

Use of Funds Overview for the ESSA Consolidated Application Programs

This document provides general guidance on how local educational agencies (LEAs) may spend funds under the Every Student Succeeds Act (ESSA). ESSA is the most recent version of the Elementary and Secondary Education Act (ESEA) which was signed into law on December 10, 2015. The template for this document was developed by the Council of Chief State School Officers (CCSSO) and provided to State Education Agencies (SEA) to provide spending guidance to local education agencies (LEAs). This handbook does not address all of the technical rules that apply to the programs, but instead focuses on each program's permissible activities, and also identifies rules that affect LEA spending options, such as caps on administrative expenses, supplement not supplant requirements, maintenance of effort requirements, etc.

ESSA went into effect on July 1, 2017. For more information about ESSA, and the transition from NCLB, please see <http://www2.ed.gov/policy/elsec/leg/essa/index.html>.

This spending guidance addresses the following formula programs:

- Title I, Part A (Improving Basic Programs)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition and Language Enhancement),
- Title IV, Part A (Student Support and Academic Enrichment)
- Title V, Part B Subpart 2 (Rural and Low-Income Schools)

It is important to note that this handbook only provides an overview of each of these programs' spending rules and options; it does not discuss the many other compliance requirements that apply to each of these programs.

General Spending Considerations

There are three general issues that affect LEA spending under all of the programs discussed in this handbook.

First, all costs charged to ED grants must be **necessary and reasonable** considering the amount of money being spent and the needs of the program.¹ This requirement comes from a set of federal regulations known as the Uniform Grant Guidance (UGG), which applies to all federal grants including ED grants.²

The UGG affects ED grant spending in a number of ways. It:

- Lists costs that may never be paid for with federal funds.³ For example, federal funds can never pay for alcohol⁴ and typically cannot pay for lobbying.⁵

¹ 2 CFR 200.403(a).

² The Uniform Grant Guidance (UGG) is contained in Part 200 of Title 2 of the Code of Federal Regulations available at http://www.ecfr.gov/cgi-bin/text-idx?SID=f3948247e9ceb83b01019746db896096&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl. Federal guidance and other resources about the UGG are available at <http://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>.

³ See 2 CFR Part 200, Subpart E.

⁴ 2 CFR § 200.423.

⁵ 2 CFR § 200.450.

- Lists general criteria all costs supported with federal funds must satisfy.⁶ For example, federal funds can only pay for costs that are allocable to the relevant grant.⁷
- Sets additional requirements for certain costs supported with federal funds.⁸ For example, LEAs that use federal funds for employee salaries and benefits must keep records documenting how much time the employees spent on grant activities.⁹
- Sets rules for how LEAs procure goods and services with federal funds,¹⁰ how they track items paid for with federal funds,¹¹ and the kinds of records they must keep about their grant spending.¹²

Second, activities supported by ED funds must be **consistent with the LEA's application** for funds approved by the SEA.¹³

Third, as discussed throughout this document, some ESSA programs require LEAs to spend on activities that are supported by evidence, are demonstrated to be effective, or that are consistent with a formal needs assessment. Even where this is not required, ED grant spending has the most impact when LEAs spend federal funds on effective activities designed to meet program goals. To do this, LEAs are encouraged to:

- Carefully consider the needs of students, educators, and other relevant stakeholders,
- Determine which activities are most likely to effectively address those needs, and
- Prioritize those activities when deciding what costs to support with ESSA funds (unless those activities are being paid for by other funding sources).

⁶ See 2 CFR § 200.403.

⁷ 2 CFR § 200.403(a).

⁸ See 2 CFR §§ 200.420-200.475.

⁹ 2 CFR § 200.430.

¹⁰ 2 CFR §§ 200.317-200.326.

¹¹ 2 CFR §§ 200.313-200.314.

¹² See, for example, 2 CFR § 200.318(h)(i) for procurement records or 2 CFR § 200.302(b)(3) for financial records.

¹³ 34 CFR § 76.700.

Spending Title I, Part A Funds to Support Student Achievement

This section provides information about how local educational agencies (LEAs) and schools can spend Title I, Part A funds.

Title I, Part A is the U.S. Department of Education’s (ED) largest K-12 grant program.¹⁴ It provides supplemental funding to help low-income schools improve the academic achievement of educationally disadvantaged students.

ED awards Title I funds to state educational agencies (SEAs), which then subgrant funds to LEAs. LEAs retain some money to carry out certain activities, and then must allocate the rest to eligible schools.

This document:

- Provides an overview of the Title I, Part A program,
- Addresses the use of Title I, Part A funds by LEAs,
- Addresses the use of Title I, Part A funds by schools operating “schoolwide programs,”
- Addresses the use of Title I, Part A funds by schools operating “targeted assistance programs,”
- Clarifies the allowable use of funds in low-performing Title I schools that have been identified for comprehensive or targeted support and improvement, and
- Addresses key fiscal tests LEAs must meet as a condition of receiving Title I, Part A funds.

For convenience this section will refer to the program as “Title I.” For more information about Title I please visit the following SD DOE website: <http://doe.sd.gov/oess/TitleI.aspx>.

¹⁴ Title I is a title of the Elementary and Secondary Education Act (ESEA). ESEA was most recently amended by the Every Student Succeeds Act (ESSA). For simplicity, the rest of this document will use the abbreviation “ESSA” when citing to the most recent version of the Elementary and Secondary Education Act. This document will use the abbreviation “NCLB” when citing to the prior version of ESEA, the No Child Left Behind Act.

Title I, Part A is the focus of this section of the spending handbook. Please note the following sections of Title I that are technically not included in Part A but are also relevant to spending:

- Section 1001 describes the purpose of Title I,
- Section 1002 sets authorized appropriation levels (that is, the maximum Congress can appropriate for each of the Title I programs),
- Section 1003 is the School Improvement Program,
- Section 1003A is the Direct Student Services Program (a new program option under ESSA), and
- Section 1004 authorizes SEAs to reserve some funds to administer Title I programs.

Purpose of Title I

The purpose of Title I is to provide all children “significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”¹⁵ To achieve that, states must develop accountability systems to identify and support schools with academically struggling students, and LEAs and schools must use their Title I funds to improve student outcomes, including academic achievement.

The state accountability system is central to Title I. It includes:

- State-adopted challenging academic standards in at least math, reading/language arts, and science,¹⁶
- High-quality academic assessments that measure how well students are mastering state standards in at least math, reading/language arts, and science,¹⁷
- A system that differentiates school performance based on a variety of indicators,¹⁸
- A system to identify and support certain low-performing schools (known as “comprehensive support and improvement” (CSI) schools and “targeted support and improvement” (TSI) schools),¹⁹ and
- Reporting student achievement and other data to ED and the public.²⁰

LEAs that receive Title I funds must carry out a variety of activities as a condition of participating in the program including, but not limited to:

- Developing and implementing plans to support and improve low-performing schools identified by the state through its accountability system,²¹
- Reporting student achievement and other data to the SEA and the public,²²
- Notifying parents about issues such as teacher qualifications, assessments, and identification of students as English learners,²³
- Collaborating with child welfare agencies to ensure the educational stability of children in foster care,²⁴
- Providing services to homeless children,²⁵

¹⁵ ESSA, Section 1001.

¹⁶ ESSA, Section 1111(b)(1).

¹⁷ ESSA, Section 1111(b)(2).

¹⁸ ESSA, Section 1111(c)(4)(B). The indicators are (1) student achievement on the state academic assessment, (2) for elementary and middle schools, a measure of student growth or another academic indicator that allows for meaningful differentiation of school performance, (3) for high schools, high school graduation rates, (4) progress in achieving English language proficiency, and (5) 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 another state-selected indicator that meets ESSA requirements. ESSA, Section 1111(c)(4)(B)(i)-(v).

¹⁹ ESSA, Section 1111(d).

²⁰ ESSA, Section 1111(h).

²¹ ESSA, Section 1111(d)(1)&(2).

²² ESSA, Section 1111(h).

²³ ESSA, Section 1112(e).

²⁴ ESSA, Section 1112(c)(5)(B).

²⁵ ESSA, Section 1113(c)(3)(A)(i). Please see footnote 49 for more information.

- Providing services to children in local institutions for neglected children, and if appropriate, to children in local institutions for delinquent children, and neglected or delinquent children in community day programs,²⁶
- Allocating Title I funds to eligible schools through a poverty-based procedure known as “ranking and serving,”²⁷
- Developing policies and providing services to engage parents and families,²⁸
- Providing services to eligible private school students,²⁹ and
- Overseeing Title I activities in Title I schools.³⁰

Schools that receive Title I funds must design and implement programs to support eligible Title I students using one of two models:

- A **schoolwide model**, available to any school with at least forty percent poverty (or to schools below forty percent poverty with a waiver, which, under ESSA, can be issued by the SEA).³¹
 - Schools operating a schoolwide model can use Title I funds to upgrade their entire educational program,³²
 - All students are considered “Title I students,”³³ and
 - Schoolwide schools must develop a plan describing the services they will provide based on a comprehensive assessment of the school’s needs.³⁴ This needs assessment must take into account the academic achievement of all students, particularly the needs of those of students struggling to meet state academic standards, and any other factors as determined by the LEA.³⁵
- A **targeted assistance model**, available to any Title I school that does not operate a schoolwide program.³⁶
 - Schools operating a targeted assistance model must use Title I funds to help educationally-disadvantaged students meet state standards, and³⁷
 - Students are eligible for Title I if they: (1) are failing, or at risk of failing, to meet state standards, (2) participated in certain federally-funded preschool programs, (3) received services under the Migrant Education Program, (4) are in a local institution for neglected or delinquent children or are attending a community day program, or (5) are homeless.³⁸

²⁶ ESSA, Section 1113(c)(3)(A)(ii)&(iii).

²⁷ ESSA, Section 1113.

²⁸ ESSA, Section 1116.

²⁹ ESSA, Section 1117.

³⁰ 2 CFR § 200.328(a).

³¹ ESSA, Section 1114(a)(1).

³² ESSA, Section 1114(a)(1)(A).

³³ ESSA, Section 1114(a)(2).

³⁴ ESSA, Section 1114(b).

³⁵ ESSA, Section 1114(b)(6).

³⁶ ESSA, Section 1115.

³⁷ ESSA, Section 1115(b)(2)(A).

³⁸ ESSA, Section 1115(c).

How Title I Funds May Be Used

Title I, Part A funds can support a wide range of activities to help Title I students meet state academic standards. This includes:

- Providing eligible students with a well-rounded education,³⁹
- Instructional supports,
- Non-instructional supports like behavior and mentoring supports, and social and emotional learning, and
- Improving school quality.

Historically, many LEAs and schools have used Title I funds narrowly for discrete instructional supports primarily focused on reading and math. This happened because the law’s complexity has often led to misunderstandings about how Title I funds can be used. In fact, Title I may be used flexibly to meet a broad range of student needs, which can include reading and math instructional supports, but may also address other identified student needs.

For example, the chart below highlights common ways Title I spending was limited beyond what federal law required under the No Child Left Behind Act (NCLB). NCLB is the version of the Elementary and Secondary Education Act that preceded the Every Student Succeeds Act (ESSA). Understanding and addressing these prior limitations is important for ensuring ESSA’s Title I funds are used to their full potential.

Common Title I Limitations under NCLB Not Required by Federal Law⁴⁰	
Common Limitation Not Required by Federal Law	Actual Legal Authority
Limiting Title I spending to reading/language arts and math	<i>NCLB did not impose such a restriction. Title I could be used broadly to improve education for the disadvantaged, including subjects like science, social studies, art, and others.⁴¹ ESSA continues to permit Title I to be used for a broad range of subjects (see definition of well-rounded education above).</i>

³⁹ Please see ESSA, Section 8101(52) defining 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 SEA or LEA, with the purpose of providing all students access to an enriched curriculum and educational experience.

⁴⁰ This table is based on CCSSO’s *Maximizing ESSA Formula Funds for Students: State Readiness Self-Assessment*: <http://www.ccsso.org/Documents/2016/ESSA/MaximizingESSAFormulaFundsforStudentsApril2016.pdf>. Please note that the citations in this chart are to the NCLB law (not ESSA) and relevant NCLB guidance in order to highlight misunderstandings under NCLB.

⁴¹ See NCLB, Sections 1111 and following, imposing no academic subject matter restrictions on Title I funding. See also the U.S. Department of Education’s (ED) guidance, *Using Title I, Part A ARRA Funds for Grants to Local Educational Agencies to Strengthen Education, Drive Reform, and Improve Results for Students* (September 2009) available at <https://www2.ed.gov/policy/gen/leg/recovery/guidance/titlei-reform.pdf>, particularly Sections C and G. This guidance is referred to as “ED 2009 Title I Reform Guidance” for the rest of this document. Two notes about this guidance: (1) while the guidance was developed to provide information about the additional Title I money appropriated under the American Recovery and Reinvestment Act (ARRA), the guidance is applicable Title I funds generally (see page 15), and (2) the guidance was released under NCLB. ED may issue updated Title I spending guidance under ESSA.

Limiting Title I spending only to instruction or materials	<i>NCLB did not impose such a restriction. Title I could be used for non-instructional supports such as school climate, increasing attendance, school counselors, improving health (in some circumstances), etc.⁴² ESSA continues to permit Title I to support these, and other, non-instructional supports.⁴³</i>
Limiting Title I spending to remedial programs	<i>NCLB did not impose such a restriction. ED guidance permitted spending on advanced learning opportunities for struggling students.⁴⁴ ESSA is now more explicit that Title I can be used for such activities.⁴⁵</i>
Limiting Title I spending to specific students in a schoolwide program school	<i>NCLB did not impose such a restriction. Title I permitted spending to upgrade the entire educational program of a schoolwide school.⁴⁶ ESSA continues to permit Title I spending on broad improvement strategies based on the school's needs.⁴⁷</i>

I. Using Title I Funds at the LEA Level: Required and Discretionary Reservations

Before allocating Title I funds to schools, LEAs **must** reserve some Title I funds for the following required activities:

- Services for homeless children, which can include funding for the homeless liaison and transportation required under the McKinney Vento Homeless Education Act.⁴⁸ *LEAs must reserve “such funds as are necessary,” based on an assessment of homeless children’s needs; ESSA does not specify an amount.⁴⁹*
- Services for children in local institutions for neglected children, and if appropriate, services for children in local institutions for delinquent children, and neglected or delinquent children in community day programs. *LEAs must reserve “such funds as are necessary;” ESSA does not specify an amount.⁵⁰*
- Parent and family engagement (required if the LEA receives \$500,000 or more of Title I funds). *LEAs must reserve at least one percent,⁵¹ ninety percent of which must be distributed to schools.⁵²*
- Equitable services for eligible private school students. *LEAs must reserve a proportional amount based on the number of eligible private school students in the LEA.⁵³*

⁴² See *ED 2009 Title I Reform Guidance*, particularly Sections C, E, and G.

⁴³ See, for example, ESSA, Section 1114(b)(7)(A)(iii)(I)&(III), ESSA, Section 1115(b)(2)(B)(ii), and ESSA, Section 1115(e)(2).

⁴⁴ See *ED 2009 Title I Reform Guidance*, Section C.

⁴⁵ See, for example, ESSA, Section 1114(b)(7)(A)(II), ESSA, Section 1114(e), and ESSA, Section 1115(f).

⁴⁶ See NCLB, Section 1114. Also see ED guidance issued under NCLB, *Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program* (2015) available at <http://www.ed.gov/policy/elsec/guid/eseatitleiswguidance.pdf> and *Designing Schoolwide Programs* (2006) available at <http://www.ed.gov/policy/elsec/guid/designingswpguid.doc>.

⁴⁷ ESSA, Section 1114(a)(1)(A). Also see ED guidance issued under ESSA, *Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program* (2016) available at <https://www2.ed.gov/policy/elsec/leg/essa/essaswpguidance9192016.pdf>.

⁴⁸ Please note ESSA amended the set-aside for homeless children. Under NCLB, the set-aside was limited to homeless children “who do not attend participating schools,” meaning homeless children who do not attend Title I schools. This limitation was removed from ESSA.

⁴⁹ ESSA, Section 1113(c)(3)(C).

⁵⁰ ESSA, Section 1113(c)(3).

⁵¹ ESSA, Section 1116(a)(3)(A). ESSA clarifies LEAs can reserve more than one percent at their discretion.

⁵² Please note ninety percent is a change from NCLB which required LEAs to distribute ninety-five percent of the reserved funds to schools.

⁵³ ESSA, Section 1117(a)(4). Please note ESSA now requires the equitable services be calculated based on an LEA’s total Title I, Part A allocation. Under NCLB, certain parts of an LEA’s Title I, Part A allocation were excluded from the calculation, such as funds reserved for school improvement. For more information about the equitable services calculation please see U.S.

LEAs **may** also reserve funds for the following discretionary activities:

- Transportation for students in *Comprehensive support and improvement* (CSI) schools if the LEA offers these students the option to transfer to another school. *LEAs may reserve up to five percent.*⁵⁴
- Financial incentives and rewards to teachers in CSI or *Targeted support and improvement* (TSI) schools for the purpose of attracting and retaining qualified and effective teachers. *LEAs may reserve up to five percent.*⁵⁵
- Early childhood education programs for eligible children. *LEAs have discretion over how much, if any, to reserve; ESSA does not specify an amount.*⁵⁶
- The additional costs needed to transport children in foster care to their school of origin consistent with Section 1112(c)(5). *LEAs have discretion over how much, if any, to reserve; ESSA does not specify an amount.*⁵⁷
- Administering the Title I program. *LEAs may reserve a reasonable and necessary amount.*⁵⁸
- District-managed initiatives in Title I schools. *See below.*⁵⁹

Department of Education, *Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 (ESEA), as Amended by the Every Student Succeeds Act (ESSA)* (2016) available at <https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>.

⁵⁴ ESSA, Section 1111(d)(1)(D)(v).

⁵⁵ ESSA, Section 1113(c)(4).

⁵⁶ ESSA, Section 1113(c)(5).

⁵⁷ U.S. Department of Education and U.S. Department of Health and Human Services, *Ensuring Educational Stability for Children in Foster Care* (2016), Q&A 30, available at <http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>.

⁵⁸ 34 CFR § 200.77.

⁵⁹ 34 CFR § 200.77.

A Deeper Look at District-Managed Title I Initiatives

LEAs have the option to reserve Title I funds to implement district-managed Title I initiatives. These initiatives are managed at the central level (rather than the school level), and are designed to improve the achievement of Title I students. District-managed initiatives are sometimes called “districtwide” initiatives because they benefit all, or a group, of Title I schools. But these initiatives are not truly districtwide in an LEA with both Title I and non-Title I schools. An LEA cannot, for example, use Title I funds to benefit non-Title I students.

Guidance from ED permits LEAs to use Title I funds for the following types of district-managed initiatives for all, or a subset of, an LEA’s Title I schools:⁶⁰

- Contracting with an outside provider with expertise in school improvement to support low-achieving Title I schools,⁶¹
- Summer school courses, or after-school tutoring, to prepare low-achieving students to participate successfully in advanced coursework,⁶²
- Supplemental instructional materials to improve the academic achievement of low-achieving students, including students with disabilities and English language learners,⁶³
- Hiring an outside expert to work with the staff of low-achieving Title I schools to build their capacity to analyze student data and identify promising interventions,⁶⁴
- Piloting a data dashboard to help teachers in Title I schools identify, track, and analyze data to help them better target interventions to low-achieving students,⁶⁵
- Paying for extended time for teachers in Title I schools to review data for at-risk students and identify interventions to better meet the needs of those students,⁶⁶ and
- Extending learning time in Title I schools (before- and after-school programs, Saturday school and summer school, extending half-day kindergarten to a full day, extending the school year, extended learning opportunities during the school day, adding time during the day for teachers to plan collaboratively).⁶⁷

The examples above illustrate *possible* uses of Title I funds for a district-managed Title I initiative, and are not meant to limit the use of funds. Other uses of funds that are consistent with Title I rules are also permissible.

IMPORTANT NOTE: While there is no specific cap on the amount of money an LEA can reserve for district-managed initiatives, the bulk of Title I funds generally should be allocated to schools because Title I is designed to be a school-based program.

⁶⁰ ED 2009 Title I Reform Guidance, Q&A B-8.

⁶¹ ED 2009 Title I Reform Guidance, Q&A B-8.

⁶² ED 2009 Title I Reform Guidance, Q&A C-1.

⁶³ ED 2009 Title I Reform Guidance, Q&A C-8.

⁶⁴ ED 2009 Title I Reform Guidance, Q&A D-1.

⁶⁵ ED 2009 Title I Reform Guidance, Q&A D-3.

⁶⁶ ED 2009 Title I Reform Guidance, Q&A D-4.

⁶⁷ ED 2009 Title I Reform Guidance, Q&A G-5.

II. Using Title I Funds in Schools that Operate Schoolwide Programs

Schools with at least forty percent poverty, as well as any school with a waiver of this poverty rate (which the state can issue),⁶⁸ may operate a schoolwide program as long as the school conducts a comprehensive needs assessment and develops a schoolwide plan for meeting its needs.⁶⁹

The premise of the schoolwide model is that high poverty schools should have the flexibility to implement comprehensive school improvement strategies, and not be limited only to narrow add-on services for certain students.

In a schoolwide program all students and staff may participate in Title I-funded activities, and the school may use Title I to support any reasonable activity designed to improve the school's educational program so long as it is consistent with the school's needs and plan.

A. Spending Options in a Schoolwide Program

Depending on its needs, a schoolwide program school could use Title I to support:

- High-quality preschool or full-day kindergarten and services to facilitate the transition from early learning to elementary education programs,
- Recruitment and retention of effective teachers, particularly in high-need subjects,
- Instructional coaches to provide high-quality, school-based professional development,
- Increased learning time,
- Evidence-based strategies to accelerate the acquisition of content knowledge for English learners,
- Activities designed to increase access and prepare students for success in high-quality advanced coursework to earn postsecondary credit while in high school (e.g., Advanced Placement, International Baccalaureate, early college high schools, and dual or concurrent enrollment programs),
- Career and technical education programs to prepare students for postsecondary education and the workforce,
- Counseling, school-based mental health programs, mentoring services, and other strategies to improve students' nonacademic skills,
- School climate interventions (e.g., anti-bullying strategies, positive behavior interventions and supports),
- Equipment, materials, and training needed to compile and analyze student achievement data to monitor progress, alert the school to struggling students, and drive decision making,
- Response-to-intervention strategies intended to allow for early identification of students with learning or behavioral needs and to provide a tiered response based on those needs,
- Activities that have been shown to be effective at increasing family and community engagement in the school, including family literacy programs,

⁶⁸ Under ESSA, SEAs have the discretion to waive the forty percent poverty threshold if the SEA believes it will best serve student needs. ESSA, Section 1114(a)(1)(B).

⁶⁹ ESSA, Section 1114(b).

- Devices and software for students to access digital learning materials and collaborate with peers, and related training for educators (including accessible devices and software needed by students with disabilities), and
- Two-generation approaches that consider the needs of both vulnerable children and parents, together, in the design and delivery of services and programs to support improved economic, educational, health, safety, and other outcomes that address the issues of intergenerational poverty.⁷⁰

For more information about using Title I funds in a schoolwide setting under ESSA, please see ED’s guidance *Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program* at <https://www2.ed.gov/policy/elsec/leg/essa/essaswpguidance9192016.pdf>.

B. The Schoolwide Plan and Its Relationship to the Use of Title I Funds

The schoolwide plan is a strategic tool that identifies the school’s needs and explains which improvement strategies it will use to address those needs. In general, the school may then spend Title I funds to support the strategies identified in its plan.

The composition of the schoolwide plan changed under ESSA. Under NCLB, schools had to address ten components in their schoolwide plans. ESSA takes a more comprehensive approach, as described below. Schools that are currently operating schoolwide programs must amend their existing plans to reflect these changes within one year of ESSA taking effect.⁷¹

1. *Schoolwide Plan Elements*

A schoolwide plan must be based on a **comprehensive needs assessment** of the entire school that takes into account information on the academic achievement of children, particularly the needs of those children who are failing, or are at-risk of failing, to meet state standards, and any other factors as determined by the LEA.⁷²

Using the information from the comprehensive needs assessment, the schoolwide plan must describe the strategies the school will implement to address its needs, including a description of how the strategies will:

- Provide opportunities for all children, including each subgroup of students, to meet state standards,
- Use methods and instructional strategies that strengthen the academic program in the school, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum, which may include programs, activities, and courses necessary to provide a well-rounded education, and
- Address the needs of all children in the school, but particularly the needs of those at risk of not meeting state standards, through activities which may include:
 - Counseling, school-based mental health programs, specialized instructional support services, mentoring services, and other strategies to improve students’ skills outside the academic subject areas,

⁷⁰ U.S. Department of Education, *Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program*, pp. 4-5 (2016), available at <https://www2.ed.gov/policy/elsec/leg/essa/essaswpguidance9192016.pdf>. This guidance will be referred to as “*ED 2016 Schoolwide Guidance*” for the rest of this document.

⁷¹ ESSA, Section 1114(b)(1).

⁷² ESSA, Section 1114(b)(6).

- Preparation for and awareness of opportunities for postsecondary education and the workforce, which may include career and technical education programs and broadening secondary school students' access to coursework to earn postsecondary credit while still in high school (such as Advanced Placement, International Baccalaureate, dual or concurrent enrollment, or early college high schools),
- Implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act,
- Professional development and other activities for teachers, paraprofessionals, and other school personnel to improve instruction and use of data from academic assessments, and to recruit and retain effective teachers, particularly in high-need subjects, and
- Strategies for assisting preschool children in the transition from early childhood education programs to local elementary school programs.⁷³

In addition, if a schoolwide school consolidates Title I with other funds, the plan must also list the specific state, local, and federal programs that will be consolidated in the schoolwide program.⁷⁴ It is important to note that Title I funds can be used to support comprehensive initiatives in a schoolwide school *even if Title I funds are not consolidated with other program funds.*⁷⁵

2. Other Schoolwide Plan Requirements

The schoolwide plan must be developed:

- During a 1-year period, for schools not already operating schoolwide programs, unless the LEA determines, in consultation with the school, that less time is needed to develop and implement the schoolwide program,⁷⁶
- With the involvement of key stakeholders,⁷⁷ and
- In coordination and integration with other federal, state, and local services, resources, and programs, if appropriate, such as programs supported under ESSA, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and schools implementing comprehensive support and improvement activities or targeted support and improvement activities.⁷⁸

⁷³ ESSA, Section 1114(b)(7)(A).

⁷⁴ ESSA, Section 1114(b)(7)(B). See also *ED 2016 Schoolwide Guidance*, pp. 9-10, for more information about consolidation.

⁷⁵ See *ED 2016 Schoolwide Guidance*, p.9, stating:

NOTE: A schoolwide program school has flexibility in its use of Title I funds even absent consolidation. The uses of Title I funds described throughout this document are available to a schoolwide program school that does not consolidate its Title I or other Federal funds. Consolidation, however, affords even greater flexibility.

⁷⁶ ESSA, Section 1114(b)(1).

⁷⁷ ESSA, Section 1114(b)(2). ESSA specifies parents and other members of the community and individuals who will carry out such plan, including teachers, principals, other school leaders, paraprofessionals, administrators, the LEA, tribes and tribal organizations (to the extent feasible), and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, if the plan relates to a secondary school, students, and other individuals determined by the school.

⁷⁸ ESSA, Section 1114(b)(5).

ESSA clarifies that schoolwide plans:

- Remain in effect for the duration of the school’s participation in Title I, except that schools must regularly monitor and revise their plan and implementation as necessary based on student needs to ensure that all students are provided opportunities to meet state standards,⁷⁹ and
- Must be available to the LEA, parents, and the public, and the information contained in the plan should be understandable to the extent practical.⁸⁰

III. Using Title I Funds in Schools that Operate Targeted Assistance Programs

Any Title I school that does not operate a schoolwide program must operate a targeted assistance program. In a targeted assistance school, the school uses Title I funds to provide additional supports to specifically identified students struggling to meet state standards.

A. Identifying Title I Students

Targeted assistance schools must determine which students they will serve by identifying the students with the greatest need for assistance from among the following eligible groups:

- Students identified as failing, or most at risk of failing, to meet state standards,
- Students who participated in Head Start, or certain ESSA-funded preschool programs or literacy programs for young children, within the past two years (including Title I supported preschool),
- Migrant students,
- Neglected and delinquent students, and
- Homeless children.⁸¹

B. Spending Options in a Targeted Assistance Program

Targeted assistance schools must use Title I funds to help identified students meet state standards, which can include programs, activities, and academic courses necessary to provide a well-rounded education.⁸²

Targeted assistance schools may use Title I funds to serve their eligible students by:

- Expanding learning time for eligible students, including before- and afterschool programs, and summer programs and opportunities,
- Providing early intervening services to eligible students, including services coordinated with similar activities and services carried out under IDEA,

⁷⁹ ESSA, Section 1114(b)(3).

⁸⁰ ESSA, Section 1114(b)(4).

⁸¹ ESSA, Section 1115(c).

⁸² ESSA, Section 1115(b)(2)(A).

- Providing eligible students with extra supports aligned to the school’s regular education program, which may include services to assist preschool children in the transition from early childhood education programs to elementary school programs,
- Providing professional development to teachers, principals, other school leaders, paraprofessionals, and, if appropriate, specialized instructional support personnel, and other school personnel who work with eligible students, and
- Implementing strategies to increase the involvement of parents of eligible students.⁸³

Targeted assistance schools can also use Title I funds to provide eligible students with health, nutrition, and other social services⁸⁴ that are not otherwise available to them if:

- The school has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, if appropriate; and
- Funds are not reasonably available from other public or private sources.⁸⁵

A secondary school operating a targeted assistance program may use Title I funds to provide dual or concurrent enrollment program services to eligible children.⁸⁶

Targeted assistance schools must:

- Help provide an accelerated, high-quality curriculum,
- Minimize the removal of children from the regular classroom during regular school hours for instruction provided by Title I, and
- Review the progress of eligible students on an ongoing basis and revise the targeted assistance program, if necessary, to provide students additional assistance to meet state standards.⁸⁷

C. Coordinating Targeted Services with Other Programs and Supports

Because targeted assistance programs can only serve specifically identified students, schools sometimes “wall-off” their Title I programs to prove that only eligible students participated. This is not required by the Title I law or federal rules. In fact, Title I encourages schools to coordinate Title I services with other programs, including the regular education program.

For example, the targeted assistance section of the law says:

⁸³ ESSA, Section 1115(b)(2).

⁸⁴ Examples of such services include basic medical equipment such as eyeglasses and hearing aids, compensation of a coordinator, family support and engagement services, integrated student supports, and professional development necessary to assist teachers, specialized instructional support personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children. ESSA, Section 1115(e)(2)(B).

⁸⁵ ESSA, Section 1115(e)(2).

⁸⁶ ESSA, Section 1115(f).

⁸⁷ ESSA, Section 1115(b)(2)(G).

*Nothing in this section shall be construed to prohibit a school from serving students under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.*⁸⁸

The law also encourages targeted assistance schools to coordinate and integrate federal, state, and local services and programs, such as programs supported under ESSA, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and comprehensive support and improvement activities or targeted support and improvement activities.⁸⁹

This coordination extends beyond student services and includes Title I staff as well. For example, to promote the integration of Title I staff into the regular school program and overall school planning and improvement efforts, such staff can:

- Participate in general professional development and school planning activities, and
- Assume limited duties that are assigned to similar personnel, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.⁹⁰

IV. Special Considerations for Using Title I Funds in Schools Identified for Support and Improvement

Under ESSA, states must identify two types of low-performing schools:

- *Targeted support and improvement* (TSI) schools, which are schools with one or more consistently underperforming subgroups,⁹¹ and
- *Comprehensive support and improvement* (CSI) schools, which include:
 - 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 the school has implemented a targeted support and improvement plan.⁹²

TSI and CSI schools⁹³ must develop plans for improving student outcomes that (among other things):

- Are informed by all the indicators for differentiating schools listed above,
- Include evidence-based interventions (see box below), and
- Are based on an assessment of the school's needs.⁹⁴

⁸⁸ ESSA, Section 1115(e)(1).

⁸⁹ ESSA, Section 1115(b)(2)(F).

⁹⁰ ESSA, Section 1115(d).

⁹¹ ESSA, Section 1111(c)(4)(C)(iii) and Section 1111(d)(2). ESSA does not define what it means to be consistently underperforming, but rather leaves it for states to define.

⁹² ESSA, Section 1111(c)(4)(D).

⁹³ For CSI schools, the LEA develops the plan, which must be approved by the school. ESSA, Section 1111(d)(1)(B).

Definition of “Evidence-Based” in ESSA⁹⁵

Evidence-based means an activity, strategy, or intervention that:

- i. demonstrates a **statistically significant effect on improving student outcomes or other relevant outcomes based on—**
 - (I) **strong evidence from at least one well-designed and well-implemented experimental study;**
 - (II) **moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or**
 - (III) **promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or**
- ii. (I) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and
(II) includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

Under ESSA, TSI and CSI schools that receive Title I funds have the same Title I, Part A spending options as any other Title I school, and can also use their Title I, Part A funds to support the school’s TSI and CSI initiatives.

It is important to note the distinction between how Title I, Part A funds may be used in a TSI or CSI school versus how Section 1003 school improvement funds must be used. Under ESSA, Title I, Part A funds may support any allowable Title I, Part A cost whether it meets ESSA’s definition of evidence-based or not. This is different from how Section 1003 school improvement funds must be used. Section 1003 funds can only be used to support activities that meet ESSA’s top three tiers of evidence (highlighted in bold text above). In other words, Section 1003 funds can only be used to fund activities, strategies, or interventions based on a study that demonstrates the activity, strategy, or intervention has a *statistically significant effect* on improving student outcomes.⁹⁶

Therefore, while TSI and CSI schools must implement evidence-based interventions under ESSA’s school improvement requirements, this requirement does not directly affect their use of Title I, Part A funds under ESSA.

V. Other Spending Rules

A. ESSA Maintenance of Effort

⁹⁴ ESSA, Section 1111(d)(1)(B) and Section 1111(d)(2)(B).

⁹⁵ ESSA, Section 8101(21)(A).

⁹⁶ ESSA, Section 8101(21)(B) stating:

(B) DEFINITION FOR SPECIFIC ACTIVITIES FUNDED UNDER THIS ACT.—When used with respect to interventions or improvement activities or strategies funded under section 1003, the term “evidence-based” means a State, local educational agency, or school activity, strategy, or intervention that meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i).

LEAs that receive Title I and other ESSA funds must comply with a maintenance of effort requirement.⁹⁷ Maintenance of effort requires LEAs to maintain a consistent floor of state and local funding for free public education from year-to-year. An LEA is required to spend State and local funds with respect to the provision of free public education in the preceding fiscal year that was not less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

An SEA must reduce an LEA's allocation (using the measure most favorable to the LEA) under a covered ESSA program if the LEA fails to maintain effort in a given fiscal year and also failed to maintain effort in one or more of the five immediately preceding fiscal years in the exact proportion by which the LEA failed to maintain effort in the immediate preceding year.

The US Department of Education may waive the maintenance of effort requirement for an LEA if it determines that a waiver would be equitable due to —

- exceptional or uncontrollable circumstances, such as a change in the organizational structure of the LEA; or
- a precipitous decline in the financial resources of the LEA

B. Supplement not supplant

Title I has a supplement not supplant (SNS) requirement. In general terms, this means that Title I funds should add to (supplement) and not replace (supplant) state and local funds. Prior to ESSA, supplement not supplant was typically tested by analyzing an individual Title I cost's compliance with "three presumptions of supplanting."⁹⁸ Under ESSA, compliance with SNS will no longer be tested through individual Title I costs,⁹⁹ so these three presumptions no longer apply.

Instead, LEAs must demonstrate that the methodology they use to allocate state and local funds to schools provides each Title I school with all of the state and local money it would receive if it did not participate in the Title I program.¹⁰⁰

This should expand Title I's spending options. (Note that every Title I cost must still be allowable and must still support eligible students among other requirements.)

C. Comparability

As a condition of receiving Title I, LEAs must ensure that state and local funds are used to provide services that taken as a whole, are comparable between Title I and non-Title I schools.¹⁰¹

⁹⁷ ESSA, Sections 1118(a) and 8521.

⁹⁸ Under NCLB and previous versions of ESEA, a Title I supplanting violation was presumed if Title I, Part A paid for:

- 1) An activity required by federal, state, or local law,
- 2) An activity that was paid for with state or local funds in the prior year, or
- 3) The same services for Title I students that state and local funds support for non-Title I students.

⁹⁹ ESSA, Section 1118(b)(3)(A).

¹⁰⁰ ESSA, Section 1118(b)(2).

D. Equitable Services

Title I funds are subject to an equitable services requirement.¹⁰² In short, this means LEAs must reserve funds to provide Title I services to eligible private school students, teachers and other educational personnel, and families. ESSA makes important changes and clarifications to the way LEAs must reserve Title I funds for equitable services. ESSA requires an LEA to determine the amount of funds available for providing equitable services under Title I *prior* to any expenditures or transfers of funds.¹⁰³ This includes all reservations previously taken “off the top” of an LEA’s Title I allocation, including reservations for administration, parental involvement, and district-wide initiatives.¹⁰⁴

¹⁰¹ ESSA, Section 1118(c).

¹⁰² ESSA, Section 1117.

¹⁰³ ESSA, Section 1117(a)(4).

¹⁰⁴ See U.S. Department of Education, *Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA)* (November 2016), Q&A O-1, available at <https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>. This guidance will be referred to as “*ED 2016 Fiscal Changes Guidance*” for the rest of this document.

Spending Title II, Part A Funds to Support Effective Instruction

This section provides information about how local educational agencies (LEAs) can spend Title II, Part A funds.

Title II, Part A is a U.S. Department of Education (ED) grant program that provides supplemental funding to help support effective instruction. ED awards Title II, Part A funds to state educational agencies (SEAs), which then subgrant funds to LEAs.

For convenience this section will refer to the program as “Title II.” For more information about Title II please visit the following SD DOE website: <http://doe.sd.gov/oess/ESSA-TITLEIIA.aspx>.

Purpose of the Title II Program

In general, Title II funds can be used to provide supplemental activities that strengthen the quality and effectiveness of teachers, principals, and other school leaders.¹⁰⁵ The purpose of Title II is to:

1. Increase student achievement consistent with state standards,
2. Improve the quality and effectiveness of teachers, principals, and other school leaders,
3. Increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools, and
4. Provide low-income and minority students greater access to effective teachers, principals, and other school leaders.¹⁰⁶

How Title II Funds May Be Used

I. Overview and General Requirements

A. Overview

LEAs can use Title II funds for a wide range of activities to support the quality and effectiveness of teachers, principals and other school staff. Activities supported with Title II funds must:

- Be consistent with Title II's purpose (see above), and
- Address the learning needs of all students, including children with disabilities, English learners, and gifted and talented students.¹⁰⁷

LEAs must prioritize Title II, Part A funds to schools that:

- Are implementing comprehensive support and improvement activities and targeted support and improvement activities, **and**
- Have the highest percentage of children counted under section 1124(c)¹⁰⁸ (these are primarily low-income children)¹⁰⁹

ESSA implementation affords LEAs an opportunity to examine current uses of Title II funds and consider modifications to ensure effective and efficient uses of these resources.

¹⁰⁵ For federal non-regulatory guidance on the Title II program, please see U.S. Department of Education, *Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Learning* (September 2016), available at <http://www2.ed.gov/policy/elsec/leg/essa/essatitleiipartaguidance.pdf>. This guidance will be referred to as *ED 2016 Title II, Part A Guidance* for the rest of this document.

¹⁰⁶ ESSA, Section 2001.

¹⁰⁷ ESSA, Section 2103(b)(1)-(2).

¹⁰⁸ ESSA, Section 2102(b)(2)(C).

¹⁰⁹ ESSA, Section 1124(c) is located in Title I of ESSA, and describes the children that should be counted.

B. Changes to the Title II Formula That Might Affect the Amount of Funds an LEA Receives

ESSA made two changes to the Title II formula that might affect how much money an LEA receives.

First, ESSA changed the formula ED uses to distribute Title II money to states.¹¹⁰ This change will be phased in over time between 2017 and 2023. In some cases this will result in states getting more money, meaning there will be more to pass on to LEAs. In other cases this will result in states getting less money, meaning there will be less to pass on to LEAs.

Second, ESSA changed the formula SEAs use to distribute Title II money to LEAs. Under prior law, LEAs were guaranteed to receive a minimum amount of money regardless of how their student population changed over time.¹¹¹ This was known as a hold harmless.

ESSA eliminated the hold harmless, and LEAs will now generate money based only on their number of 5-17 year olds (twenty percent of the allocation), and their number of low-income 5-17 year olds (eighty percent of the allocation).¹¹²

C. Requirement for Stakeholder Consultation When Deciding How to Use Local Title II Funds

Title II requires LEAs to consult meaningfully with a wide array of stakeholders on the LEA's plan for carrying out Title II activities.¹¹³

LEAs must also conduct ongoing consultation with those stakeholders to update and improve activities supported with Title II funds.¹¹⁴

In carrying out consultation, ED suggests LEAs consider the following activities:

- Conduct outreach to, and solicit input from relevant stakeholders during the design and development of plans for Title II funds ensuring there is a diverse representation of educators from across LEA, especially those who work in high-need schools and in early education.

¹¹⁰ ESSA, Section 2101(b). As with prior law, there are two parts to the federal-to-state Title II formula: (1) a "hold harmless" allocation that guarantees states at least as much money as they received in 2001 under two (no longer authorized) programs related to Title II, and (2) 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 "hold harmless" amount between 2017 and 2022 until it is eventually eliminated. ESSA also changes the amounts generated by population versus poverty. Now, states generate thirty-five percent based on population and sixty-five percent based on poverty. The percentages shift between 2018 and 2020 until it is twenty percent based on population and eighty percent based on poverty.

¹¹¹ NCLB, Section 2121(a)(2).

¹¹² ESSA, Section 2102(a).

¹¹³ ESSA, Section 2102(b)(3). Stakeholders include teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a LEA that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet Title II purposes. ESSA, Section 2102(b)(3)(A).

¹¹⁴ ESSA, Section 2102(b)(2)(D).

- Be flexible when consulting with stakeholders, especially educators, by holding meetings or conferences outside the hours of the school day or by using a variety of communications tools, such as electronic surveys.
- Seek out diverse perspectives within stakeholder groups, when possible, and ensure that consultation is representative of the LEA as much as possible.
- Make stakeholders aware of past and current uses of Title II funds, and research or analysis of the effectiveness of those uses, if available, as well as research or analysis of proposed new uses of funds, in order to consider the best uses for schools and districts to support teacher and school leader development.
- Consider the concerns identified during consultation, and revise uses of Title II funds when appropriate.¹¹⁵

II. Allowable Uses of Local Title II Funds

What follows is an overview of all LEA spending options under the Title II law. LEAs are encouraged to prioritize activities that will have the highest impact on teaching and learning. When determining which of the many allowable Title II strategies and activities will have the highest impact, ED guidance suggests LEAs undertake a five-step framework:

1. Choose interventions aligned with identified local needs,¹¹⁶
2. Consider the evidence base and the local capacity when selecting a strategy,
3. Develop a robust implementation plan,
4. Provide adequate resources so the implementation is well-supported, and
5. Gather information regularly to examine the strategy and to reflect on and inform next steps.¹¹⁷

LEAs must use data and ongoing stakeholder consultation to continually update and improve Title II-supported activities.¹¹⁸

A. Evaluation and Support Systems

LEAs may use Title II funds to develop or improve evaluation and support systems for teachers, principals, or other school leaders that are (1) based in part on student achievement, (2) include multiple measures of performance, and (3) provide clear, timely, and useful feedback.¹¹⁹

B. Recruiting, Hiring, and Retaining Effective Teachers; Implementing Supports for Principals and Other School Leaders

¹¹⁵ ED 2016 Title II, Part A Guidance, p. 28.

¹¹⁶ LEAs were required to conduct a formal needs assessment under No Child Left Behind (NCLB). ESSA eliminated that requirement.

¹¹⁷ ED 2016 Title II, Part A Guidance, p. 30. Pages 30-34 of ED's guidance contain more information about these five steps.

¹¹⁸ ESSA, Section 2102(b)(2)(D).

¹¹⁹ ESSA, Section 2103(b)(3)(A).

LEAs may use Title II funds to develop and implement initiatives to recruit, hire, and retain effective teachers to improve the equitable distribution of teachers, particularly in low-income schools with high percentages of ineffective teachers and high percentages of students who do not meet state standards.¹²⁰ LEAs may also use Title II funds to implement supports for principals and other schools leaders.

This can include:

- Expert help in screening candidates and enabling early hiring,¹²¹
- Differential and incentive pay for teachers, principals, or other school leaders in high-need academic subject areas and specialty areas, which may include performance-based pay systems,¹²²
- Teacher, paraprofessional, principal, or other school leader advancement and professional growth,¹²³ which, according to ED guidance can include creating hybrid roles that allow teachers to provide instructional coaching to colleagues while remaining in the classroom, as well as other responsibilities such as collaborating with administrators to develop and implement distributive leadership models and leading decision-making groups,¹²⁴
- New teacher, principal, or other school leader induction and mentoring programs,¹²⁵
- Development and provision of training for school leaders, coaches, mentors, and evaluators on how accurately to differentiate performance, provide useful feedback, and use evaluation results to inform decision-making about professional development, improvement strategies, and personnel decisions,¹²⁶ and
- A system for auditing the quality of evaluation and support systems.¹²⁷

Example: Teacher Residency Program

According to ED guidance,¹²⁸ LEAs may use Title II funds to establish, improve, or support school-based residency programs for teachers in which prospective teachers, for at least one academic year:

- Teach alongside an effective teacher who is the teacher of record for the classroom, and
- Receive concurrent instruction – from either the LEA or the teacher preparation program – in the teaching of the content area in which the teacher will become certified or licensed, and
- Acquire effective teaching skills, as demonstrated through completion of a residency program, or other measure determined by the state.¹²⁹

¹²⁰ ESSA, Section 2103(b)(3)(B).

¹²¹ ESSA, Section 2103(b)(3)(B)(i).

¹²² ESSA, Section 2103(b)(3)(B)(ii).

¹²³ ESSA, Section 2103(b)(3)(B)(iii).

¹²⁴ *ED 2016 Title II, Part A Guidance*, p. 14.

¹²⁵ ESSA, Section 2103(b)(3)(B)(iv).

¹²⁶ ESSA, Section 2103(b)(3)(B)(v).

¹²⁷ ESSA, Section 2103(b)(3)(B)(vi).

¹²⁸ *ED 2016 Title II, Part A Guidance*, p. 8.

¹²⁹ ESSA, Section 2002(5).

Example: Supporting Educator Diversity

According to ED guidance, LEAs may use Title II funds for:

- Providing financial support to educator recruitment programs within the community to improve hiring and retention of a diverse workforce,
- Offering career advancement opportunities for current staff members, such as paraprofessionals, who have worked in the community for an extended period of time, to support their efforts to gain the requisite credentials to become classroom instructors,
- Partnering with preparation providers including local community colleges, Institutions of Higher Education (IHEs), Minority Serving Institutions, and alternative route providers, to build a pipeline of diverse candidates,
- Providing ongoing professional development aimed at cultural competency and responsiveness and equity coaching, designed to improve conditions for all educators and students, including educators and students from underrepresented minority groups, diverse national origins, English language competencies, and varying genders and sexual orientations,
- Providing time and space for differentiated support for all teachers, including affinity group support,
- Supporting leadership and advancement programs aimed to improve career and retention outcomes for all educators, including educators from underrepresented minority groups, and
- Developing and implementing other innovative strategies and systemic interventions designed to better attract, place, support, and retain culturally competent and culturally responsive effective educators, especially educators from underrepresented minority groups, such as having personnel or staff-time dedicated to recruiting diverse candidates of high-quality who can best teach to the diversity of the student population.¹³⁰

C. Recruiting from Other Fields

LEAs may use Title II funds to recruit qualified individuals from other fields to become teachers, principals, or other school leaders. Qualified individuals from other fields include mid-career professionals from other occupations, former military personnel, and recent graduates of institutions of higher education with records of academic distinction who demonstrate the potential to become effective teachers, principals or other school leaders.¹³¹

D. Class Size Reduction

LEAs may use Title II funds to reduce class size to a level that is evidence-based, to the extent the SEA (in consultation with LEAs) determines such evidence is reasonably available.¹³² According to ED guidance, LEAs may consider reducing class size as one strategy to attract and retain effective educators in high-need schools.¹³³

¹³⁰ ED 2016 Title II, Part A Guidance, p. 19.

¹³¹ ESSA, Section 2103(b)(3)(C).

¹³² ESSA, Section 2013(b)(3)(D).

¹³³ ED 2016 Title II, Part A Guidance, p. 24.

E. Personalized Professional Development

LEAs may use Title II funds to provide high-quality, personalized professional development¹³⁴ for teachers, instructional leadership teams, principals, or other school leaders.¹³⁵ The professional development must be evidence-based, to the extent the SEA (in consultation with LEAs) determines such evidence is reasonably available. The professional development must also focus on improving teaching and student learning and achievement, including supporting efforts to train teachers, principals, or other school leaders to:

- Effectively integrate technology into curricula and instruction (including education about the harms of copyright piracy),
- Use data to improve student achievement and understand how to ensure individual student privacy is protected,
- Effectively engage parents, families, and community partners, and coordinate services between school and community,
- Help all students develop the skills essential for learning readiness and academic success,
- Develop policy with school, LEA, community, or state leaders, and
- Participate in opportunities for experiential learning through observation.¹³⁶

Personalized Professional Development Examples

According to ED guidance, among other activities, LEAs may use Title II funds for:

- Peer-led, evidence-based professional development in LEAs and schools,¹³⁷
- Community of learning opportunities and other professional development opportunities with diverse stakeholder groups such as parents, civil rights groups, and administrators, to positively impact student outcomes; for example, through a forum to discuss the implications of a policy or practice on a school community, or organizing a community-wide service learning project, where teachers work together afterwards to incorporate lessons learned into their teaching,¹³⁸
- Community of learning opportunities where principals and other school leaders engage with their school teams to fully develop broad curriculum models,¹³⁹
- Opportunities for principals and other school leaders to collaborate, problem-solve, and share best practices,¹⁴⁰

¹³⁴ ED's guidance describes ESSA's definition of "professional development" in the following way:
Section 8101(42) defines "professional development," specifically noting that the professional development activities are sustained (not stand-alone, 1-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused.

ED 2016 Title II, Part A Guidance, p. 11. For the full definition of professional development, please see ESSA, Section 8101(42).

¹³⁵ ESSA, Section 2103(b)(3)(E).

¹³⁶ ESSA, Section 2103(b)(3)(E)(i)-(vi).

¹³⁷ *ED 2016 Title II, Part A Guidance*, p. 14.

¹³⁸ *ED 2016 Title II, Part A Guidance*, p. 14.

¹³⁹ *ED 2016 Title II, Part A Guidance*, p. 15.

- “Teacher time banks” to allow effective teachers and school leaders in high-need schools to work together to identify and implement meaningful activities to support teaching and learning (for example, when implementing teacher time banks, Title II funds may be used to pay the costs of additional responsibilities for teacher leaders, use of common planning time, use of teacher-led developmental experiences for other educators based on educators’ assessment of the highest leverage activities, and other professional learning opportunities),¹⁴¹ and
- Ongoing cultural proficiency training to support stronger school climate for educators and students.¹⁴²

F. Increasing Teacher Effectiveness for Students with Disabilities and English Learners

LEAs may use Title II to develop programs and activities that increase teachers’ ability to effectively teach children with disabilities and English learners, which may include the use of multi-tiered systems of support and positive behavioral intervention and supports.¹⁴³

G. Supporting Early Education

LEAs may use Title II funds to provide programs and activities to increase the knowledge base of teachers, principals, or other school leaders on instruction in the early grades and on strategies to measure whether young children are progressing.¹⁴⁴

LEAs may also use Title II funds to provide programs and activities to increase the ability of principals or other school leaders to support teachers, teacher leaders, early childhood educators, and other professionals to meet the needs of students through age eight, which may include providing joint professional learning and planning activities for school staff and educators in preschool programs that address the transition to elementary school.¹⁴⁵

H. Supporting Effective Use of Assessments

LEAs may use Title II funds to provide training, technical assistance, and capacity-building to assist teachers, principals, or other school leaders with selecting and implementing formative assessments, designing classroom-based assessments, and using data from such assessments to improve instruction and student academic achievement, which may include providing additional time for teachers to review student data and respond, as appropriate.¹⁴⁶

I. Supporting Awareness and Treatment of Trauma and Mental Illness, and School Conditions for Student Learning

¹⁴⁰ ED 2016 Title II, Part A Guidance, p. 15.

¹⁴¹ ED 2016 Title II, Part A Guidance, p. 24.

¹⁴² ED 2016 Title II, Part A Guidance, p. 24.

¹⁴³ ESSA, Section 2103(b)(3)(F).

¹⁴⁴ ESSA, Section 2103(b)(3)(G)(i).

¹⁴⁵ ESSA, Section 2013(b)(3)(G)(ii).

¹⁴⁶ ESSA, Section 2103(b)(3)(H).

LEAs may use Title II funds to carry out in-service training for school personnel in:

- The techniques and supports needed to help educators understand when and how to refer students affected by trauma, and children with, or at risk of, mental illness,
- The use of referral mechanisms that effectively link such children to appropriate treatment and intervention services in the school and in the community, where appropriate,
- Forming partnerships between school-based mental health programs and public or private mental health organizations, and
- Addressing issues related to school conditions for student learning, such as safety, peer interaction, drug and alcohol abuse, and chronic absenteeism.¹⁴⁷

J. Supporting Gifted and Talented Students

LEAs may use Title II funds to provide training to support the identification of students who are gifted and talented, including high-ability students who have not been formally identified for gifted education services, and implementing instructional practices that support the education of such students, such as:

- Early entrance to kindergarten,
- Enrichment, acceleration, and curriculum compacting activities (techniques relating to differentiated instruction), and
- Dual or concurrent enrollment programs in secondary school and postsecondary education.¹⁴⁸

K. School Library Programs

LEAs may use Title II funds to support the instructional services provided by effective school library programs.¹⁴⁹

L. Preventing and Recognizing Child Sexual Abuse

LEAs may use Title II funds to provide training for all school personnel, including teachers, principals, other school leaders, specialized instructional support personnel, and paraprofessionals, regarding how to prevent and recognize child sexual abuse.¹⁵⁰

M. Supporting Science, Technology, Engineering, and Mathematics (STEM)

LEAs may use Title II funds to develop and provide professional development and other comprehensive systems of support for teachers, principals, or other school leaders to promote high-quality instruction and instructional leadership in science, technology, engineering, and mathematics subjects, including computer science.¹⁵¹

N. Feedback Mechanisms to Improve School Working Conditions

¹⁴⁷ ESSA, Section 2103(b)(3)(I).

¹⁴⁸ ESSA, Section 2103(b)(3)(J).

¹⁴⁹ ESSA, Section 2103(b)(3)(K).

¹⁵⁰ ESSA, Section 2103(b)(3)(L).

¹⁵¹ ESSA, Section 2103(b)(3)(M).

LEAs may use Title II funds to develop feedback mechanisms to improve school working conditions. This can include periodically and publicly reporting feedback on educator support and working conditions.¹⁵²

O. Supporting Postsecondary and Workforce Readiness

LEAs may spend Title II funds to provide high-quality professional development for teachers, principals, or other school leaders on effective strategies to integrate rigorous academic content, career and technical education, and work-based learning (if appropriate), which may include providing common planning time, to help prepare students for postsecondary education and the workforce.¹⁵³

P. Other Activities

LEAs may also spend Title II funds on other activities that meet Title II purposes (see “Purpose of the Title II Program” above) and are evidence-based to the extent the SEA (in consultation with LEAs) determines that such evidence is reasonably available.¹⁵⁴

III. Other Spending Rules

A. LEA-Level Administrative Costs

The Title II statute is silent on how much money LEAs may use for administrative costs. Generally, ED has advised LEAs may use a necessary and reasonable amount.

B. Maintenance of Effort

LEAs that receive Title II funds must comply with the ESSA maintenance of effort (MOE) requirement.¹⁵⁵ In short, maintenance of effort requires LEAs to maintain a consistent floor of state and local funding for free public education from year-to-year. This is the same MOE requirement described in the Title I Part A section.

C. Supplement not Supplant

LEAs that receive Title II funds must comply with a supplement not supplant requirement.¹⁵⁶ In general terms, this means that Title II funds should add to (supplement) and not replace (supplant) state and local funds.

Please note ESSA made a change to the way supplement not supplant is tested in Title I. This change does not affect how supplement not supplant is tested in Title II.

In Title II supplanting is presumed when:

¹⁵² ESSA, Section 2103(b)(3)(N).

¹⁵³ ESSA, Section 2103(b)(3)(O).

¹⁵⁴ ESSA, Section 2103(b)(3)(P).

¹⁵⁵ ESSA, Section 8521.

¹⁵⁶ ESSA, Section 2301.

- An LEA uses Title II funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses Title II funds to pay for an activity it supported with state or local funds the prior year.

An LEA may be able to overcome a presumption of supplanting if it has written documentation (for example, state or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the activity and that the activity would not be carried out in the absence of the Title II, Part A funds.

D. Equitable Services

Title II funds are subject to an equitable services requirement.¹⁵⁷ In short, this means LEAs must reserve funds to provide Title II services to eligible private school teachers and other educational personnel.

Please note ESSA changes the way LEAs must reserve Title II funds for equitable services for private schools.

Under NCLB, an LEA only had to reserve a share of the Title II, Part A money it spent on professional development. Under ESSA, the reservation is now based on an LEA's entire Title II allocation.¹⁵⁸

¹⁵⁷ ESSA, Section 8501(b)(1)(B).

¹⁵⁸ ESSA, Section 8501(b). See also *ED 2016 Fiscal Changes Guidance*, Q&A P-1 & P-2.

Spending Title III, Part A Funds to Support English Learners

This section provides information about how local educational agencies (LEAs) can spend Title III, Part A funds.

Title III, Part A is a U.S. Department of Education (ED) grant program that provides supplemental funding to help support English learners (ELs) and immigrant students. ED awards Title III, Part A funds to state educational agencies (SEAs), which then subgrant funds to LEAs.

For convenience this section will refer to the program as “Title III.” For more information about Title III please visit the following SD DOE website: <http://doe.sd.gov/oess/TitleIIIela.aspx>.

Purpose of Title III Subgrants to LEAs

In General

LEAs must use Title III funds for effective approaches and methodologies for teaching ELs and immigrant children and youth for the following:

1. Developing and implementing new language instruction educational programs and academic content instructional programs for English learners (ELs) and immigrant children and youth, including early childhood education programs, elementary school programs, and secondary school programs.
2. Carrying out highly focused, innovative, locally designed activities to expand or enhance existing language instruction educational programs and academic content instructional programs for ELs and immigrant children and youth.
3. Implementing schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for ELs and immigrant children and youth.
4. Implementing LEA-wide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for ELs and immigrant children and youth.¹⁵⁹

Definition of English Learner and Immigrant Children and Youth under ESSA

Under ESSA, an “English learner,” when used with respect to an individual, means an individual —

- (A) who is aged 3 through 21;
- (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C)(i) who was not born in the United States or whose native language is a language other than English;
- (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
- (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual —
 - (i) the ability to meet the challenging State academic standards;

¹⁵⁹ ESSA, Section 3115(a). For federal non-regulatory guidance on the Title III program, please see U.S. Department of Education, *English Learners and Title III of the Elementary and Secondary Education Act (ESEA)*, as amended by the Every Student Succeeds Act (ESSA) (September 2016) available at <http://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiiguidenglishlearners92016.pdf>. This guidance will be referred to as *ED 2016 Title III, Part A Guidance* for the rest of this document.

- (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
- (iii) the opportunity to participate fully in society.¹⁶⁰

Under ESSA, the term “immigrant children and youth” means individuals who—

- (A) are aged 3 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than 3 full academic years.¹⁶¹

Title III and the Supplement not Supplant Requirement

Title III is subject to a strict “supplement not supplant” (SNS) requirement that affects how Title III funds are spent.¹⁶² Because SNS works differently in Title III than other federal programs this section addresses SNS before addressing other Title III spending issues.

At its most basic, SNS requires Title III funds to add to (supplement) and not replace (supplant) other federal, state, and local funds. Whether a cost complies with SNS is situation specific, but in general there are three issues to consider:

1. Compliance with SNS is tested using two “presumptions,”
2. An LEA may not use Title III funds to meet its civil rights obligations to EL students, and
3. In some circumstances, an LEA may use Title III funds to pay for EL-related activities under Title I, Part A.

Issue 1: Compliance with SNS is tested using two “presumptions”

The federal government presumes Title III supplanting in the following two situations:

1. An LEA uses Title III funds to provide services the LEA is required to make available under other laws, or
2. An LEA uses Title III funds to provide services the LEA paid for with state or local funds the prior year.¹⁶³

These presumptions can be “rebutted” (disputed with evidence) and possibly overcome if the LEA can show it could not have provided the services in question with state or local funds.¹⁶⁴

Example: Presumed Supplanting Violation

Paying for an interventionist that provides intensive small-group interventions to EL students with Title III funds

¹⁶⁰ ESSA, Section 8101(20). Also, *ED 2016 Title III, Part A Guidance*, p. 43.

¹⁶¹ ESSA, Section 3201(5). Also, *ED 2016 Title III, Part A Guidance*, p. 43.

¹⁶² ESSA, Section 3115(g).

¹⁶³ *ED 2016 Title III, Part A Guidance*, Question A-2.

¹⁶⁴ *ED 2016 Title III, Part A Guidance*, Question A-2.

would violate the second presumption of supplanting if the LEA paid for this interventionist with local funds the prior year.

NOTE: The LEA may be able to rebut this presumption of supplanting if it can show it did not have local funds available to pay for the interventionist.

Issue 2: An LEA may not use Title III funds to meet its civil rights obligations to EL students

Under the first presumption of supplanting an LEA may not use Title III funds to meet the requirements of federal, state, or local law. Under federal law, specifically Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA), LEAs have legal obligations to ensure that ELs can meaningfully and equally participate in educational programs and services.¹⁶⁵ ED guidance explains that to meet these civil rights obligations to EL students LEAs must:

- Identify and assess all potential EL students in a timely, valid, and reliable manner,
- Provide EL students with a language assistance program that is educationally sound and proven successful, consistent with *Castañeda v. Pickard* and the U.S. Supreme Court decision in *Lau v. Nichols*,
- Provide sufficiently well prepared and trained staff and support the language assistance programs for EL students,
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities,
- Avoid unnecessary segregation of EL students,
- Ensure that EL students who have or are suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 are identified, located, and evaluated in a timely manner and that the language needs of students who need special education and disability related services because of their disability are considered in evaluations and delivery of services,
- Meet the needs of EL students who opt out of language assistance programs,
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level content knowledge, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied,
- Evaluate the effectiveness of a school district's language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program is reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time, and
- Ensure meaningful communication with limited English proficient (LEP) parents.¹⁶⁶

¹⁶⁵ ED 2016 Title III, Part A Guidance, Question A-2 and A-3.

¹⁶⁶ ED 2016 Title III, Part A Guidance, Question A-3. Additional information about the civil rights obligations to EL students is available in a joint U.S. Department of Education and U.S. Department of Justice Dear Colleague Letter (2015), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf>.

Because Title III funds may not be used to meet legal obligations, including civil rights obligations, Title III may not be used to meet the obligations in the above list.

Example: Impermissible Title III Spending on Civil Rights Obligations

An LEA may not use Title III funds to identify EL students because identifying EL students is a civil rights obligation under Title VI and the EEOA.¹⁶⁷

Example: Permissible Title III Supplemental Spending

An LEA that meets its civil rights obligations on staffing may use Title III funds to hire extra staff. For example, ED guidance states that an LEA may use Title III funds to hire a specialist on EL students with interrupted formal education or English learners with disabilities to provide *supplemental* support to these unique populations; an LEA could also use Title III funds to hire staff that would provide *supplemental* LEA-wide instructional support to teachers of ELs. ED guidance also notes that determinations about the supplement not supplant requirement in Title III are always fact-specific.¹⁶⁸

Issue 3: In some circumstances, an LEA may use Title III funds to pay for EL-related activities under Title I

Under the first presumption of supplanting, an LEA may not use Title III funds to meet the requirements of federal, state, or local law. Under No Child Left Behind (NCLB), this meant LEAs could not use Title III funds to pay for Title I, Part A's EL-related requirements. Under ESSA, however, certain requirements that were previously part of the Title III program have moved to Title I, Part A. Because of this, ED guidance permits LEAs to use Title III funds to pay for activities that were in Title III under NCLB, but are now part of Title I, Part A in ESSA such as:

- EL parental notification regarding language instruction educational programs (LIEPs) and related information (ESEA Section 1112(e)(3)),
- Parental participation (e.g., regular EL parent meetings) (ESEA Section 1116(f)), and
- Reporting to the State on the number and percentage of ELs achieving English language proficiency (ESEA Section 1111(h)(2)).¹⁶⁹

ED's guidance states that LEAs may only use Title III funds for activities that moved from Title III to Title I *if* they ensure that:

¹⁶⁷ ED 2016 Title III, Part A Guidance, Question A-8.

¹⁶⁸ ED 2016 Title III, Part A Guidance, Question D-7.

¹⁶⁹ ED 2016 Title III, Part A Guidance, Question A-4.

1. The activity being supported is consistent with the purposes of Title III and meets federal guidelines for “reasonable and necessary costs,”¹⁷⁰
2. The activity being supported is supplemental to the LEA’s civil rights obligations to ELs under Title VI of the Civil Rights Act and the EEOA, and
3. The LEA can demonstrate it is also using Title III funds to conduct activities required under Title III.¹⁷¹ (See below for more information about required Title III EL activities).

Please note LEAs may not use Title III funds for Title I, Part A activities that are *also* used to meet civil rights obligations. For example, under Title VI of the Civil Rights Act of 1964 and the EEOA, LEAs must track EL student progress in achieving English language proficiency. LEAs often use the annual English language proficiency (ELP) assessment, which is now required under Title I,¹⁷² to meet this civil rights obligation. If an LEA uses the annual ELP assessment to meet its civil rights obligations, Title III funds could not be used to pay for costs related to administering the ELP assessment.¹⁷³

How Title III Funds May Be Used

Title III includes two types of subgrants to LEAs. First, are “formula” subgrants available to LEAs (or a consortium of LEAs) that generate at least \$10,000 under a formula established in the Title III law. These subgrants must be used to support ELs in learning English and meeting state academic standards. (See Section I below – these funds will be referred to as “Title III EL funds.”) Second, are “targeted” subgrants SEAs might award to LEAs that experience a significant increase in immigrant children and youth and should provide immigrant children with enhanced instructional opportunities. (See Section II below – these funds will be referred to as “Title III Immigrant funds.”)

I. Title III EL Funds

LEAs must use Title III EL funds to assist ELs in learning English and meeting state academic standards.¹⁷⁴

A. Required Uses of Title III EL Funds at the LEA-Level

LEAs must use Title III EL funds for three activities:

1. Providing **effective language instruction educational programs (LIEPs)** that meet the needs of ELs and demonstrate success in increasing English language proficiency and student academic achievement.¹⁷⁵

¹⁷⁰ The concept of “reasonable and necessary” costs comes from federal regulations known as the Uniform Grant Guidance (UGG). See, for example, the discussion in *Basic Considerations* of the UGG, available at https://www.ecfr.gov/cgi-bin/text-idx?SID=1ab34260fd33363573a554baedb4aa24&mc=true&node=pt2.1.200&rgn=div5#sg2.1.200_1401.sg12.

¹⁷¹ *ED 2016 Title III, Part A Guidance*, Question A-4.

¹⁷² ESSA, Section 1111(b)(2)(G).

¹⁷³ *ED 2016 Title III, Part A Guidance*, Question A-7.

¹⁷⁴ ESSA, Section 3115(a).

¹⁷⁵ ESSA, Section 3115(c)(1). For federal guidance about LIEPs, please see *ED 2016 Title III, Part A Guidance*, Section C.

2. Providing **effective professional development** to classroom teachers (including teachers in classroom settings that are not the settings of LIEPs), principals and other school leaders, administrators, and other school or community-based organizational personnel, that is:
 - o Designed to improve the instruction and assessment of ELs,
 - o Designed to enhance the ability to understand and implement curricula, assessment practices and measures, and instructional strategies for ELs,
 - o Effective in increasing children’s English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers, and
 - o Of sufficient intensity and duration (which shall not include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers’ performance in the classroom.¹⁷⁶
3. Providing and implementing other effective activities and strategies that enhance or supplement language instruction educational programs for ELs, which must include **parent, family, and community engagement activities**, and may include strategies that serve to coordinate and align related programs.¹⁷⁷

As with all Title III costs, these three required Title III EL activities – effective LIEPs, effective professional development, and effective parent, family, and community engagement activities – **must be supplemental to state and locally funded programming** the LEA is delivering to meet its civil rights obligations to EL students.

B. Authorized Uses of Title III Funds at the LEA-Level

In addition to spending on the required three activities above, LEAs may spend their Title III EL funds on other supplemental activities, including:

- Upgrading program objectives and effective instructional strategies,¹⁷⁸
- Improving the instructional program for ELs by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures,¹⁷⁹
- Providing to ELs tutorials and academic or career and technical education, and intensified instruction, which may include materials in a language that the student can understand, interpreters, and translators,¹⁸⁰
- Developing and implementing effective preschool,¹⁸¹ elementary school, or secondary school language instruction educational programs that are coordinated with other relevant programs and services,¹⁸²
- Improving the English language proficiency and academic achievement of ELs,¹⁸³

¹⁷⁶ ESSA, Section 3115(c)(2). For federal guidance on educators of English Learners, including professional development, please see *ED 2016 Title III, Part A Guidance*, Section D.

¹⁷⁷ ESSA, Section 3115(c)(3). For federal guidance on parent, family, and community engagement, please see *ED 2016 Title III, Part A Guidance*, Section E.

¹⁷⁸ ESSA, Section 3115(d)(1).

¹⁷⁹ ESSA, Section 3115(d)(2).

¹⁸⁰ ESSA, Section 3115(d)(3).

¹⁸¹ For more information on Title III and Early Learning, please see *ED 2016 Title III, Part A Guidance*, Section F.

¹⁸² ESSA, Section 3115(d)(4).

¹⁸³ ESSA, Section 3115(d)(5).

- Providing community participation programs, family literacy services, and parent and family outreach and training activities to ELs and their families to improve the English language skills of ELs, and to assist parents and families in helping their children to improve their academic achievement and becoming active participants in the education of their children,¹⁸⁴
- Improving the instruction of ELs, which may include ELs with a disability, by providing for: the acquisition or development of educational technology or instructional materials; access to, and participation in, electronic networks for materials, training, and communication; and incorporation of these resources into curricula and programs,¹⁸⁵
- Offering early college high school or dual or concurrent enrollment programs or courses designed to help ELs achieve success in postsecondary education,¹⁸⁶ and
- Carrying out other activities that are consistent with the purposes of Title III subgrants.¹⁸⁷

If an LEA uses its Title III EL funds for one of the above authorized activities, it must ensure the funds are supplemental, including the requirement that the funds not be used to meet its civil rights obligations under Title VI of the Civil Rights Act and the EEOA.

II. Title III Immigrant Funds

LEAs that have experienced a significant increase in immigrant children and youth might receive an “immigrant subgrant” from their SEA. These Title III immigrant funds must be used to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, and may include:

- Family literacy, parent and family outreach, and training activities designed to assist parents and families to become active participants in the education of their children,
- Recruitment of and support for personnel, including teachers and paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth,
- Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth,
- Identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program,
- Basic instruction services that are directly attributable to the presence of immigrant children and youth in the LEA, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services,
- Other instruction services that are designed to assist immigrant children and youth to achieve in elementary and secondary schools in the U.S., such as programs of introduction to the educational system and civics education, and
- Activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents and families of immigrant children and youth by offering comprehensive community services.¹⁸⁸

¹⁸⁴ ESSA, Section 3115(d)(6).

¹⁸⁵ ESSA, Section 3115(d)(7).

¹⁸⁶ ESSA, Section 3115(d)(8).

¹⁸⁷ ESSA, Section 3115(d)(9).

III. Other Spending Considerations and Rules

A. LEA-Level Administrative Costs

LEAs may use up to two percent of their Title III funds for direct administrative costs.¹⁸⁹ Indirect costs are not part of the two percent cap.¹⁹⁰

B. Maintenance of Effort

LEAs that receive Title III funds must comply with the ESSA maintenance of effort (MOE) requirement.¹⁹¹ In short, maintenance of effort ensures districts maintain a consistent floor of state and local funding for free public education from year-to-year.¹⁹² This is the same MOE requirement described in the Title I section.

C. Equitable Services

Title III funds are subject to an equitable services requirement.¹⁹³ In short, this means that the LEA must ensure that eligible private school students, their teachers, and other educational personnel are served by Title III.¹⁹⁴

¹⁸⁸ ESSA, Section 3115(e). See also *ED 2016 Title III, Part A Guidance*, Question G-4.

¹⁸⁹ ESSA, Section 3115(b).

¹⁹⁰ *ED 2016 Title III, Part A Guidance*, Question A-10.

¹⁹¹ ESSA, Section 8521.

¹⁹² *ED 2016 Title III, Part A Guidance*, Question A-17.

¹⁹³ ESSA, Section 8501(b)(1)(C).

¹⁹⁴ *ED 2016 Title III, Part A Guidance*, Question C-6. See also *ED 2016 Fiscal Changes Guidance*, Section P.

Spending Title IV, Part A Funds for Student Support and Academic Enrichment

This section provides information about how local educational agencies (LEAs) can spend funds under the Student Support and Academic Enrichment (SSAE) grant program under Title IV, Part A, Subpart 1.¹⁹⁵

SSAE is a U.S. Department of Education (ED) grant program that provides supplemental funding to help provide students with a well-rounded education, improve school conditions, and improve the use of technology. ED awards Title IV, Part A funds to state educational agencies (SEAs), which then subgrant funds to LEAs.

LEAs should review the US Department of Education’s SSAE guidance starting on page 11 covering LEA requirements about identifying local needs, effective spending and implementation at:

<http://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf>.

Purpose of the SSAE Program

The purpose of the SSAE grant program is to improve students’ academic achievement by increasing the capacity of states, LEAs, schools, and local communities to:

1. Provide all students with access to a well-rounded education,
2. Improve school conditions for student learning, and
3. Improve the use of technology in order to improve the academic achievement and digital literacy of all students.¹⁹⁶

How SSAE Funds May Be Used

I. Use of Funds Overview

SSAE can pay for a wide range of activities to support:

- Well-rounded educational opportunities,
- Safe and healthy students, and
- The effective use of technology.

LEA spending options are listed in the section below, but there are several things to consider when deciding which activities to support including:

¹⁹⁵ Title IV of ESSA is divided into different “parts” and “subparts,” each of which contains one or more grant programs. Title IV, Part A, Subpart 1, which is the focus of this handbook, is known as Student Support and Academic Enrichment (SSAE) Grants.

¹⁹⁶ ESSA, Section 4101. For federal non-regulatory guidance on the SSAE program, please see U.S. Department of Education, *Non-Regulatory Guidance: Student Support and Academic Enrichment Grants* (October 2016), available at <http://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf>. This guidance will be referred to as *ED 2016 SSAE Guidance* for the rest of this document.

- LEA needs,
- School needs,
- The LEA's objectives and intended outcomes,
- Stakeholder input, and
- Funding floors and ceilings on certain activities.

A. Local Needs Assessment

LEAs that receive \$30,000 or more in SSAE funds must, at least once every three years,¹⁹⁷ conduct a comprehensive needs assessment of the following:

- 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,
- Access to personalized learning experiences supported by technology and professional development for the effective use of data and technology.¹⁹⁸

LEAs that receive less than \$30,000 in SSAE funds do not have to conduct a formal needs assessment,¹⁹⁹ but are encouraged to consider the needs above when deciding how to spend SSAE funds.²⁰⁰

LEAs should review the US Department of Education's guidance about identifying local needs on pp. 15-16 of ED's SSAE guidance document: <http://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf>.

B. Prioritizing High-Need Schools

LEAs must prioritize SSAE funds to schools that:

- Have the greatest needs as determined by the LEA,
- Have the highest percentages or numbers of low-income children,
- Are identified for comprehensive support and improvement under Title I,
- Are implementing targeted support and improvement plans under Title I, or
- Are identified as a persistently dangerous school under Section 8532.²⁰¹

C. Objectives and Outcomes

LEAs must develop objectives for their SSAE programs and intended outcomes for SSAE-funded activities.²⁰²

LEAs must use these objectives and outcomes to periodically evaluate the effectiveness of SSAE-funded

¹⁹⁷ ESSA, Section 4106(d)(3).

¹⁹⁸ ESSA, Section 4106(d).

¹⁹⁹ ESSA, Section 4106(d)(2).

²⁰⁰ *ED 2016 SSAE Guidance*, p. 16 at footnote 14.

²⁰¹ ESSA, Section 4106(e)(2)(A). ESSA requires LEAs to prioritize the distribution of funds to high-need schools. ED's SSAE guidance clarifies that an LEA can provide district-wide services with SSAE funds, but must prioritize activities for high-need schools (pp.14-15).

²⁰² ESSA, Section 4106(e)(1)(E).

activities.²⁰³ LEAs must also provide SEAs with information about their progress towards their objectives and outcomes so SEAs can satisfy their reporting requirements.²⁰⁴

D. Stakeholder Engagement

LEAs must meaningfully consult with a wide array of stakeholders when designing their SSAE programs.²⁰⁵ They must also engage in continuing consultation with stakeholders to improve SSAE activities and to coordinate SSAE activities with other activities conducted in the community.²⁰⁶

E. Funding Floors and Ceilings

1. *Required activities*

Under ESSA, LEAs that receive \$30,000 or more in SSAE funds must spend:

- At least twenty percent on activities to support a well-rounded education,
- At least twenty percent to activities to support safe and healthy students, and
- At least some funds for activities to support the effective use of technology.²⁰⁷ (Please note the cap on technology infrastructure below.)

Please note that a single activity can satisfy more than one category of required costs.²⁰⁸

LEAs that receive *less* than \$30,000 in SSAE funds must meet at least one of the above requirements (that is, spend at least twenty on activities to support a well-rounded education or at least twenty percent on activities to support safe and healthy students or at least some funds for activities to support the effective use of technology).²⁰⁹

2. *Cap on Technology Infrastructure*

Of the SSAE funds spent on technology, LEAs may not spend more than fifteen percent of those technology funds to purchase technology infrastructure.²¹⁰ Specifically, this means that LEAs may not spend more than

²⁰³ ESSA, Section 4106(e)(1)(E).

²⁰⁴ ESSA, Section 4104(a)(2); see also ESSA, Section 4106(e)(2)(F).

²⁰⁵ Stakeholders include parents, teachers, principals, other school leaders, specialized instructional support personnel, students, community-based organizations, local government representatives (which may include a local law enforcement agency, local juvenile court, local child welfare agency, or local public housing agency), Indian tribes or tribal organizations that may be located in the region served by the local educational agency (where applicable), charter school teachers, principals, and other school leaders (if such agency or consortium of such agencies supports charter schools), and others with relevant and demonstrated expertise in programs and activities designed to meet SSAE purposes. Section 4106(c)(1).

²⁰⁶ ESSA, Section 4106(c)(2).

²⁰⁷ ESSA, Section 4106(e)(2)(C)-(E).

²⁰⁸ *ED 2016 SSAE Guidance*, p. 13.

²⁰⁹ ESSA, Section 4106(f).

²¹⁰ ESSA, Section 4109(b).

fifteen percent of its SSAE technology funds on devices, equipment, software applications, platforms, digital instructional resources and/or other one-time IT purchases.²¹¹

3. *Cap on Administrative Costs*

LEAs may not spend more than two percent of their SSAE funds on direct administrative costs.²¹²

II. **Local SSAE Spending Options**

What follows is an overview of all LEA SSAE spending options under the law, but spending in a specific LEA should be aligned to the spending floors and ceilings, the LEA's needs assessment (where required), and stakeholder input as described above. The spending options are organized by the three spending categories described in the law.

Activities to Support a Well-Rounded Education

LEAs may (and in some cases must²¹³) spend SSAE funds to develop and implement programs and activities that support access to a well-rounded education.²¹⁴ Activities should be coordinated with other schools and community-based services and programs.²¹⁵ They can also be conducted in partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success.²¹⁶

Allowable activities are listed below.²¹⁷

A. College and Career Guidance

LEAs may use SSAE funds for college and career guidance and counseling programs like postsecondary education and career awareness and exploration activities, training counselors to effectively use labor market information in assisting students with postsecondary education and career planning, and financial literacy and Federal financial aid awareness activities.²¹⁸

B. Music and Arts to Support Student Success

LEAs may use SSAE funds for programs and activities that use music and the arts as tools to support student success through the promotion of constructive student engagement, problem solving, and conflict resolution.²¹⁹

²¹¹ *ED 2016 SSAE Guidance*, p. 32.

²¹² ESSA, Section 4105(c).

²¹³ LEAs that receive \$30,000 or more in SSAE funds must spend at least twenty percent of funds on activities to support a well-rounded education. Section 4106(e)(2)(C).

²¹⁴ ESSA, Section 4107(a).

²¹⁵ ESSA, Section 4107(a)(1).

²¹⁶ ESSA, Section 4107(a)(2).

²¹⁷ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 39-43.

²¹⁸ ESSA, Section 4107(a)(3)(A).

²¹⁹ ESSA, Section 4107(a)(3)(B).

C. Science, Technology, Engineering, and Mathematics (STEM)

LEAs may use SSAE funds for programs and activities to improve instruction and student engagement in STEM, including computer science.²²⁰ Examples include:

- Increasing access to high-quality courses for underrepresented student groups such as female students, minority students, English learners, children with disabilities, and economically disadvantaged students,
- Supporting low-income students to participate in nonprofit competitions related to STEM subjects,
- Providing hands-on learning and exposure to STEM and supporting the use of field-based or service learning to enhance student understanding,
- Supporting the creation and enhancement of STEM-focused specialty school,
- Facilitating collaboration among school, afterschool program, and informal program personnel to improve the integration of programming and instruction, and
- Integrating other academic subjects, including the arts, into STEM subject programs to increase participation in STEM subjects, improve attainment of skills related to STEM subjects, and promote well-rounded education.²²¹

D. Accelerated Learning

LEAs may use SSAE funds to raise student academic achievement through accelerated learning programs that provide courses or instruction accepted for credit at institutions of higher education (like dual or concurrent enrollment courses, early college high school courses, AP and IB).²²²

This can include reimbursing low-income students for part or all of the costs of accelerated learning examination fees, if the low-income students are enrolled in accelerated learning courses and plan to take accelerated learning exams.²²³ (Please note LEAs may use SSAE funds to cover fees for exams taken in the 2016-2017 school year.²²⁴)

It can also include increasing the availability of, and enrollment in, accelerated learning courses, accelerated learning examinations, dual or concurrent enrollment programs, and early college high school courses.²²⁵

E. Other Instructional Opportunities

LEAs may use SSAE funds for:

- Activities to promote the development, implementation, and strengthening of programs to teach traditional American history, civics, economics, geography, or government education,²²⁶
- Foreign language instruction,²²⁷ and

²²⁰ ESSA, Section 4107(a)(3)(C).

²²¹ ESSA, Section 4107(a)(3)(C)(i)-(vi).

²²² ESSA, Section 4107(a)(3)(D). See also ESSA, Section 4104(b)(3)(A)(i)(IV).

²²³ ESSA, Section 4107(a)(3)(D)(i).

²²⁴ ESSA, Section 4107(b).

²²⁵ ESSA, Section 4107(a)(3)(D)(ii).

²²⁶ ESSA, Section 4107(a)(3)(E).

- Environmental education.²²⁸

F. Volunteerism and Community Involvement

LEAs may use SSAE funds for programs and activities that promote volunteerism and community involvement.²²⁹

G. Integrating Multiple Disciplines

LEAs may use SSAE funds to support educational programs that integrate multiple disciplines, such as programs that combine arts and mathematics.²³⁰

H. Other Activities

LEAs may use SSAE for other activities and programs to support student access to, and success in, a variety of well-rounded education experiences.²³¹

Activities to Support Safe and Healthy Students
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LEAs may (and in some cases must²³²) use SSAE funds to develop, implement and evaluate comprehensive programs and activities that:

- Are coordinated with other schools and community based services and programs,
- Foster safe, healthy, supportive, and drug-free environments that support academic achievement, and
- Promote parent involvement in activities or programs.²³³

LEAs may conduct activities in partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success.²³⁴

Allowable activities are listed below.²³⁵

A. Evidence-Based Drug and Violence Prevention

LEAs may spend SSAE funds on drug and violence prevention activities and programs that are evidence-based, to the extent the state, in consultation with LEAs, determines that such evidence is reasonably available.²³⁶

²²⁷ ESSA, Section 4107(a)(3)(F).

²²⁸ ESSA, Section 4107(a)(3)(G).

²²⁹ ESSA, Section 4107(a)(3)(H).

²³⁰ ESSA, Section 4107(a)(3)(I).

²³¹ ESSA, Section 4107(a)(3)(J).

²³² LEAs that receive \$30,000 or more in SSAE funds must spend at least twenty percent of funds on activities to support safe and healthy students. Section 4106(e)(2)(D).

²³³ ESSA, Section 4108(1)-(3).

²³⁴ ESSA, Section 4108(4).

²³⁵ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 43-45.

This can include:

- Programs to educate students against the use of alcohol, tobacco, marijuana, smokeless tobacco products, and electronic cigarettes, and
- Professional development and training for school and specialized instructional support personnel and interested community members in prevention, education, early identification, intervention mentoring, recovery support services and, where appropriate, rehabilitation referral, as related to drug and violence prevention.²³⁷

B. School-Based Mental Health Services

LEAs may use SSAE funds for school-based mental health services, including early identification of mental health symptoms, drug use, and violence, and appropriate referrals to direct individual or group counseling services, which may be provided by school-based mental health services providers.²³⁸

LEAs may also use SSAE funds for school-based mental health services partnership programs that are conducted in partnership with a public or private mental health entity or health care entity, and provide comprehensive school-based mental health services and supports and staff development for school and community personnel working in the school that are:

- Based on trauma-informed practices that are evidence-based (to the extent the state, in consultation with LEAs, determines that such evidence is reasonably available),
- Coordinated (where appropriate) with early intervening services provided under the Individuals with Disabilities Education Act (IDEA), and
- Provided by qualified mental and behavioral health professionals who are certified or licensed by the state and practicing within their area of expertise.²³⁹

LEAs must obtain prior written consent from the parent of each child under the age of 18 to participate in any mental-health assessment or service funded with SSAE and conducted in connection with school.²⁴⁰ Before obtaining consent, the LEA must provide the parent with written notice describing in detail:

- The mental health assessment or service,
- The purpose for the assessment or service,
- The provider of such assessment or service,
- When the assessment or service will begin, and
- How long such assessment or service may last.²⁴¹

²³⁶ ESSA, Section 4108(5)(A).

²³⁷ ESSA, Section 4108(5)(A)(i)-(ii).

²³⁸ ESSA, Section 4108(5)(A)(B)(i).

²³⁹ ESSA, Section 4108(5)(A)(B)(ii).

²⁴⁰ ESSA, Section 4001(a)(1)(A). Please note informed written consent is not required in an emergency where it is necessary to protect the immediate health and safety of the child, other children, or LEA personnel. Informed written consent is also not required when the LEA actively seeks parental consent but cannot reasonably obtain it, including when a parent does not respond to notice from the LEA, or the child is at least 14 years old and is considered an “unaccompanied youth” under Section 725 of the McKinney Vento Homeless Education Act. Section 4001(a)(2).

Providing this consent does not waive any rights or protections under Family Educational Rights and Privacy Act (FERPA).²⁴²

C. Health and Safety Activities or Programs

LEAs may use SSAE funds for programs or activities that:

- Integrate health and safety practices into school or athletic programs,
- Support a healthy, active lifestyle, including nutritional education and regular, structured physical education activities and programs, that may address chronic disease management with instruction led by school nurses, nurse practitioners, or other appropriate specialists or professionals to help maintain the well-being of students,
- Help prevent bullying and harassment
- Improve instructional practices for developing relationship-building skills, such as effective communication, and improve safety through the recognition and prevention of coercion, violence, or abuse, including teen and dating violence, stalking, domestic abuse, and sexual violence and harassment,
- Provide mentoring and school counseling to all students, including children who are at risk of academic failure, dropping out of school, involvement in criminal or delinquent activities, or drug use and abuse,
- Establish or improve school dropout and reentry programs, or
- Establish learning environments and enhance students' effective learning skills that are essential for school readiness and academic success, such as by providing integrated systems of student and family supports.²⁴³

D. Addressing Trauma and Violence

LEAs may use SSAE funds for high-quality training for school personnel, including specialized instructional support personnel, related to:

- Suicide prevention,
- Effective and trauma-informed practices in classroom management,
- Crisis management and conflict resolution techniques,
- Human trafficking,²⁴⁴
- School-based violence prevention strategies,
- Drug abuse prevention, including educating children facing substance abuse at home, and
- Bullying and harassment prevention.²⁴⁵

²⁴¹ ESSA, Section 4001(a)(1)(B).

²⁴² ESSA, Section 4001(a)(1)(C).

²⁴³ ESSA, Section 4108(5)(C).

²⁴⁴ Defined as an act or practice described in paragraph (9) or (10) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102) available at <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title22-section7102&num=0&edition=prelim>.

²⁴⁵ ESSA, Section 4108(5)(D).

E. Addressing Sexual Abuse

LEAs may use SSAE funds for child sexual abuse awareness and prevention programs or activities, such as programs or activities designed to provide:

- Age-appropriate and developmentally-appropriate instruction for students in child sexual abuse awareness and prevention, including how to recognize child sexual abuse and how to safely report child sexual abuse, and
- Information to parents and guardians of students about child sexual abuse awareness and prevention, including how to recognize child sexual abuse and how to discuss child sexual abuse with a child.²⁴⁶

F. Reducing Exclusionary Discipline Practices

LEAs may use SSAE funds for designing and implementing a locally-tailored plan to reduce exclusionary discipline practices in elementary and secondary schools that:

- Is consistent with best practices,
- Includes strategies that are evidence-based (to the extent the state, in consultation with LEAs, determines that such evidence is reasonably available), and
- Is aligned with the long-term goal of prison reduction through opportunities, mentoring, intervention, support, and other education services.²⁴⁷

G. Positive Behavioral Interventions and Supports

LEAs may use SSAE funds to implement schoolwide positive behavioral interventions and supports.²⁴⁸ This can include coordinating with similar IDEA activities to improve academic outcomes and school conditions for student learning.

H. Resource Coordinator

LEAs can use SSAE funds to designate a site resource coordinator to provide a variety of services like:

- Establishing partnerships within the community to provide resources and support for schools,
- Ensuring that all service and community partners are aligned with the academic expectations of a community school in order to improve student success, and
- Strengthening relationships between schools and communities.²⁴⁹

²⁴⁶ ESSA, Section 4108(5)(E).

²⁴⁷ ESSA, Section 4108(5)(F).

²⁴⁸ ESSA, Section 4108(5)(G).

²⁴⁹ ESSA, Section 4108(5)(H)

I. Pay for Success

LEAs may use pay for success initiatives aligned with the goal of supporting safe and healthy students.²⁵⁰

A pay for success initiative is a performance-based grant, contract, or cooperative agreement awarded by a public entity in which a commitment is made to pay for improved outcomes that result in social benefit and direct cost savings or cost avoidance to the public sector.²⁵¹

²⁵⁰ ESSA, Section 4108(5)(I).

²⁵¹ ESSA, Section 8101(40). More information about pay for success initiatives is available from ED at <http://www2.ed.gov/about/inits/ed/pay-for-success/index.html>.

Activities to Support the Effective Use of Technology

LEAs may (and in some cases must²⁵²) use SSAE funds to improve the use of technology to improve the academic achievement, academic growth and digital literacy of all students.²⁵³ Of the amount an LEA chooses to spend on technology, only fifteen percent may be used for technology infrastructure. Please see section above “Funding Floors and Ceilings” for more information about this fifteen percent cap.

Allowable activities are listed below.²⁵⁴

A. Professional Learning

LEAs may use SSAE funds to provide educators, school leaders, and administrators with the professional learning tools, devices, content, and resources to:

- Personalize learning to improve student academic achievement,
- Discover, adapt, and share relevant high-quality educational resources,
- Use technology effectively in the classroom, including by administering computer-based assessments and blended learning strategies, and
- Implement and support school- and district-wide approaches for using technology to inform instruction, support teacher collaboration, and personalize learning.²⁵⁵

B. Technological Capacity and Infrastructure

LEAs may use SSAE funds to build technological capacity and infrastructure, which may include:

- Procuring content and ensuring content quality, and
- Purchasing devices, equipment, and software applications in order to address readiness shortfalls.²⁵⁶

LEAs may not spend more than fifteen percent of the SSAE funds used for technology on technology infrastructure.²⁵⁷

C. Delivering Courses through Technology

LEAs may use SSAE funds to develop or use effective or innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including digital learning technologies and assistive technology.²⁵⁸

²⁵² LEAs that receive \$30,000 or more in SSAE funds must spend some SSAE funds on activities that support the effective use of technology. Section 4106(e)(2)(E).

²⁵³ ESSA, Section 4109(a).

²⁵⁴ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 46-47.

²⁵⁵ ESSA, Section 4109(a)(1).

²⁵⁶ ESSA, Section 4109(a)(2).

²⁵⁷ ESSA, Section 4109(b).

²⁵⁸ ESSA, Section 4109(a)(3).

D. Blended Learning

LEAs may use SSAE funds to carry out blended learning projects, which must include:

- Planning activities like developing new instructional models (including blended learning technology software and platforms), the purchase of digital instructional resources, initial professional development activities, and one-time information technology purchases (that do not include significant construction or renovation of facilities) (please note all technology infrastructure costs count towards the fifteen percent cap noted above), or
- Ongoing professional development for teachers, principals, other school leaders, or other personnel involved in the project that is designed to support the implementation and academic success of the project.²⁵⁹

E. Professional Development on Use of Technology in STEM Areas

LEAs may use SSAE funds to provide professional development in the use of technology (which may be provided through partnerships with outside organizations) to enable teachers and instructional leaders to increase student achievement in STEM areas.²⁶⁰

F. Access to Digital Learning Experiences

LEAs may use SSAE funds to provide students in rural, remote, and underserved areas with the resources to take advantage of high-quality digital learning experiences, digital resources, and access to online courses taught by effective educators.²⁶¹

III. **Other Spending Rules**

A. Maintenance of Effort

LEAs that receive SSAE funds must comply with the ESSA maintenance of effort requirement.²⁶² In short, maintenance of effort requires districts to maintain a consistent floor of state and local funding for free public education from year-to-year. This is the same MOE requirement described in the Title I section.

B. Supplement not Supplant

LEAs that receive SSAE funds must comply with a supplement not supplant requirement.²⁶³ In general terms, this means that SSAE funds should add to (supplement) and not replace (supplant) state and local funds.

For the SSAE program, supplanting is presumed when:

²⁵⁹ ESSA, Section 4109(a)(4).

²⁶⁰ ESSA, Section 4109(a)(5).

²⁶¹ ESSA, Section 4109(a)(6).

²⁶² ESSA, Section 8521.

²⁶³ ESSA, Section 4110.

- An LEA uses SSAE funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses SSAE funds to pay for an activity it supported with state or local funds the prior year.²⁶⁴

An LEA may overcome a presumption of supplanting if it has written documentation (e.g., State or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the activity and that the activity would not be carried out in the absence of the SSAE program funds.²⁶⁵

C. Equitable Services

SSAE funds are subject to an equitable services requirement.²⁶⁶ In short, this means LEAs must reserve funds to provide SSAE services to eligible private school children, teachers, and other educational personnel in private schools.²⁶⁷

²⁶⁴ *ED 2016 SSAE Guidance*, p. 14.

²⁶⁵ *ED 2016 SSAE Guidance*, p. 14

²⁶⁶ ESSA, Section 4106(e)(2)(b); ESSA, Section 8501(b)(1)(D).

²⁶⁷ *ED 2016 SSAE Guidance*, p. 13, in particular footnote 13. See also *ED 2016 Fiscal Changes Guidance*, Section P.

REAP- Flex Spending of Title II Part A and Title IV Part A Funds

This section provides information about how REAP-Flex eligible local educational agencies (LEAs) can spend Title II, Part A and Title IV Part A funds on an expanded list of activities.

For convenience this section will refer to the program as “REAP-Flex”.

Purpose of REAP-Flex

“REAP-Flex” is the term that the U.S. Department of Education has given to the “alternative uses of funds” authority provided under the Rural Education Achievement Program (REAP). This authority provides flexibility to eligible rural LEAs to use Title II Part A and Title IV Part A (“applicable funding”) to support local activities under an array of Federal programs in order to assist them in addressing local academic needs more effectively.

How Title II Part A and Title IV Part A Funds May Be Used through REAP-Flex

IV. Overview and General Requirements

Overview

REAP-Flex does not provide separate federal program funds. Rather, REAP-Flex gives an LEA broader authority in spending Title II Part A and Title IV Part A (“applicable funding”) for alternative uses under selected federal programs. REAP-Flex does not involve a transfer of funds from one program to another. Since the funds are not actually transferred they are not subject to program rules and requirements of the program authorizing the activity.

REAP-Flex is intended to assist eligible LEAs in ensuring that all students meet academic achievement standards. Therefore, in determining how best to use its applicable funding under REAP-Flex, an LEA should consider how funds combined under REAP-Flex can support implementation or strengthening of local education plans or strategies that will lead to higher academic achievement.

An LEA with REAP-Flex authority may use all or part of its “applicable funding” for local activities authorized under one or more of the following ESEA programs:

- (1) Title I Part A (Improving Basic Programs);
- (2) Title II Part A (Supporting Effective Instruction);
- (3) Title III (Language Instruction for English Learners);
- (4) Title IV Part A (Student Support and Academic Enrichment Grants); and
- (5) Title IV Part B (21st Century Community Learning Centers).

Reporting REAP-Flex Expenditures and Revenues

The LEA must report expenditures based on how the funds were spent; however, the program revenue retains the original allocated source. For example, if funds from Title II Part A are used for the purpose of Title I Part A program expenditures, the LEA must still account for and report the revenue under Title II Part A and the expenditure under the appropriate Title I function.

EXAMPLE:

LEAs must use coding within expenditures to distinguish funding sources – example below is for demonstration purposes only. LEA determines the coding that would best apply within their district.

10 1273 158 111 000 000 - coding example represents Title I expenditure funded with Title I dollars

10 1273 159 111 000 000 - coding example represents Title I expenditure funded with Title II Part A dollars

10 1273 000 111 000 000 - coding example represents Title I expenditure fund with state/local dollars

Equitable Services

Participation in REAP-Flex does not relieve an LEA of its responsibility to provide for equitable services for private school students and teachers. The total amount of funding that is required for the benefit of private school students and teachers is not affected by an LEA's participation in REAP-Flex.

After timely and meaningful consultation with private school officials, an LEA participating in REAP-Flex determines how the reserved funds will be expended for the benefit of private school students and teachers. Funds for private school students and teachers need not be expended under the same program activities as funds for public school students and teachers, and should serve to meet the needs of the private school students and teachers.

Spending Rural and Low-Income Schools (RLIS) Funds

This section provides information about how eligible local educational agencies (LEAs) can spend Rural and Low-Income Schools (RLIS) program funds.

For convenience this section will refer to the program as “RLIS”.

Purpose of RLIS

The RLIS program provides grant funds to rural LEAs that serve concentrations of children from low-income families. An eligible LEA may use RLIS funds to support a range of authorized activities in order to assist the LEA’s plans or strategies to improve student academic achievement.

How RLIS Funds May Be Used

V. Overview and General Requirements

Overview

The RLIS is a funded grant program, and not an alternative use of funds authority like REAP-Flex. The RLIS does provide for a broad range of authorized activities from other programs.

RLIS is intended to assist eligible LEAs in ensuring that all students meet academic achievement standards. Therefore, in determining how best to use RLIS funding, an LEA should consider how funds can support implementation or strengthening of local education plans or strategies that will lead to higher academic achievement.

RLIS funds may be used to support local activities under one or more of the following ESEA programs or areas:

1. Title I Part A (Improving Basic Programs);
2. Title II Part A (Supporting Effective Instruction);
3. Title III (Language Instruction for English Learners);
4. Title IV Part A (Student Support and Academic Enrichment Grants); and
5. Parental Involvement Activities

Equitable Services

The equitable participation requirements in Title VIII of the ESEA do not apply to funds allocated under the RLIS grant program. However, the LEA cannot use the Transferability provision to transfer funds into the RLIS program to relieve the LEA of its responsibility to provide equitable services for private school students and teachers under the program from which the funds were transferred.

Supplement not Supplant

LEAs that receive RLIS funds must comply with a supplement not supplant requirement. In general terms, this means that RLIS funds should add to (supplement) and not replace (supplant) state and local funds.

For the RLIS program, supplanting is presumed when:

- An LEA uses RLIS funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses RLIS funds to pay for an activity it supported with state or local funds the prior year.

An LEA may overcome a presumption of supplanting if it has written documentation (e.g., State or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the activity and that the activity would not be carried out in the absence of the RLIS program funds.