for equitable services, some (such as money reserved for school improvement activities in low-performing public schools).

³³ Section 1117(a)(4)(C).

³⁴ Section 1111(d)(1)(D)(v). Under NCLB, LEAs with schools identified for improvement were required to set aside 20% of their Title I funds for school choice transportation and supplemental educational services, unless a lesser amount was needed, though that requirement was waived for ESEA Flexibility states. Under ESSA, setting aside funds for school choice transportation is now optional and is limited to 5%.

³⁵ Section 1113(c)(5). ED permitted LEAs to reserve funds for preschool programs under prior law, but that option is more explicit in ESSA. In October 2016, ED released non-regulatory guidance on opportunities to support early learning under ESSA, available at: <http://www2.ed.gov/policy/elsec/leg/essa/essaelguidance10202016.pdf>.

³⁶ Section 1116(a)(3)(A).

³⁷ Section 1116(a)(3)(C).

Implementation Considerations

Overseeing Local Compliance with Set-Aside Requirements	
<p>What changes will the SEA make to the local-to-state application to reflect these new requirements and options?</p>	<p>Many SEAs require LEAs to budget Title I set-asides in the local-to-state application for Title I funds and will have to change the application to reflect the new requirements and options.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • Will these changes be part of a larger redesign of the Title I, Part A application to help align Title I spending to state priorities and local needs? • If the SEA uses an online application, what technology changes are needed to reflect the new set-aside options, and how far in advance of the 2017-2018 grant year must those changes be made to accommodate the application’s timely release?
<p>What guidance and technical assistance will the SEA develop to make LEAs aware of the new requirements and options?</p>	<p>Some SEAs have existing state guidance on set-asides that should be updated to reflect the new options. If an SEA does not have set-aside state guidance, it might consider developing state guidance to explain the requirements (which could be stand-alone guidance, guidance incorporated into the local-to-state application, or a new section of more comprehensive guidance about Title I).</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • What kind of state guidance has been helpful to LEAs in the past? • Where do LEAs need support on this topic? <ul style="list-style-type: none"> ○ For example, has confusion over the equitable services reservation caused compliance problems for LEAs? (Audit and monitoring findings in this area are relatively common.) If so, are findings clustered around specific issues indicating more targeted state guidance could help? • Are there opportunities to provide state implementation guidance along with technical guidance? <ul style="list-style-type: none"> ○ For example, if the SEA wants to promote early childhood education, the SEA could provide technical state guidance on how to set aside Title I funds for that purpose, which could incorporate information on effective practices for successful early childhood programs.
<p>What changes to monitoring or other oversight tools will the SEA need to make to reflect the new requirements?</p>	<p>Many SEAs review local compliance with Title I set-aside requirements through their monitoring systems and will have to update their monitoring protocols to reflect the new LEA set-aside requirements and options.</p> <p>This could be an opportunity to streamline monitoring. For example, if an SEA verifies compliance with set-asides through the local-to-state application and the payment process, does reviewing the set-asides again through state monitoring provide additional value? If not, the SEA could determine which processes are most useful to oversee compliance.</p>

Fulfilling SEA Responsibilities for Equitable Services in Title I, Part A	
<p>How will the SEA implement the changes to equitable services requirements?</p>	<p>Please see section on “Issues that Apply to Multiple ESSA Programs” page 33 for more information.</p>

2. Changes to School Allocation Requirements (“Ranking and Serving”)

ESSA makes two changes to the way LEAs distribute – that is, “allocate” – Title I money to schools.

Generally, Title I money is distributed to schools through a process commonly referred to as “ranking and serving.” LEAs must rank their schools in order of poverty, and then serve – that is, give Title I money to – schools based on that poverty ranking, starting with the highest poverty schools.³⁸

This process, however, often underrates the poverty levels of secondary schools. That is because the most common measure of poverty for Title I is participation in free and reduced price lunch programs, and secondary school students are often less likely to participate in those programs than elementary school students. As a result, secondary schools often rank lower than elementary schools on this measure of poverty, which results in less Title I money for secondary schools.

To address this, ESSA gives LEAs two options to make it easier for secondary schools to access Title I funds.

- The first option is to serve *high schools* with more than 50% poverty before certain higher poverty elementary and middle schools.³⁹
- The second option is to measure poverty in secondary schools based on the poverty levels of the elementary schools that feed into them. A majority of secondary schools must approve this option.⁴⁰

Implementation Considerations

SEA Oversight of Ranking and Serving	
What changes will the SEA need to make to its application process so LEAs can exercise these new options?	<p>Many SEAs require LEAs to show how they ranked and served schools in the local-to-state application for Title I funds and will have to change the application to reflect the new options.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none">• Does the existing local-to-state application require LEAs to serve schools in strict rank order (with no option to serve a lower ranked school before a higher ranked school)? If so, what modifications can be made to ensure LEAs can use the new option to serve high schools with at least 50% poverty before higher poverty elementary and middle schools, if they so choose?• Does the SEA prepopulate poverty data in the application? If so, what modifications can be made to permit LEAs to use alternate data if they exercise the feeder pattern option described above?• If the SEA uses an online application, what technology changes are needed to reflect the new ranking and serving options, and how far in advance of the 2017-2018 grant year must those changes be made to accommodate the application’s timely release?

38 Schools with at least 35% poverty are *eligible* for Title I, but that does not necessarily mean they will *receive* Title I funds. LEAs can choose how much to distribute to eligible schools (as long as higher poverty schools receive a larger per-pupil allocation than lower poverty schools). Some LEAs choose to concentrate Title I funds in the poorest schools, while others distribute funds more broadly.

39 Section 1113(a)(3)(B). This is accomplished through a change in what is sometimes called the “75% rule”. LEAs must serve all schools with more than 75% poverty in strict rank order regardless of grade span. LEAs may then, if they choose, serve schools with 75% poverty or less by grade span – for example, serve elementary schools in order of poverty before serving middle or high schools. LEAs can now lower the 75% threshold to 50% for high schools.

40 Section 1113(a)(5). Using feeder patterns to measure poverty was previously permitted by the U.S. Department of Education in its non-regulatory guidance, but the Department did not require a majority of secondary schools to approve the measure’s use.

<p>What guidance and technical assistance will the SEA develop to make LEAs aware of the new options?</p>	<p>Many SEAs have existing guidance on ranking and serving that should be updated to reflect the new options. If the SEA does not have ranking and serving guidance, it might consider developing state guidance to explain the requirements.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • What state guidance has been helpful to LEAs in the past? • Where do LEAs need support on this topic? <ul style="list-style-type: none"> ○ For example, do LEAs understand the full array of options available to them under ranking and serving – such as understanding they can allocate more money per pupil to Title I schools with higher poverty than to Title I schools with lower poverty? • Are there opportunities to provide implementation guidance along with technical guidance? <ul style="list-style-type: none"> ○ For example, the SEA could choose to highlight the new ranking and serving options as a way to drive additional resources to low-performing secondary schools, particularly high schools that have been designated as comprehensive or targeted support and improvement schools under the state’s accountability system. ○ In addition, the SEA could provide information to help LEAs evaluate the impact exercising these new options might have on other Title I schools (which could be substantial since Title I funds are allocated per pupil and secondary schools typically have more students than elementary schools). This type of information can help LEAs better understand the practical impact of technical changes to the law.
<p>What changes to monitoring, or other oversight, tools will the SEA need to make to reflect the new options?</p>	<p>SEAs can take this opportunity to review their monitoring protocols. If they include ranking and serving, they should be updated to reflect the new options and for consistency with changes to the local-to-state application and state technical assistance.</p> <p>This could also be an opportunity to streamline monitoring. Questions to consider include:</p> <ul style="list-style-type: none"> • Does the SEA monitor ranking and serving compliance more than once a year? For example, does the SEA verify compliance through the local-to-state application and then again through the monitoring process? • If so, does this duplication add value? • Is there a less burdensome way to monitor LEA compliance? For example, monitoring selected LEAs based on risk, random sampling, a monitoring calendar, or other approach?
<p>How, if at all, will an LEA or school’s participation in the USDA’s Community Eligibility Program affect ranking and serving?</p>	<p>The Community Eligibility Program (CEP) permits eligible LEAs or schools to participate in meal programs without collecting income information from individual families. This could affect how an LEA measures its schools’ poverty levels, which could impact school rankings.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • How does the CEP program affect the collection and accuracy of school-level poverty data, and • How or whether the SEA should address the CEP program in updated state guidance on ranking and serving.

Connecting Ranking and Serving to School Support and Improvement

<p>Will the SEA consider secondary school access to Title I funds as part of its technical assistance for and oversight of school support and improvement?</p>	<p>Under ESSA, SEAs oversee local improvement efforts in certain low-performing schools, including high schools with low graduation rates. (Please see section on “Title I, Part A and Schools Identified for Comprehensive/Targeted Support and Improvement” page 16 for more information.) SEAs could consider access to Title I funds for low-performing secondary schools as part of its technical assistance and oversight process.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • Does the SEA want to consider ranking and serving as part of its school support and improvement oversight? • If so, how will the SEA’s Title I and school improvement staff coordinate to share expertise? • What factors will the SEA take into account when reviewing local ranking and serving decisions (including any impact serving secondary schools may have on an LEA’s other Title I schools)?
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B. Program Delivery and Spending

1. Title I, Part A and the Role of School Quality, Well-Rounded Education, and Non-Academic Supports

Confusion over the types of activities Title I, Part A can support sometimes limits the reach of Title I, Part A funds. ESSA makes several important changes to clarify the broad reach of the Title I, Part A program, and lists a wide variety of activities that can be part of a Title I, Part A program. These changes give SEAs the opportunity to rethink existing policies and practices on the design of Title I programs and the use of Title I funds.

a. Measuring School Quality in State Accountability Systems

Under ESSA, states must include an indicator of school quality in their accountability systems. In short, ESSA requires states to develop accountability systems to differentiate schools based on:

- Student achievement on the state academic assessment,⁴¹
- For elementary and middle schools, a measure of student growth or another academic indicator that allows for meaningful differentiation of school performance,
- For high schools, high school graduation rates,
- Progress in achieving English language proficiency, and
- An indicator of school quality or student success, such as student engagement, educator engagement, access to and completion of advanced coursework, postsecondary readiness, school climate and safety, or other state-selected indicator that meets ESSA requirements.⁴²

Adding a measure of school quality to the accountability system could affect how schools carry out Title I programs and spend Title I funds.

b. Well-Rounded Education and Other Supportive Services

ESSA now explicitly says Title I schools may provide Title I students with a well-rounded education.⁴³ ESSA defines a “well-rounded education” as:

[C]ourses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.⁴⁴

In addition, ESSA makes clear Title I schools can support student achievement through a wide array of services, including counseling, specialized instructional support services, mentoring services, preparation for postsecondary education and the workforce, behavior supports, early intervening services, violence prevention programs, professional development and other activities for school staff.⁴⁵

⁴¹ For high schools, this can include student growth on assessments.

⁴² Section 1111(c)(4)(B).

⁴³ See, for example, language about providing a well-rounded education in Section 1114(b)(7) for Title I schoolwide schools, and Section 1115(b)(2) for Title I targeted assistance schools.

⁴⁴ Section 8101(52).

⁴⁵ Sections 1114 (schoolwide schools) and 1115 (targeted assistance schools).

Title I Spending to Support School Quality and Well-Rounded Education	
<p>Will the SEA permit LEAs to spend Title I funds on activities to:</p> <ul style="list-style-type: none"> • Improve school quality, • Provide a well-rounded education, • Provide non-instructional supports to improve student achievement. <p>If not, is this a deliberate policy decision consistent with state priorities for program performance?⁴⁶</p>	<p>Under NCLB, many states did not permit LEAs to use Title I funds for school climate initiatives, instruction beyond reading and math, or other non-academic supports. Now that ESSA clarifies these can all be part of the Title I program, SEAs may wish to review their Title I spending policies to ensure they are aligned to ESSA.</p> <p>In addition, SEAs should ensure alignment between the state’s accountability system and the program services schools can pay for with Title I funds. For example, if a state chooses chronic absenteeism as an indicator in its accountability system, the SEA might review its Title I spending policies to ensure LEAs can spend on attendance initiatives. Spending policies are often reflected in:</p> <ul style="list-style-type: none"> • State guidance documents and other technical assistance materials distributed to LEAs and schools, • Informal communications between SEA and LEA staff, • The local-to-state application tool, and • The SEA’s monitoring instruments and related materials. <p>SEAs may also want to update or develop new Title I spending guidance for their LEAs. Questions to consider include:</p> <ul style="list-style-type: none"> • How well do LEAs currently understand what costs they can pay for with Title I funds? • Is the SEA changing its policies governing Title I spending? If so, state guidance is particularly helpful in clarifying the change. For example, if an SEA previously prohibited LEAs from using Title I funds for school climate interventions or counselors, but will now permit such spending, directly highlighting this change is helpful for LEAs. • Are there particular activities the SEA wants to promote? For example, the SEA may want to highlight how Title I funds can be used to support the state’s accountability priorities, or how Title I funds can be used to support other state priorities (such as pre-K, career readiness, or STEM education).

2. Title I, Part A and Schools Identified for Comprehensive/Targeted Support and Improvement

Under ESSA’s accountability system, SEAs are required to identify certain schools for support and improvement. Specifically, SEAs must identify the following schools for *comprehensive support and improvement (CSI)*:

- The lowest-performing five percent of Title I schools in the state,
- Any public high school failing to graduate one-third or more of its students, and
- Title I schools with a consistently underperforming subgroup that, on its own, is performing as poorly as students in the lowest-performing five percent of Title I schools, and that has failed to improve after implementing a targeted support and improvement plan.⁴⁷

SEAs must also identify schools with one or more consistently underperforming subgroups for *targeted support and improvement (TSI)*.⁴⁸

⁴⁶ While SEAs have some authority to limit local spending, such limits must generally be tied to concerns about an LEA’s performance or compliance with federal requirements.

⁴⁷ Section 1111(c)(4)(D)(i).

⁴⁸ Section 1111(d)(2)(A). ESSA does not define what it means to be consistently underperforming, but leaves it for states to define. ED’s proposed accountability regulations would set parameters for state definitions.

LEAs must develop plans to improve student outcomes for its CSI schools, which must be approved by the school, LEA, and SEA.⁴⁹ The SEA must also monitor and periodically review implementation of CSI plans.⁵⁰ TSI schools must develop their own improvement plans, which must be approved by the LEA.⁵¹

Both CSI and TSI plans must:

- Be informed by the indicators for differentiating schools under the state’s accountability system,
- Include at least one evidence-based intervention,
- Be based on a school-level needs assessment, and
- Identify resource inequities (required for all CSI schools, but only for certain TSI schools that meet the criteria for “additional targeted support”).⁵²

Implementation Considerations

SEA Role in School Support and Improvement	
<p>How will the SEA support LEAs to develop meaningful plans that do not duplicate existing efforts or add undue administrative burdens that distract from program delivery?</p>	<p>LEAs and schools must develop multiple plans under various federal, state, and local requirements. This can lead to misalignment between plans, and can distract from effective service delivery. To ensure CSI and TSI plans are meaningful, questions to consider include:</p> <ul style="list-style-type: none"> • Can any of the plans LEAs and schools already develop satisfy CSI and TSI requirements? If not, consider whether existing plans should be amended to satisfy ESSA requirements. • Should existing state-required plans be streamlined or eliminated so LEAs and schools can focus on CSI and TSI plans? • How can the SEA help LEAs to align CSI and TSI plans to other required plans? <ul style="list-style-type: none"> ◦ For example, Title I schools that operate schoolwide programs must complete schoolwide plans. Many schools identified for CSI or TSI will likely operate schoolwide programs, so it makes sense to either use one plan that meets both requirements or develop a process that aligns the plans to the extent possible.⁵³ Other plans that may influence CSI/TSI plans, include: <ul style="list-style-type: none"> ◊ Plans required as part of the application for school improvement funds under Section 1003, ◊ Plans required as part of the application for direct student services under Section 1003A, ◊ Family and community engagement plans required under Title I, and ◊ Plans developed under other federal programs – such as those for improving outcomes for students with disabilities under IDEA, and plans for improving career and technical education programs under Perkins.

⁴⁹ Section 1111(d)(1)(B).

⁵⁰ Section 1111(d)(1)(B)(vi).

⁵¹ Section 1111(d)(2)(B).

⁵² Sections 1111(d)(1)(B) and 1111(d)(2)(B)&(C). An “additional targeted support” school is a TSI school with a subgroup that, on its own, is performing as poorly as the bottom 5% of Title I schools.

⁵³ ESSA encourages schoolwide program schools to coordinate their schoolwide plans with any comprehensive support and improvement activities or targeted support and improvement activities they carry out. Section 1114(b)(5).

<p>For CSI schools, how will the SEA accomplish its required review of the LEA-developed plans?</p>	<p>SEAs are now responsible for reviewing and approving plans for individual CSI schools, which could be challenging for some SEAs. To address this challenge, questions to consider include:</p> <ul style="list-style-type: none"> • Can existing tasks be eliminated to free up staff time? <ul style="list-style-type: none"> ◦ For example, some SEAs currently review and approve all Title I schoolwide plans in the state. Federal law does not require SEAs to approve schoolwide plans, so the state could choose to eliminate its front-end review and instead monitor plans in selected schools through a risk-based monitoring system. Similarly, some states require their Title I targeted assistance schools to develop targeted assistance plans and then review those plans. Targeted assistance plans are not required under federal law. • Will the review process: <ul style="list-style-type: none"> ◦ Reflect the state’s philosophy on the state role in local decision-making? <ul style="list-style-type: none"> ◊ Different states have different views about the appropriate state role in local decision-making. These views are informed by state law and practice, and will lead some SEAs to defer to locally-chosen intervention strategies, while other SEAs may take a more active role. The plan review process an SEA puts in place should match the state’s overall philosophy, and the staff responsible for reviewing CSI plans should understand how that philosophy affects their review. ◦ Take into account SEA capacity and subject matter expertise on school improvement issues, and leverage existing school improvement resources where appropriate? <ul style="list-style-type: none"> ◊ Many SEAs have technical grants experts who can assess a plan’s compliance with federal rules, but SEAs have varying levels of in-house expertise to assess a plan’s educational quality. SEAs might consider how to leverage the expertise of regional support offices, school improvement offices, national or state education organizations, or other subject-matter experts to help with plan reviews. • How will the SEA clearly communicate its expectations for CSI plans to LEAs? <ul style="list-style-type: none"> ◦ Clearly communicating expectations may help to reduce the need for revisions and/or back-and-forth between the SEA and LEA. It may also help reduce inconsistencies among SEA offices, which may ultimately speed up the review process and reduce administrative burdens.
<p>What types of supports will the SEA offer to LEAs with CSI and/or TSI schools on evidence-based interventions?</p>	<p>ESSA requires CSI and TSI schools to include evidenced-based interventions in their plans.⁵⁴ To help LEAs identify evidence-based interventions, questions to consider include:</p> <ul style="list-style-type: none"> • Will the SEA provide guidance and/or technical assistance about specific interventions that meet ESSA evidence-requirements? • Are there steps the SEA can take to ensure that LEAs have easy access to information about evidence-based practices (such as a database, an overview of interventions that meet the requirements, or other guidance)? • How can the SEA supervise LEA compliance with the requirement for evidence-based interventions in a way that is meaningful but does not lock out effective practices?

⁵⁴ Sections 1111(d)(1)(B)(ii) (CSI schools) and 1111(d)(2)(B)(ii) (TSI schools).

3. Schoolwide Programs

As with prior law, schoolwide program schools may use Title I funds for activities to upgrade their entire educational program.⁵⁵ All students may participate in Title I-funded services, and the school need not demonstrate the services supported with Title I funds are “supplemental.”⁵⁶

ESSA continues to require that schoolwide schools:

1. Perform a comprehensive needs assessment,⁵⁷ and
2. Develop a schoolwide plan based on that needs assessment (although the composition of the schoolwide plan has changed as described below).⁵⁸

Under NCLB, schools had to address ten components in their schoolwide plans. ESSA takes a more comprehensive approach that focuses on how a school will address student needs. Schools that are currently operating schoolwide programs must amend their existing plans to reflect these changes within one year of ESSA taking effect.⁵⁹ ED guidance clarifies that schoolwide plans can be integrated into existing improvement plans.⁶⁰

ESSA also clarifies the expansive range of strategies schoolwide schools can implement to address student needs. For example, schoolwide schools can carry out activities necessary to provide a well-rounded education,⁶¹ or provide student support activities such as counseling, mental health programs, mentoring services, preparation for post-secondary education and the workforce, and dual enrollment, among others.⁶²

ESSA also now gives SEA the authority to waive the 40% poverty requirement for operating a schoolwide program.⁶³

55 Section 1114(a)(1)(A).

56 Section 1114(a)(2).

57 Section 1114(b)(6).

58 Section 1114(b).

59 Section 1114(b)(1).

60 *ED 2016 Schoolwide Guidance*, pp. 3-4.

61 Section 1114(b)(7)(A)(ii).

62 Section 1114(b)(7)(A)(iii).

63 Section 1114(a)(1)(B).

Changing SEA Policies to Reflect New Schoolwide Options	
<p>What changes does the SEA need to make to its schoolwide planning policies or practices to reflect ESSA requirements?</p>	<p>SEAs may wish to change the way they oversee and enforce schoolwide planning requirements to ensure schools can carry out the full range of activities ESSA permits.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none"> • What changes should be made to state guidance documents, state monitoring instruments, or SEA-developed schoolwide plan templates (if a state uses such templates, which is not required) to ensure they: <ul style="list-style-type: none"> o Reflect ESSA’s revised schoolwide plan requirements, and o Allow schools to use the full range of strategies permitted by federal law? • Can the SEA incorporate schoolwide planning requirements into other state-required school level plans so schools will not have to complete multiple plans? • If incorporating schoolwide plans into other plans is not possible, how can the SEA encourage schools to align schoolwide plans with other plans they must complete (such as CSI/TSI plans, school plans required by state law, and/or other locally-required school plans)?
<p>What changes to state spending policies does the SEA need to make to ensure alignment with ESSA’s schoolwide spending options?</p>	<p>Under NCLB, some states limited Title I spending in schoolwide schools beyond what federal law required, for example:</p> <ul style="list-style-type: none"> • Limiting the students who could participate in Title I-funded activities (even though Title I considers all students to be “Title I students” in a schoolwide school), • Limiting Title I to remedial services (even though Title I fund could be spent on advanced coursework), • Limiting Title I to reading and math programs (even though Title I could support a wider range of subjects), and • Forbidding local spending on non-instructional supports such as counselors, mentoring, or other non-academic supports (even though Title I could be used for such services).⁶⁴ <p>ESSA makes clear these restrictions are not required by federal law, and encourages schoolwide programs to provide a wide range of instructional and non-instructional services and supports for students consistent with their needs.</p> <p>To ensure state spending policies are consistent with ESSA, questions to consider include:</p> <ul style="list-style-type: none"> • How will the SEA update its state guidance and technical assistance on schoolwide programs? • How will the SEA update the state application and approval process for Title I funds to ensure expanded schoolwide spending options are available to schools? • How will the SEA update state monitoring and other oversight tools used to review school spending? • How will the SEA ensure the documents and activities described above are aligned with each other and consistent with state policy objectives?

⁶⁴ For additional discussion of common misunderstandings about how Title I funds can be used, and clarifications of what is allowed, see ED 2016 *Schoolwide Guidance*, pp. 5-6.

4. Changes to the Supplement not Supplant Requirement in Title I, Part A

SEAs, LEAs, and schools must spend Title I, Part A funds to supplement and not supplant their state and local education spending; however, ESSA changes the method for testing compliance with this requirement. The U.S. Department of Education has proposed regulations on Title I's supplement not supplant (SNS) rule that are not yet final as of the date of this publication. While final regulations are not yet published, the statute clarifies that SNS will no longer be tested by analyzing individual costs to determine if they are supplemental as was typically done in the past.⁶⁵

Specifically, the three presumptions of supplanting⁶⁶ used to assess SNS compliance in Title I, Part A will no longer apply once ESSA's SNS rule takes effect.⁶⁷

This change should make it easier to spend Title I funds. Costs charged to Title I must still be designed to improve student achievement, benefit eligible students/schools, be consistent with Title I-required plans, and consistent with federal spending rules, such as Office of Management and Budget regulations (known as the Uniform Grants Guidance).⁶⁸

65 Section 1118(b)(3)(A). Under NCLB and prior versions of ESEA, a different supplement not supplant test was permitted for schoolwide schools; however, this more flexible test was rarely used because of confusion over how it worked.

66 Under NCLB and previous versions of ESEA, supplanting was presumed when:

- An activity was required by state or local law,
- An activity was supported with state or local funds in the past, or
- Title I funds are used to pay for the same services for Title I students that state and local funds support for non-Title I students.

These three presumptions of supplanting will not apply to Title I, Part A funds under ESSA.

67 Section 1118(b)(4) does not require LEAs to meet the new SNS rules until "not later than 2 years after [ESSA's] date of enactment." ESSA's was signed into law on December 10, 2015, meaning LEAs will not have to comply with the SNS changes until the end of 2017, but ED's regulations may provide more specificity about this timeline.

68 The Uniform Grants Guidance (UGG) is a set of federal rules that applies to federal grant funds, including funds distributed by the U.S. Department of Education. Recipients of ESSA funds, such as SEAs and LEAs, must follow the requirements established in the UGG, which include administrative requirements, cost principles, and audit requirements. The UGG can be accessed at: http://www.ecfr.gov/cgi-bin/text-idx?SID=e508039f03a9a4343d2652f01f511&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl. ED's technical assistance webpage about the UGG is at <http://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>.

Implementation Considerations

Impact of SNS Changes on State Title I Spending Policies for Title I

What changes will the SEA need to make to its Title I spending policies in light of ESSA's SNS changes?	<p>The complexity of, and confusion over, SNS has often been a barrier to effective Title I spending. ESSA's changes – specifically the elimination of the traditional three presumptions of supplanting – could help unlock Title I funds so they can be used more effectively for schools and students. (The ESSA law allows LEAs to use the three presumptions to demonstrate compliance until the end of 2017, at which point all LEAs must demonstrate compliance using ESSA's new test; however, pending regulations may alter this timeline.)</p> <p>Questions to consider include:</p> <ul style="list-style-type: none">• How will the SEA update state guidance, trainings, and technical assistance documents, as well as any internal or external policy documents to reflect the new ESSA test and its effect on Title I spending?• How will the SEA update the local-to state application for federal funds, including any state rubrics, policies, or practices used to review and approve applications?• How will the SEA update state monitoring and other oversight documents?• How will the SEA ensure the documents listed above are aligned with each other and consistent with state policy objectives?
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SEA Oversight of SNS Compliance

What processes are necessary to implement the revised supplement not supplant requirements effectively?	<p>Regardless of how ED finalizes its SNS regulations, the new test will be a substantial change from what SEAs have done in the past. Instead of analyzing Title I spending to determine if individual expenses are supplemental, ESSA focuses on the methodology an LEA uses to distribute state and local funds. Overseeing LEA allocation methodologies likely requires a different type of subject-matter expertise than was needed to oversee the previous SNS test.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none">• Who within the SEA will monitor ED's regulatory actions? ED has released proposed SNS regulations for public comment. After reviewing the comments it receives, ED will release final regulations.• Once ED releases final regulations, who within the SEA is best positioned to oversee SNS and what support might they need to implement the regulations?
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C. Reporting on Spending

ESSA makes many changes to current reporting requirements, most of which relate to accountability requirements. ESSA also includes a significant new reporting requirement on spending. Specifically, SEAs must annually report on the state report card:

The per-pupil expenditures of federal, state and local funds, including actual personnel expenditures and actual non-personnel expenditures of federal, state, and local funds, disaggregated by source of funds, for each local educational agency and each school in the state for the preceding fiscal year.⁶⁹

LEAs must also report this information annually for its spending and the spending in each of its schools.⁷⁰

⁶⁹ Section 1111(h)(1)(C)(x).

⁷⁰ Section 1111(h)(2)(C).

Implementation Considerations

SEA Support to LEAs on Reporting Requirements

Will the SEA offer technical assistance to LEAs on collecting and reporting spending?

Many LEAs do not currently collect per-pupil expenditure data in the manner required by ESSA, so they may need support to develop processes and systems that accurately capture the required information.

Questions to consider include:

- Does the SEA have in-house technical experts that can help LEAs?
- If not, can the SEA identify outside technical assistance providers that can help LEAs?

SEA Procedures on Spending Data

How will the SEA collect data on LEA and school spending?

ED has proposed regulations that would require SEAs to develop a single, statewide procedure that LEAs must use to calculate and report LEA-level per-pupil expenditures, and a separate single, statewide procedure that LEAs must use to calculate and report school-level per-pupil expenditures. The SEA would be required to post its procedures to a website, and then link to that website on the SEA and LEA report cards.

The proposed regulations would require per-pupil expenditures be calculated by dividing “current expenditures” by the number of students reflected on the October 1 student count used to meet NCES reporting requirements.

Under the proposed regulation, “current expenditures” means the actual personnel (including actual staff salaries) and non-personnel costs of public education, *including*, but not limited to, spending for administration, instruction, instructional support, student support services, pupil transportation services, operation and maintenance of plant, fixed charges, and preschool, and net expenditures to cover deficits for food services and student body activities. “Current expenditures” *do not include* spending for community services, capital outlay, and debt service and both the SEA and LEA report cards must specify the amount of “current expenditures” that were not allocated to schools.⁷¹

ED’s proposed regulations are available here <https://www.federalregister.gov/articles/2016/05/31/2016-12451/elementary-and-secondary-education-act-of-1965-as-amended-by-the-every-student-succeeds> (see proposed 34 CFR § 200.35).

While these regulations are not yet final, questions to consider include:

- Can the SEA rely on existing data collection tools, or must the SEA develop new data collection tools to obtain this information from LEAs?
- How does the SEA expect LEAs to report costs that are paid for at the district level but benefit individual schools? This might include:
 - o Staff positions like counselors, librarians, special education and physical education personnel, music and art teachers, reading coaches, etc.
 - o Instructional supplies and/or technology costs (such as textbooks, curricular materials, laptop computers, etc.) that are paid for centrally, but are distributed to individual schools.
 - o Non-instructional costs like transportation, maintenance, utilities, etc.
- How will these reporting requirements affect other systems like state and local financial management systems, payroll/HR management systems, inventory management systems, etc.?

⁷¹ 81 Fed. Reg. 34,613 (May 31, 2016).

TITLE II, PART A

In September 2016 ED released non-regulatory guidance on Title II, Part A available at <http://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf>.

A. Allocations

ESSA changes both the way the U.S. Department of Education distributes Title II, Part A funds to states and the way states distribute Title II, Part A funds to LEAs.

1. Formula Changes that Will Impact the Distribution of Funds to States and LEAs

a. Federal-to-State Formula Change

There are two parts to the Title II, Part A formula for distributing funds from the federal government to the states:

- A “hold harmless”⁷² allocation that guarantees states at least as much money as they received in 2001 under programs that existed prior to NCLB, and
- An allocation based partly on a state’s number of 5-17 year olds (population levels) and partly on a state’s number of low-income 5-17 year olds (poverty levels).

ESSA gradually reduces the state “hold harmless” amount between 2017 and 2022 until it is eventually eliminated.⁷³ ESSA also changes the amounts generated by population versus poverty. Now, states generate funds 35% based on population and 65% based on poverty. The percentages shift between 2018 and 2020 until it is 20% based on population and 80% based on poverty.⁷⁴ To see how this change is projected to affect state allocations, please see this report by the Congressional Research Service <https://www.documentcloud.org/documents/2644885-ESEA-Title-II-a-State-Grants-Under-Pre.html#document>.

b. State-to-LEA Formula Change

ESSA also changes the formula states use to distribute Title II, Part A funds to LEAs. NCLB provided a guaranteed minimum amount of Title II, Part A funds to LEAs under a “hold harmless” provision. ESSA immediately eliminates the local hold harmless provision, and Title II, Part A funds are now based only on an LEA’s:

- Number of 5-17 year olds (20% of the formula), and
- Number of low-income 5-17 year olds (80% of the formula).⁷⁵

⁷² A “hold harmless” provision guarantees a minimum amount money based on prior year allocations, regardless of how much an entity generates under the current formula.

⁷³ Section 2101(b)(1).

⁷⁴ Section 2101(b)(2).

⁷⁵ Section 2102(a)(2).

Implementation Considerations

Adjusting to New Title II Allocation Levels	
How will the SEA handle changes to federal-to-state formula?	<p>Because the federal-to-state formula change is phased in over time (between 2017 and 2023), SEAs have some time to prepare.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none">• Can the state project how LEA funding levels will change in the state?• How will a loss in funding (if applicable) affect the SEA's spending priorities for its state-level funds?• How will the SEA spend any increase in state-level money (if applicable)?• How can the SEA better coordinate Title II, Part A funds with other funding sources to maximize resources?
How will the SEA implement the changes to the State-to-LEA formula?	<p>The change to the LEA formula simplifies the allocation process, but will affect the amounts LEAs receive.</p> <p>Questions to consider include:</p> <ul style="list-style-type: none">• How will the SEA update its processes for calculating Title II, Part A allocations so they are consistent with the new formula?• How will the SEA help LEAs to understand the change, which could include:<ul style="list-style-type: none">◦ Giving LEAs projections of how much they will receive under the new formula, and◦ Developing state guidance on how to coordinate Title II with other funding streams, particularly in districts that will lose funds?

2. Optional State Reservation for Principal/School Leadership

ESSA contains a new optional set-aside for SEAs. Typically, SEAs must allocate 95% of their Title II, Part A grants to LEAs; however, ESSA permits SEAs to keep up to 3% of the 95% otherwise earmarked for LEAs for state-level activities for principal and school leaders.⁷⁶

Implementation Considerations

Deciding Whether to Reserve Funds	
What factors will the SEA consider when deciding whether to reserve Title II, Part A funds for activities for principals and school leaders?	<p>Questions to consider include:</p> <ul style="list-style-type: none">• How will the reservation affect LEA allocations? Taking the reservation reduces the Title II, Part A money available to LEAs, which may be an issue for LEAs facing reductions because of the formula changes.• What activities would the SEA carry out with the reserved funds and how?<ul style="list-style-type: none">◦ For example, which SEA staff will be responsible for the reservation, including deciding what activities to fund and how to oversee them?◦ Also, who will carry out the activities – the SEA itself, the SEA together with a state agency of higher education, or through a grant or contract with a for-profit or non-profit entity, including an institution of higher education?

3. Changes to the LEA Set-Aside for Private Schools

ESSA changes the way LEAs must reserve funds for equitable services for private schools. Under NCLB, LEAs only had to reserve a share of the Title II, Part A money they spent on professional development. Under ESSA, the reservation is now based on an LEA's entire Title II, Part A allocation, which in practice likely means more Title II, Part A money will be earmarked for equitable services.⁷⁷

⁷⁶ Section 2101(c)(3).

⁷⁷ Section 8501(a)(4).

SEA Role in Overseeing New Set-Aside Calculations

What changes will the SEA need to make to its oversight activities to reflect ESSA's set-aside changes?

Questions to consider include:

- How will the SEA update technical assistance tools and state guidance documents to reflect the new calculation process (including updating any templates or spreadsheets that might help LEAs calculate the appropriate amount for equitable services)?
- How will the SEA update the local-to-state application for funds (if Title II, Part A equitable services is addressed in the application)?
- How will the SEA update state monitoring and other oversight tools?
- How will the SEA ensure the documents listed above are aligned with each other and consistent with state policy objectives?

B. Program Delivery and Spending

ESSA expands and updates the activities SEAs and LEAs can support with Title II, Part A funds. Activities include (but are not limited to):

- For SEAs: teacher certification reform, evaluation, equitable access to teachers, alternative routes for certification, recruitment and retention, establishing or expanding teacher or school leader academies, appropriate data use, professional development and others.⁷⁸
- For LEAs: recruiting and retaining teachers, reducing class size to evidence-based levels, evidence-based personalized professional development, training in recognizing trauma, mental illness and child sexual abuse, training to support the identification of gifted and talented students, developing feedback mechanisms, professional development on integrated academics and career and technical education and others.⁷⁹
 - o Of note is the new ESSA requirement that class-size reduction and personalized professional development activities must be "evidence-based" to the extent the SEA, in consultation with LEAs, determines evidence is reasonably available.⁸⁰

LEAs are also expected to prioritize schools implementing comprehensive and targeted support and improvement activities with the highest percentage of poverty children,⁸¹ and to use data and ongoing consultation with certain stakeholders⁸² to update and improve activities supported with Title II, Part A funds.

⁷⁸ Section 2101(c).

⁷⁹ Section 2103(b).

⁸⁰ Section 2103(b)(3)(D)&(E).

⁸¹ Section 2102(b)(2)(C).

⁸² Under Section 2102(b)(3), LEAs must meaningfully consult with teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a local educational agency that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of Title II.

Implementation Considerations

Spending State-Level Funds	
How, if at all, will the expanded list of state-level spending options change SEA spending choices?	Questions to consider include: <ul style="list-style-type: none">• Whether the SEA's current Title II spending aligns to, and supports, the SEA's policy priorities?• Whether the SEA's current Title II spending is effective?• What, if any, are the practical challenges of changing the way the state spends Title II funds (such as eliminating certain programs, changing staff responsibilities, etc.)?

SEA Role in Support Effective Local-Level Spending	
What changes does the SEA need to make to its Title II spending policies to ensure LEAs can exercise Title II's new spending options?	Questions to consider include: <ul style="list-style-type: none">• How will the SEA update (or issue new) Title II-related state guidance and technical assistance tools?• How will the SEA update the local-to-state application for Title II, Part A funds?• How will the SEA update state monitoring/other oversight processes and tools?• How will the SEA ensure the documents listed above are aligned with each other and consistent with state policy priorities?
How will the SEA oversee the evidence-based requirement for class size reduction and personalized professional development?	LEAs are allowed to spend Title II funds on class size reduction only "to a level that is evidence-based, to the extent the State (in consultation with local educational agencies) determines that such evidence is reasonably available." ⁸³ Similarly, LEAs are allowed to spend Title II funds only on high-quality, personalized professional development "that is evidence-based, to the extent the State (in consultation with local educational agencies) determines that such evidence is reasonably available." ⁸⁴ Questions to consider include: <ul style="list-style-type: none">• Who within the SEA will be responsible for determining if evidence is available, and for evaluating the evidence?• How will the SEA consult with LEAs on evidence?• How will the staff responsible for evaluating evidence and the staff responsible for overseeing Title II spending coordinate (assuming different staff is involved)?

C. Reporting on Spending

SEAs must annually report, based on information the SEA receives from LEAs, on the following:

- How the Title II, Part A funds are being used to meet Title II purposes, and how the activities chosen improved teacher, principal, or other school leader effectiveness,
- If funds are used to improve equitable access to effective teachers for low-income and minority students, a description of how funds have been used to improve access,
- If Title II, Part A funds are used to implement teacher, principal, or other school leader evaluation and support systems, the evaluation results, and
- Where available, the retention rates of effective and ineffective teachers.⁸⁵

⁸³ Section 2103(b)(3)(D).

⁸⁴ Section 2103(b)(3)(E).

⁸⁵ Section 2104.

Implementation Considerations

Managing Reporting Requirements

How will the SEA collect data on Title II, Part A spending at both the SEA and LEA levels to comply with reporting requirements?

Questions to consider include:

- Can the SEA use existing systems to collect and report the necessary data?
- If not, what new reporting mechanisms or systems are required? How will they be implemented and communicated?

NEW TITLE IV, PART A PROGRAM

A. Allocations

ESSA created a new grant program in Title IV, Part A to:

- Provide all students access to a well-rounded education,
- Improve school conditions for student learning, and
- Improve the use of technology to improve the academic achievement and digital literacy of all students.

ESSA allocates funds to SEAs and LEAs based on their relative share of Title I, Part A funds.⁸⁶ LEAs can form consortia and combine their funds.⁸⁷

SEAs may reserve 5% of the state's Title IV, Part A allocation.⁸⁸ SEAs may use no more than 1% of the total Title IV, Part A allocation for administration, and the rest (4% if the entire 1% is used for administration) must be used for state activities.⁸⁹ The remaining 95% must be subgranted to LEAs based on their relative share of Title I, Part A funds.⁹⁰ No LEA should receive less than \$10,000.⁹¹

LEAs that receive funds may use up to 2% of their award for direct administrative costs.⁹² LEAs must also set aside and spend an equitable share of their Title IV, Part A to provide services to private schools.⁹³

LEAs that receive at least \$30,000 or more must then spend the remaining Title IV, Part A money in the following manner:

- At least 20% must be spent on activities to support well-rounded educational opportunities,
- At least 20% must be spent on activities to support safe and healthy students, and
- A portion of the allocation on activities to support the effective use of technology, with no more than 15% for technology infrastructure.⁹⁴

LEAs that receive less than \$30,000 must meet at least one of the above requirements (that is, spend at least 20% on activities to support a well-rounded education or at least 20% on activities to support safe and healthy students or at least some funds for activities to support the effective use of technology).⁹⁵

In October 2016 ED released non-regulatory guidance on the Title IV, Part A program available at <http://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf>.

⁸⁶ Section 4103(b) and Section 4105(a).

⁸⁷ Section 4105(a)(3).

⁸⁸ Section 4104(a).

⁸⁹ Section 4104(a)(2)&(3).

⁹⁰ Section 4104(a)(1).

⁹¹ Section 4105(a)(2). This \$10,000 minimum is subject to "ratable reduction." In other words, if there are not sufficient funds to allocate a minimum of \$10,000 to every LEA, the SEA must proportionally reduce all LEA allocations. ESSA, Section 4105(b)

⁹² Section 4105(c).

⁹³ Section 8105.

⁹⁴ Section 4106(e)(2)(C)-(E).

⁹⁵ Section 4106(f).

Implementation Considerations

Managing Title IV, Part A Allocations

How will the SEA manage the allocation process?	Questions to consider include: <ul style="list-style-type: none">• Who within the SEA will be responsible for managing the Title IV, Part A program, and will that office handle allocations?• Does the SEA have a formal process to manage ESSA allocations (i.e. data systems, standardized spreadsheets, formalized review systems, etc.)? If so, how will Title IV, Part A be incorporated into that process?• What data will the SEA need to perform the allocation calculations and how will it ensure appropriate staff can access the data?
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B. Program Delivery and Spending

1. SEA-Level Programming

SEAs are permitted to spend state activities funds on:

- Monitoring, training, technical assistance, and capacity building for LEAs,
- Identifying and eliminating state barriers to the coordination and integration of programs, initiatives and funding streams that meet the program’s purposes, and
- Supporting LEAs in providing programs and activities that:
 - o Offer well-rounded educational experiences to all students, including certain underrepresented groups,
 - o Foster safe, healthy, supportive, and drug-free environments that support student academic achievement, and
 - o Increase access to personalized, rigorous learning experiences supported by technology.⁹⁶

Under a special rule, an SEA that receives funds in FY 2017 may also use Title IV, Part A state activities funds to pay for accelerated learning exams taken by low-income students in the 2016-2017 school year.⁹⁷

State-Level Spending

How will the SEA decide what to support with state-level Title IV, Part A funds?	Questions to consider include: <ul style="list-style-type: none">• Who within the SEA will be responsible for making spending decisions?• How will the SEA ensure those decisions are aligned to SEA priorities?• How will the SEA ensure spending is coordinated with other grants to maximize funds?• How much will the SEA earmark for administration (up to the 1% cap), and will the SEA consolidate those funds with other ESSA administrative funds to maximize flexibility?
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⁹⁶ Section 4104(b).

⁹⁷ Section 4104(c).

2. LEA-Level Programming

a. Needs Assessment

LEAs that receive over \$30,000 of Title IV, Part A funds must perform a needs assessment that examines:

- Access to, and opportunities for, a well-rounded education for all students,
- School conditions for student learning to create a healthy and safe school environment, and
- Access to personalized learning experiences supported by technology and professional development for the effective use of data and technology.⁹⁸

This needs assessment must occur once every three years.⁹⁹

b. Prioritization of Funds

LEAs must assure they will prioritize the distribution of Title IV, Part A funds to schools that:

- Have the greatest needs as determined by the LEA,
- Have the highest percentage of low-income students,
- Are identified for comprehensive support and improvement,
- Are implementing targeted support and improvement plans, or
- Are identified as a persistently dangerous school.¹⁰⁰

c. Uses of Funds

LEAs receiving over \$30,000 must spend Title IV, Part A funds consistent with the mandatory minimum percentages identified in the “Allocations” section above (page 29). In general however, local Title IV, Part A funds may be used for the following:

- Activities to support well-rounded educational opportunities such as (but not limited to) college and career guidance and counseling programs; music and arts programs; STEM subjects and programs; accelerated learning; history, civics, economics, geography, or government education; foreign language instruction; environmental education; programs that promote volunteerism; programs that integrate multiple disciplines; and other activities to support a well-rounded education.¹⁰¹ (In addition, under a special rule an LEA that receives funds in fiscal year 2017 may use funds to cover fees for accelerated learning examinations taken by low-income students in school year 2016-2017.¹⁰²)
- Activities to support safe and healthy students such as (but not limited to) drug and violence prevention; school-based mental health services; programs that integrate safety into athletic programs, support a healthy lifestyle, prevent bullying, improve instructional practices for developing relationship-building skills, dropout prevention, establish effective learning environments; high-quality training on certain topics such as suicide prevention and trauma-

98 Section 4106(d).

99 Section 4106(d)(3).

100 Section 4106(e)(2)(A).

101 Section 4107.

102 Section 4107(b).

informed practices in classroom management; child sexual abuse prevention programs; designing and implementing plans to reduce exclusionary discipline practices; schoolwide positive behavioral interventions and supports; and site resource coordinators.¹⁰³

- Activities to support the effective use of technology such as providing school personnel with professional learning tools; building technological capacity and infrastructure; innovative strategies for delivering specialized or rigorous academic courses through the use of technology; blended learning projects; professional development in the use of technology; and providing students in rural, remote, and underserved areas with resources to take advantage of high-quality digital learning experiences. Spending on purchasing technology infrastructure such as devices, equipment, and software applications is limited to 15% of an LEA's Title IV, Part A allocation.¹⁰⁴

Implementation Considerations

SEA Spending Policies for Title IV, Part A	
What, if any, spending policies will SEAs develop around Title IV, Part A funds, and how will it communicate those policies to LEAs?	<p>Questions to consider include:</p> <ul style="list-style-type: none"> • Will the SEA develop stand-alone Title IV, Part A spending state guidance, and/or will the SEA explore cross-programmatic guidance that highlights opportunities to coordinate spending from multiple federal grants where applicable? • What role will the SEA play in evaluating local spending choices under Title IV, Part A? How, if at all, will the SEA ensure the approach to Title IV, Part A is consistent with the role the SEA plays in other programs? • How will the SEA structure the local-to-state application for Title IV, Part A funds? Will it be a standalone application, or will it be included in a consolidated application covering multiple programs? Either way, how, if at all, will the SEA design the application to encourage coordination of spending and activities across programs?

C. Reporting on Spending

SEAs have to report, based on information received from LEAs that receive over \$30,000,¹⁰⁵ how LEAs are using Title IV, Part A funds, including the degree to which LEAs have made progress on meeting certain objectives and outcomes.¹⁰⁶

Implementation Considerations

Managing Reporting Requirements	
How will the SEA collect data on Title IV, Part A?	<p>Questions to consider include:</p> <ul style="list-style-type: none"> • Can the SEA use existing systems to collect and report the necessary data? • If not, what new reporting mechanisms or systems are required? How will they be implemented and communicated to LEAs?

¹⁰³ Section 4108.

¹⁰⁴ Section 4109.

¹⁰⁵ Section 4106(e)(2)(F).

¹⁰⁶ Section 4104(a)(2).

ISSUES THAT APPLY TO MULTIPLE ESSA PROGRAMS

I. Maintenance of Effort

ESSA provides new flexibility on ESSA's "maintenance of effort" (MOE) requirements. In general, MOE requires states and LEAs to spend a consistent amount of state and local money on providing a free public education from year-to-year.

Specifically, to receive a full Education Finance Incentive Grant allocation from the U.S. Department of Education (one of the four grants that generate Title I, Part A funds), states must spend at least 90% of the state money they spent the year before on providing a free public education.¹⁰⁷

Similarly, in general LEAs must spend at least 90% of the state/local money they spent the year before on providing a free public education to receive a full allocation under the following programs:

- Title I, Part A (Improving Basic Programs)
- Title I, Part C (Migrant Education Program)
- Title I, Part D (Neglected & Delinquent)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition)
- Title IV, Part A (Student Support and Academic Enrichment)
- Title IV, Part B (21st Century Community Learning Centers)
- Title V, Part B subpart 2 (Rural and Low-Income School Program)¹⁰⁸

The penalty for not maintaining effort is a proportional reduction to the relevant federal grants. Previously, reductions were made each year a state or LEA failed to maintain effort. Now, a reduction will only be made if the state or LEA also failed to maintain effort at least once in the prior five years.¹⁰⁹ (For example, if a state or LEA maintained effort in Years 1-5, but not in Year 6, its allocation would not be reduced.)

ESSA also permits ED to waive maintenance of effort requirements if a state or LEA reduced its spending due to exceptional circumstances, such as a natural disaster or a change in the organizational structure of the state, or a precipitous decline in the State's financial resources.¹¹⁰

107 Section 1125A(e).

108 Section 8521 (see also Section 8101(11) defining covered programs).

109 Section 1125A(e)(2) (for states) and Section 8521(b) (for LEAs).

110 Section 1125A(e)(3)(A) (for states) and Section 8521(c) (for LEAs).

Implementation Considerations

Adjusting Maintenance of Effort Procedures	
How will the SEA implement the changes to maintenance of effort requirements?	<p>Questions to consider include:</p> <ul style="list-style-type: none"> • How will the SEA (and its LEAs) maintain the historical data needed to take advantage of the new maintenance of effort flexibility? <ul style="list-style-type: none"> ◦ Because a penalty is only warranted if a state or LEA failed to maintain effort at least once before in the prior five years, SEAs and LEAs will need five years of data on state and local maintenance of effort compliance. • What changes are needed to the SEA’s guidance and technical assistance documents? • What changes are needed to the local-to-state application for federal funds? • What changes are needed to the SEA’s monitoring/other oversight processes and tools?

II. Transferability

ESSA eliminates certain caps on state and local “transferability,”¹¹¹ which is the option to transfer money from one federal grant to another.

Now, SEAs can transfer any or all state-level ESSA funds as described in the chart below:¹¹²

FROM	<ul style="list-style-type: none"> • Title II, Part A • Title IV, Part A • 21st CCLC 	TO	<ul style="list-style-type: none"> • Title I, Part A • Title I, Part C (Migrant) • Title I, Part D (N&D) • Title II, Part A • Title III, Part A • Title IV, Part A • 21st CCLC • Rural Education programs
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LEAs can transfer any or all local-level ESSA funds as indicated in the chart below:¹¹³

FROM	<ul style="list-style-type: none"> • Title II, Part A • Title IV, Part A 	TO	<ul style="list-style-type: none"> • Title I, Part A • Title I, Part C (Migrant) • Title I, Part D (N&D) • Title II, Part A • Title III, Part A • Title IV, Part A • Rural Education programs
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¹¹¹ Many of these caps were waived through ED’s ESEA Flexibility initiative.

¹¹² Section 5103(a).

¹¹³ Section 5103(b).

SEAs and LEAs may not transfer funds out of Title I, Part A, Title I, Part C (Migrant), Title I, Part D (Neglected and Delinquent), Title III, Part A and Rural Education programs.¹¹⁴ SEAs and LEAs must also consult with private school officials before transferring funds from a program that includes an equitable services requirement.¹¹⁵

Implementation Considerations

Implementing Transferability Options	
How will the SEA implement the changes to transferability requirements?	<p>Questions to consider include:</p> <ul style="list-style-type: none"> • How will the SEA decide whether to transfer SEA-level ESSA funds? • How will the SEA communicate the LEA-level changes to LEAs? This could include: <ul style="list-style-type: none"> ○ Updating state guidance and technical assistance documents, ○ Updating the local-to-state application for federal funds, and ○ Updating monitoring/other oversight processes and tools. <p>SEAs also have an opportunity to combine technical guidance (explaining how transferability works) with implementation guidance (helping LEAs think about how to use their resources effectively).</p>

III. Equitable Services

As under NCLB, LEAs must set aside a portion of the following ESSA grants to provide equitable services to eligible private school participants:¹¹⁶

- Title I, Part A
- Title I, Part C
- Title II, Part A
- Title III, Part A
- Title IV, Part A
- Title IV, Part B

Under ESSA, SEAs play a greater role in overseeing LEA compliance with equitable services requirements. SEAs are now required to:

- Notify “appropriate private school officials in the state” of the amounts LEAs have reserved for equitable services,¹¹⁷
- Designate an ombudsman to oversee compliance with the equitable services requirements,¹¹⁸ and
- Provide services directly to private schools if the appropriate private school officials so request, and if they demonstrate the LEA involved has not met equitable services requirements.¹¹⁹

¹¹⁴ Section 5103(c).

¹¹⁵ Section 5103(e)(2).

¹¹⁶ Section 1117 and Section 8501.

¹¹⁷ Section 1117(a)(4)(C) and Section 8501(a)(4)(C).

¹¹⁸ Section 1117(a)(3)(B) and Section 8501(a)(3)(B).

¹¹⁹ Section 1117(b)(6)(C) and Section 8501(c)(6)(C).

Fulfilling SEA Responsibilities for Equitable Services

How will the SEA implement the changes to equitable services requirements?

While additional clarification is needed from ED about the scope of these requirements, questions to consider include:

- How will the SEA manage the notification requirement?
 - Who within the SEA will be responsible for notifying private schools of the amounts available to them?
 - Will the notification cover all of the programs with equitable services requirements, or will the SEA issue separate notifications for each program?
 - How will the SEA collect set-aside information from LEAs? Some SEAs can make use of information they already collect. Many SEAs, for example, collect information about private school set-asides through the local-to-state application. This might provide the SEA with enough information to provide the required notification. If not, it might be less burdensome to adjust the application to obtain the relevant information rather than develop a new reporting process just for this requirement.
 - How will the SEA notify relevant private schools? SEAs have varying degrees of information on which private schools should be notified in a given geographic area. SEAs will likely have to work with both LEAs and private schools officials to ensure the SEA has accurate information regarding private schools in the state.
- Who within the SEA will serve as the ombudsman?
- What other changes are needed such as updating:
 - Existing state guidance and technical assistance documents,
 - The local-to-state application for federal funds, and
 - Monitoring/other oversight processes and tools.



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