

**Local Education Agency (LEA) *Elementary and Secondary Education Act (ESEA)*
Guide**

Understanding the Federal Funds School Districts Receive Under *ESEA* as Amended by the *Every Student Succeeds Act (ESSA)*

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Purpose

The purpose of this document is to provide school and district leaders, grant administrators, teachers, and other stakeholders an overview of formula grants under the *Elementary and Secondary Education Act (ESEA)* as amended by the *Every Student Succeeds Act (ESSA)*. Formula grants under *ESEA* are non-competitive grants that local educational agencies (LEAs) are eligible for based on the make-up of their student bodies. To access the funds it is eligible for, an LEA must:

- Apply each year through the TDOE's ePlan system;
- Agree to spend the funds it receives only on allowable uses under the law; and
- Agree to comply with all other rules and restrictions established in law.

Introduction and Executive Summary

When the *Elementary and Secondary Education Act (ESEA)* was passed in 1965, it committed new funding to education to ensure equitable access to educational resources and opportunities for all students. The act, then and now, sets forth requirements that states and school districts must follow to qualify for funds. Most of the funds flow through the state to school districts.

Periodically, Congress reauthorizes *ESEA* (i.e., it makes changes to the law). The *No Child Left Behind Act of 2001*, or *NCLB*, and the 2015 [Every Student Succeeds Act](#), or *ESSA*, are the most recent reauthorizations of *ESEA*. Through reauthorization, the way funding is distributed to states and school districts and the activities that may be paid for with those funds are subject to change. This document provides an overview of formula grants under *ESEA* as amended by *ESSA*. While this document provides a helpful summary, readers should reference the actual law for more detailed information.

Formula grants under *ESEA* that affect the majority of Tennessee school districts are primarily governed by:

- Title I, Part A – Improving Basic Programs Operated by Local Educational Agencies;
- Title II, Part A – Supporting Effective Instruction;
- Title III, Part A – English Language Acquisition, Language Enhancement and Academic Achievement; and
- Title IV, Part A – Student Support and Academic Enrichment Grants (newly reauthorized under *ESSA*).

While this document is broken up by Title, school districts should consider how federal funds can work in a coordinated way to meet identified student needs. To help facilitate this coordinated approach, the TDOE has additional guidance materials on its website <https://www.tn.gov/education/section/essa>.

Funds appropriated for each Title are committed to different purposes and may be used to support different activities and programs described throughout this document. However, common rules apply to all formula grants under *ESEA*:

- First, all costs paid for with formula funds must be necessary and reasonable considering the amount of money being spent and the needs of the program. Specifically, costs must be “necessary and reasonable for the performance of the Federal award.” Thus, costs must be appropriate for meeting the intents and purposes of the law, and consistent with what a reasonable person would pay for a similar activity, program, or service;
- Second, activities and programs supported by formula funds must be consistent with the LEA's application for funds approved by the state, and the schoolwide plans of its schools; and

- Third, spending of federal formula grants is most effective when LEAs and schools use evidence-based strategies to address the specific, identified needs of students in the school or district. See the [Needs Assessment and Planning section](#) of this document for more information.

Necessary and Reasonable Requirement

Example 1—Meets Necessary and Reasonable Requirement: A school’s need assessment identifies the lack of teachers’ content knowledge as one of the factors contributing to the low rate of eighth grade students passing the Algebra I end-of-course exam. In its schoolwide plan, the school proposes to hire a coach to provide in-class support for math and to conduct bi-weekly content-based professional development. The school’s schoolwide plan reflects the services of the math coach and the district’s consolidated funding application reflects an expenditure for the salary of a math coach. The expenditure supports an identified need, is consistent with the schoolwide plan, is for an intervention that is evidence-based and reflects a pre-determined reasonable cost. Therefore, the expenditure meets the criteria of what is “necessary and reasonable.”

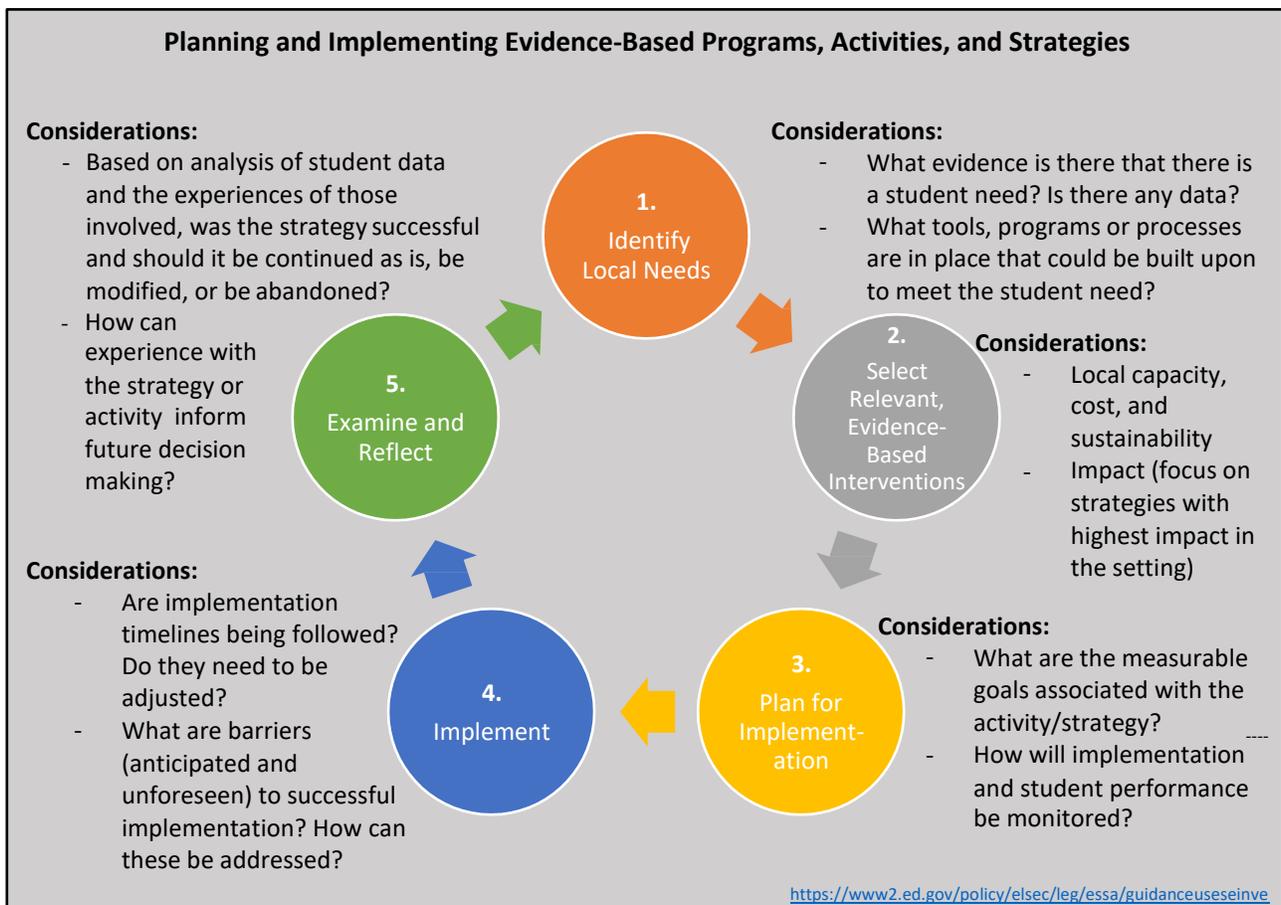
Example 2—Does Not Meet Necessary and Reasonable Requirement: The district’s needs assessment identifies students’ limited access to technology in its higher poverty schools as a factor contributing to the intra-district achievement gap. The district proposes to expend its Title I, Part A funds to institute a district-wide professional development series on integrating technology into the curriculum. The cost for this series is \$5,000,000, which includes substitutes for classroom coverage, stipends for afterschool and summer workshops and materials and supplies for participants. This expenditure does not support the identified need of increasing access to technology in the higher poverty schools. Providing teachers with skills for technology integration, but not the necessary technology for use in the classroom, does not address the issue of “limited access to technology for students in high poverty schools” that has been identified as a root cause perpetuating the intra-district achievement gap. Therefore, the expenditure does not meet the criteria of what is “necessary and reasonable.”

Needs Assessment and Planning

Needs Assessment

Each year, school districts and schools must input information into their district and school improvement plans based on a local needs assessment. This is an opportunity for districts and schools to describe the needs of their students, but several steps should occur as part of a successful needs assessment prior to the submission of their plans. These include:

- 1. Identifying Data Sources, such as:**
 - Standardized test results (including overall performance and growth);
 - Local assessment data;
 - Discipline rates (including in- and out-of-school suspensions, expulsions, referrals to law enforcement, and incidents of violence);
 - Survey results;
 - Attendance records; and
 - Other measures as determined by the school or school district.
- 2. Reviewing Data (internally and with stakeholders):**
 - Disaggregate data, where possible, by subgroup to identify any achievement gaps;
 - Identify and articulate patterns in the data; and
 - Explore root-causes of patterns (i.e., what are driving the outcomes?).
- 3. Planning and Goal Setting**
 - Select evidence-based interventions, activities and supports to address identified needs;
 - Set ambitious, but achievable goals; and
 - Establish a plan for monitoring progress and assessing results.



Stakeholder Engagement Requirements

Stakeholder Engagement Requirements and Recommendations

ESSA requires LEAs to consult with stakeholders regarding how funds received under ESEA should be spent. The groups that must be consulted slightly differ by funding source (see next page for full list by funding source). At a minimum, **each LEA must consult with the following groups** regarding all major funding sources under ESEA:

- Teachers;
- Administrators;
- Parents and family members; and
- Local community partners, as applicable.

While not explicitly required for every funding source, **LEAs may consider** consulting with these stakeholders, as well:

- Mayors, local school board members, other locally elected officials;
- Students (primarily at the secondary level);
- Civil rights and advocacy groups;
- Business leaders;
- Other related state and local governmental bodies (e.g. health and human services);
- Philanthropic community;
- GED and workforce programs;
- Teacher preparation programs; and
- Other districts (in order to form a consortium and/or to share best practices).

Meaningful and Ongoing Consultation

The law and U.S. Department of Education (USDOE) guidance require consultation with stakeholders to be *meaningful* and occur in an *ongoing* fashion¹:

- **Meaningful consultation:** For consultation to be meaningful, it must include a *diverse, representative group of stakeholders, be transparent and take place at multiple points* during the design, development and implementation of the plan.
- **Ongoing consultation:** Meaningful engagement starts at the beginning of the process, *when initial planning is getting started* – not at the end, when a plan is nearing completion. Consultation should not end after an LEA’s plan has been submitted; it should be occurring throughout program implementation to discuss successes and barriers as well as program outcomes.

Considerations for School District and School Planning

While stakeholder outreach may look different from one LEA/school to another, consider the following when planning stakeholder engagement:

- **Start building a team of stakeholders early** (as early as November or December of preceding year) to ensure meaningful and ongoing consultation.
- **Ensure stakeholder team reflects the community’s diverse perspectives and backgrounds**, and meets requirements in the law.
- **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.

¹ See June 23, 2016 [U.S. Department of Education letter](#).

The following chart lists the *minimum stakeholder engagement requirements* for developing and implementing a district’s *ESEA (Consolidated Funding Application)* application:

Stakeholders	Title I-A	Title II-A	Title III-A	Title IV-A
CITATION	1112(a)(1)(A), 1112(b)(7-10)	2102(b)(3)(A) & 2102(b)(2)(D)	3116(b)(4)(C)	4106(c)(1&2)
Teachers	X	x	x	x
Principals	X	x	x	x
Other school leaders	X	x	x	x
Parents/family members	X	x	x	x
Paraprofessionals	X	x		
Specialized instructional support personnel	X	x		x
Administrators	X		x	
Other appropriate school personnel	X	x		
Nonpublic schools	X	x	x	x
Community partners/community-based organizations/community members	X	x	x	x
Researchers			x	
Early childhood education programs (where applicable)	X			
Institutions of higher education (where applicable)	X		x	
Employers (where applicable)	X			
Local government representatives (which may include a local law enforcement agency, local juvenile court, local child welfare agency, or local public housing agency)				x
Indian tribes or tribal organizations (where applicable)				x
Other stakeholders/other organizations with relevant experience		x	x	
Public or private entities			x	

ESEA Formula Grants: Title I, Part A

Title I, Part A At a Glance

Title I, Part A is the U.S. Department of Education’s (ED) largest K-12 grant program. 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 local education agencies (LEAs). LEAs keep some money to carry out certain activities and then must reallocate the appropriate amount to eligible schools through a poverty-based formula.

As a condition of receiving Title I, Part A funds, LEAs and schools have specific responsibilities.

LEAs must . . .

- Develop policies and provide services to engage parents and families;²
- Provide services to homeless students that do not attend Title I schools;³
- Provide 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;⁴
- Provide services to eligible private school students;⁵
- Allocate Title I funds to eligible schools through a poverty-based formula known as “ranking and serving;”⁶
- Oversee Title I activities in Title I schools;⁷
- Report student achievement and other data to the SEA and the public;⁸ and
- Develop and implement plans to support and improve low-performing schools identified by the state through its accountability system.⁹

What is a local educational agency?

A Local Educational Agency (LEA) typically refers to a school district, but can also refer to a charter school. For accuracy, in this document the term “LEA” refers to both school districts and charter schools.

²Section 1116

³Section 1113(c)(3)(A)(i)

⁴Section 1113(c)(3)(A)(ii)&(iii)

⁵Section 1117

⁶Section 1113

⁷2 CFR § 200.328(a)

⁸See, for example, section 1111(h)

⁹Section 1111(d)(1)&(2)

Schools must . . .

- Design and implement programs to support eligible Title I students using one of two models:

	Schoolwide Model	Targeted-Assistance Model
Which schools are eligible to operate this model?	Any school with at least 40 percent poverty or any school below 40 percent poverty with a waiver issued by the state. ¹⁰	Any Title I school that does not operate a schoolwide program. ¹¹
Which students can be served by this model?	All students in the school, particularly those students struggling to meet state academic standards.	Programs and services must be targeted to students who: <ul style="list-style-type: none"> • Are failing, or at risk of failing, to meet state standards; • Participated in certain federally-funded preschool programs (such as Head Start); • Received services under the Migrant Education Program; • Are in a local institution for neglected or delinquent children or are attending a community day program; or • Are experiencing homelessness.

¹⁰Section 1115

¹¹Section 1114

Using Title I, Part A at the District Level to Support Student Achievement

Title I, Part A funds can support a wide range of activities to help academically disadvantaged students master state academic standards. This includes providing the following:

- A well-rounded education for eligible students;
- Instructional supports;
- Non-instructional supports like behavior and social and emotional learning;
- Improvements to school quality; and
- Services like counseling, specialized instructional support services, mentoring services, preparation for postsecondary education and the workforce, behavioral supports, early intervention services, and other activities.¹²

‘Well-Rounded Education’ is defined in ESSA as courses, 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.

Historically, many LEAs and schools have used Title I, Part A funds narrowly for discrete instructional supports primarily focused on reading and math. This was a result of misunderstandings about how Title I, Part A funds can be used.

Common Misconceptions	
Myth	Fact
Title I funds may only be used to support reading/language arts and math.	Title I can be used broadly to improve education for the disadvantaged, including to support subjects like science, social studies, art, and others. ¹³
Title I funds may only be used to support instruction and/or purchase instructional materials.	Title I can be used for non-instructional supports such as school counselors, positive behavioral supports, social-emotional learning, etc. that improve school climate, increase attendance, and improve physical and mental health. ¹⁴
Title I funds may only be used to support remedial programs.	Title I can support advanced learning opportunities for struggling students. ¹⁵
Title I funds may only be used to support specific students, even in a schoolwide program.	If a school is implementing a schoolwide program, Title I and other formula funds may be used to upgrade the entire educational program and benefit all students in the school. ¹⁶

¹² ESSA, Sections 1114 and 1115.

¹³ See NCLB, Title I, Part A, 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), particularly Sections C and G. This guidance is referred to as ED’s “Title I Reform Guidance” for the rest of this document.

¹⁴ See ED’s *Title I Reform Guidance*, particularly Sections C, E, and G.

¹⁵ See ED’s *Title I Reform Guidance*, Section C.

¹⁶ See NCLB, Section 1114 as well as U.S. Department of Education guidance documents:

- [Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program](#) (2015); and
- [Designing Schoolwide Programs](#) (2006).

A Word about Supplement, not Supplant

Title I funds are required to supplement, and not supplant existing state and local funding. In plain language, this means that federal funds should add to, and not replace, state and local funds. Before *ESSA*, Title I, Part A's 'supplement, not supplant' requirement was tested through three presumptions that looked at each activity supported with Title I funds to determine if it was something an LEA or school would have paid for with state and/or local funds if Title I funds were not available.

Effective in the 2017-18 school year, these presumptions will no longer apply to Title I, Part A. 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. In short, LEAs and schools will be required to demonstrate that Title I, Part A *funding* is supplemental and not that the *individual activities or services supported with Title I* are supplemental.

This should expand LEAs' spending options for Title I funds. Costs must still be consistent with the purpose of Title I – improving student achievement – and must still support eligible students among other requirements.

Title I, Part A Funds at the District Level: Required and Allowed Reservations

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

- **Services for students experiencing homelessness**, which can include funding for the homeless liaison and transportation required under the *McKinney Vento Homeless Education Act*.¹⁷ *The amount reserved should be based on an assessment of homeless children's needs.*¹⁸
- **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. *The amount reserved depends on the services needed.*¹⁹
- **Parent and family engagement** (required if the LEA receives \$500,000 or more). *The amount reserved is at least one percent,*²⁰ *90% of which must be distributed to schools.*²¹
- ☐ **Equitable services for eligible private school students.** *The amount reserved depends on the proportion of eligible private school students in the LEA.*²²

¹⁷ 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 in *ESSA*.

¹⁸ Section 1113(c)(3)(C)

¹⁹ Section 1113(c)(3)

²⁰ Section 1116(a)(3)(A). *ESSA* clarifies LEAs can reserve more than one percent at their discretion.

²¹ Please note 90% is a change from *NCLB* which required LEAs to distribute 95% of the reserved funds to schools.

²² Section 1117(a)(1). 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.

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

- **Transportation for students in comprehensive support and improvement schools** if the LEA offers these students the option to transfer to another school. *The amount reserved may be up to 5%.*²³
- **Financial incentives and rewards to teachers in schools identified for comprehensive or targeted support and improvement** for the purpose of attracting and retaining qualified and effective teachers. *The amount reserved may be up to 5%.*²⁴
- **Early childhood education programs** for eligible children. *No amount is specified.*²⁵
- **The additional costs needed to transport children in foster care** to their school of origin consistent with section 1112(c)(5). *No amount is specified.*²⁶
- **Administering the Title I program.** In Tennessee, *there is not an administrative cap.*
- **District-managed initiatives in Title I schools.** *No amount is specified (see next page for examples of district-managed initiatives).*²⁸

²³ Section 1111(d)(1)(D)

²⁴ Section 1113(c)(4)

²⁵ Section 1113(c)(5)

²⁶ U.S. Department of Education & U.S. Department of Health and Human Services, [Ensuring Educational Stability for Children in Foster Care](#) (2016), Q&A 30 at p. 19.

²⁸ 34 CFR § 200.70.

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 district 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 or students. 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 the U.S. Department of Education (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:²⁹

- Contracting with an outside provider, with expertise in school improvement to support low-achieving Title I schools;³⁰
- Providing summer school courses or after-school tutoring to prepare low-achieving students to participate successfully in advanced coursework;³¹
- Supplying supplemental instructional materials to improve the academic achievement of low-achieving students, including students with disabilities and English language learners;³²
- 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;³³
- 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;³⁴
- 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;³⁵
- 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);³⁶ and
- Supporting a district-operated preschool program.³⁷

The list above provides *examples* of possible uses of Title I funds for a district-managed Title I initiative, and is not meant to be an exhaustive list. 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 majority of Title I funds generally should be allocated to schools because Title I is a school-based program.

²⁹ See U.S. Department of Education guidance, *Using Title I, Part A ARRA Funds for Grants to Local Educational Agencies to Strengthen Education, Drive Reform, and Improve Results for Students*, Q&A B-8 (September 2009), available [here](#). This guidance will be referred to as “ED’s Title I Reform Guidance” for the remainder of this document. Two notes about this guidance:

- 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).
- The guidance was released under *NCLB*. It is likely ED will issue updated Title I spending guidance.

³⁰ ED’s Title I Reform Guidance, Q&A B-8.

³¹ ED’s Title I Reform Guidance, Q&A C-1.

The premise of the schoolwide program model is that high-poverty schools should have the flexibility to implement comprehensive school improvement strategies, rather than provide narrow add-on services only to certain students.

In a schoolwide program, **all students and staff** may participate in Title I-funded activities, and the school may use Title I funds 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.

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

- 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;
- Multi-tiered system of supports;
- 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 behavioral 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;
- Devices and software for students to access digital learning materials and to collaborate with peers, as well as 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,

³² ED's Title I Reform Guidance, Q&A C-8

³³ ED's Title I Reform Guidance, Q&A D-1

³⁴ ED's Title I Reform Guidance, Q&A D-3

³⁵ ED's Title I Reform Guidance, Q&A D-4

³⁶ ED's Title I Reform Guidance, Q&A G-5

³⁷ See U.S. Department of Education Guidance, [Early Learning in the Every Student Succeeds Act](#).

educational, health, safety, and other outcomes that address the issues of intergenerational poverty.³⁸

For additional information on what is and is not allowable in a schoolwide program, see <https://www2.ed.gov/policy/gen/guid/significant-guidance.html>

Operating a Schoolwide Program

In order to operate a schoolwide program, a school must meet the following conditions and take the following steps:

1. **Step One:** Meet the following condition:
 - a. At least 40 percent of the student population lives below the poverty level;
2. **Step Two:** If eligible, determine whether your school should apply to operate a schoolwide program;
3. **Step Three:** With key stakeholders, conduct a [comprehensive needs assessment](#); and
4. **Step Four:** With key stakeholders, develop and submit for approval a schoolwide plan for meeting identified needs .⁴⁰

Components of Schoolwide Program Plan

A schoolwide plan which remains in effect for the duration of a school's participation in Title I, **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;⁴¹
- **Developed with the involvement of key stakeholders;**⁴²
- **Developed in coordination and integration with other federal, state, and local services, resources, and programs**, if appropriate, such as the following programs supported under *ESEA*: violence prevention, nutrition, housing, Head Start, adult education, career and technical education, as well as schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d);⁴³

³⁸ U.S. Department of Education, [Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program](#), pp. 4-5 (2016).

⁴⁰ See U.S. Department of Education guidance, [Designing Schoolwide Programs](#), describing the needs assessment process and the ten required components of a schoolwide plan.

⁴¹ Section 1114(b)(6)

⁴² 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.

⁴³ Section 1114(b)(5)

- **Developed during a one-year planning 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;⁴⁴ and
- **At least annually monitored and revised as necessary based on student needs** and program outcomes to ensure that all students are provided opportunities to meet state standards.⁴⁵

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

- 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;
 - 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 multi-tiered system of support to prevent and address problem behavior, as well as early intervention 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 through the use of data from academic assessments; to implement a tiered system of supports; 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.

If funds are consolidated to support a schoolwide program (i.e., different federal, state and local funding sources are combined to carry out a schoolwide program), the plan must also list the specific state, local and federal programs that will be consolidated into the schoolwide program.

⁴⁴ Section 1114(b)(1)

⁴⁵ Section 1114(b)(3)

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

Targeted assistance schools must determine which students they will serve by identifying the students with the greatest need for special 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 an ESSA-funded preschool program within the past two years;
- Migrant students;
- Neglected and/or delinquent students; and
- Students experiencing homelessness.

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.⁴⁶

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

- Expanding learning time for eligible students, including before- and after-school programs, and summer programs and opportunities;
- Providing early intervention services to eligible students, including services coordinated with similar activities and services carried out under *IDEA*;
- 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;
- Implementing strategies to increase the involvement of parents of eligible students;
- Implementing strategies and monitoring progress for eligible students identified through the locally supported multi-tiered system of supports and collaborative problem-solving team; and
- Expanding kindergarten from half- to full-day for eligible students.⁴⁷

Targeted assistance schools can also use Title I funds to provide eligible students with health, nutrition and other social services⁴⁸ 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

⁴⁶ Section 1115(b)(2)(A)

⁴⁷ Section 1115(b)(2)

⁴⁸ 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.

- Funds are not reasonably available from other public or private sources.⁴⁹

A secondary school operating a targeted assistance program can also use Title I funds to provide dual or concurrent enrollment program services to eligible children.⁵⁰

Targeted assistance schools must:

- Help provide an accelerated, high-quality curriculum;
- Minimize the removal of children from the regular classroom during regular school hours; 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.

Coordinating Targeted Services with Other Programs and Supports

Because targeted assistance programs can only serve specifically identified students, schools often separate their Title I programs to prove that only eligible students participated. This is not required by the Title I law. 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:

*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.*⁵¹

The law also encourages targeted assistance schools to coordinate and integrate federal, state and local services and programs, such as programs supported under *ESSA* for violence prevention, nutrition, housing, Head Start, adult education, career and technical education, and also comprehensive support and improvement activities or targeted support and improvement activities.⁵²

This coordination extends beyond student services and includes staff, as well. For example, to promote the integration of Title I-supported 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.⁵³

⁴⁹ Section 1115(e)(2)

⁵⁰ Section 1115(f)

⁵¹ Section 1115(e)(1)

⁵² Section 1115(b)(2)(F)

⁵³ Section 1115(d)

Title I, Part A Fiscal Tests

As a condition of receiving Title I, Part A funds, LEAs must comply with three fiscal tests designed to ensure that Title I funds add to state and local education funding:

	Purpose	What Does This Require LEAs to Do?
Maintenance of effort⁵⁴	Ensures districts maintain a consistent level of state/local funding for education from year to year.	Must ensure that local and state per-pupil spending in the school district remains at 90% or above what was spent in the preceding year. Must fail to comply two times within a five-year span before any consequence on funding.
Supplement, not supplant⁵⁵	Ensures districts do not give less state and local funding to Title I schools because the school participates in the Title I program.	Must prove that funding methodology provides Title I schools all the state and local funds they would have received if they did not participate in Title I.
Comparability of services⁵⁶	Ensures districts use state/local funding to provide services that, taken as a whole, are comparable between Title I and non-Title I schools.	Must ensure that state and local funds are used to provide comparable services for Title I and non-Title I schools.

⁵⁴ Section 1118(a) and 8521

⁵⁵ Section 1118(b)

⁵⁶ Section 1118(c)

ESEA Formula Grants: Title II, Part A

Purpose of the Title II, Part A Program

In general, Title II funds can be used to provide supplemental strategies and activities that strengthen the quality and effectiveness of teachers, principals, and other school leaders.⁵⁷ The purposes of Title II grants are to:

1. Increase student achievement consistent with the State Student Learning 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. Improve access for low-income and minority students to effective teachers, principals, and other school leaders.

Using Title II Funds to Support Effective Instruction

I. Use of Funds Overview

LEAs can use Title II funds for a wide range of strategies and 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.⁵⁸

If there are schools within the LEA that have been identified for support and intervention through the state's school-based accountability system, the LEA must prioritize Title II activities for those identified schools with the highest poverty levels.⁵⁹

Note on Funding under ESSA

Starting in 2017-18, LEAs will no longer receive a hold harmless (or minimum) Title II allocation. Instead, each LEA's Title II allocation will be based on its number of 5-17 year olds (which will count for 20% of the formula), and its number of *low-income* 5-17 year olds (which will count for 80% of the formula).

II. Allowable Uses of Local Title II Funds

What follows is an overview of LEA spending options under Title II. LEAs are encouraged to prioritize strategies and activities that will have the highest impact on teaching and learning to result in the highest level of academic achievement. When determining which of the many allowable Title II strategies and activities will have the highest impact, U.S. Department of Education (ED) guidance suggests LEAs use a five-step framework:

1. Choose interventions aligned with identified local needs;⁶⁰
2. Consider the evidence base and the local capacity when selecting a strategy;

⁵⁷ 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 \(September 2016\)](#) [hereinafter referred to as *ED 2016 Title II, Part A Guidance*].

⁵⁸ Section 2103(b)(1)-(2).

⁵⁹ Section 2102(b)(2)(C).

⁶⁰ LEAs were required to conduct a formal needs assessment under No Child Left Behind (NCLB). ESSA eliminated that requirement.

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.⁶¹

LEAs must use data and ongoing stakeholder consultation to continually update and improve Title II-supported activities.⁶²

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.⁶³ This could include providing additional training to evaluators to improve the delivery of feedback and additional training to improve reliability between evaluators.

B. Recruiting, Hiring, and Retaining Effective Teachers

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.⁶⁴

This can include the following:

- Expert help in screening candidates and enabling early hiring;
- 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;
- Teacher, paraprofessional, principal or other school leader advancement and professional growth, 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;⁶⁵
- Develop and implement mentoring and induction programs for new teachers, principals or other school leaders;⁶⁶
- Training for school leaders, coaches, mentors and evaluators on how to accurately differentiate performance, provide useful feedback and use evaluation results to inform decision-making about professional development, improvement strategies and personnel; and⁶⁷
- A system for auditing the quality of evaluation and support systems.⁶⁸

⁶¹ *ED 2016 Title II, Part A Guidance*, p. 30. Pages 29-35 of ED's guidance contain more information about these five steps.

⁶² Section 2102(b)(2)(D).

⁶³ Section 2103(b)(3)(A).

⁶⁴ Section 2103(b)(3)(B).

⁶⁵ *ED 2016 Title II, Part A Guidance*, p. 14.

⁶⁶ *ED 2016 Title II, Part A Guidance*, p. 10

⁶⁷ Section 2103(b)(3)(B)(i)-(vi).

⁶⁸ Section 2103(b)(3)(B)(i)-(vi).

Example: Teacher Residency Program⁶⁹

According to ED guidance,⁷⁰ 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.⁷¹

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 orientation;
- 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.⁷²

C. Recruiting from Other Fields

LEAs/schools may use Title II funds to recruit qualified individuals from other fields to become teachers, principals, or other school leaders.⁷³ 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.

D. Class Size Reduction

LEAs/schools may use Title II funds to reduce class size by hiring another staff member. When using funds for class-size reduction, LEAs must show that there is evidence to suggest that reducing class-size in the circumstance can have a positive impact on student achievement.⁷⁴

According to U.S. Department of Education guidance, LEAs/schools can consider reducing class size as one strategy to attract and retain effective educators in high-needs schools.⁷⁵

E. Personalized Professional Development

LEAs/schools may use Title II funds to provide high-quality, personalized professional development for teachers, instructional leadership teams, principals or other school leaders.⁷⁶ 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:

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

⁶⁹ Any teacher residency program must comply with all *ESEA* requirements and state laws and regulations.

⁷⁰ *ED 2016 Title II, Part A Guidance*, p. 8.

⁷¹ Section 2002(5).

⁷² *ED 2016 Title II, Part A Guidance*, p. 19.

⁷³ Section 2103(b)(3)(C).

⁷⁴ Section 2013(b)(3)(D).

⁷⁵ *ED 2016 Title II, Part A Guidance*, p. 24.

⁷⁶ Section 2103(b)(3)(E).

Personalized Professional Development Examples

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

- i. Peer-led, evidence-based professional development in LEAs and schools;⁷⁷
- ii. 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 afterward to incorporate lessons learned into their teaching;⁷⁸
- iii. Community of learning opportunities where principals and other school leaders engage with their school teams to fully develop broad curriculum models;⁷⁹
- iv. Providing initial and on-going professional learning opportunities to administrators, teachers, and other personnel to effectively implement a multi-tiered system of;
- v. Opportunities for principals and other school leaders to collaborate, problem-solve and share best practices;⁸¹
- vi. “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;⁸² and
- vii. Ongoing cultural proficiency training to support stronger school climate for educators and students.

F. Increasing Teacher Effectiveness for Students with Disabilities and English Learners⁸⁴

LEAs/schools 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-tier systems of support and positive behavioral intervention and supports.⁸⁵ LEAs/schools should coordinate any professional development planned and paid for with Title II funds with their professional development efforts funded under the *Individuals with Disabilities Act (IDEA)* and Title I and Title III of *ESEA*.

⁷⁷ ED 2016 Title II, Part A Guidance, p. 14.

⁷⁸ ED’s Title II, Part A Guidance at p. 14.

⁷⁹ ED’s Title II, Part A Guidance at p. 15.

⁸¹ ED’s Title II, Part A Guidance at p. 15.

⁸² ED’s Title II, Part A Guidance at p. 24.

⁸³ ED’s Title II, Part A Guidance at p. 23.

⁸⁴ Section 2103(b)(3)(F).

⁸⁵ For information on how LEAs can coordinate IDEA and Title II initiatives to support teachers (including general education teachers) who teach students with disabilities ED’s Title II, Part A Guidance, pp. 6-14.

G. Supporting Early Education⁸⁶

LEAs/schools may use Title II funds to support strategies 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.⁸⁷

LEAs/schools may also use Title II funds to support strategies 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.⁸⁸

H. Supporting Effective Use of Assessments

LEAs/schools 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.⁸⁹

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

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

- a. 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;
- b. 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;
- c. Forming partnerships between school-based mental health programs and public or private mental health organizations;
- d. Supporting collaborative problem-solving teams and school climate/safety teams; and
- e. Addressing issues related to school conditions for student learning, such as safety, peer interaction, drug and alcohol abuse and chronic absenteeism.⁹⁰

J. Supporting Gifted and Talented Students

LEAs/schools 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:

- a. Early entrance to kindergarten,
- b. Enrichment, acceleration, and curriculum compacting activities, and

⁸⁶ For more information on Supporting Early Education, see ED's Title II, Part A Guidance at p. 25.

⁸⁷ Section 2103(b)(3)(G)(i).

⁸⁸ Section 2013(b)(3)(G)(ii).

⁸⁹ Section 2103(b)(3)(H).

⁹⁰ Section 2103(b)(3)(I).

c. Dual or concurrent enrollment programs in secondary school and postsecondary education.⁹¹

Any programs, activities, or strategies implemented to support gifted and talented students must be above and beyond what is required of all school districts.

K. School Library Programs

LEAs/schools may use Title II funds to support the instructional services provided by effective school library programs.⁹²

L. Preventing and Recognizing Child Sexual Abuse

LEAs/schools 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.⁹³

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

LEAs/schools 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.⁹⁴

N. Improving School Working Conditions

LEAs/schools 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.⁹⁵

O. Supporting Postsecondary and Workforce Readiness

LEAs/schools 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, it may include providing common planning time to help prepare students for postsecondary education and the workforce.⁹⁶

P. Other Activities

LEAs/schools may also spend Title II funds on other activities that meet Title II purposes and are evidence-based to the extent the SEA (in consultation with LEAs) determines that such evidence is reasonably available.⁹⁷

⁹¹ Section 2103(b)(3)(J).

⁹² Section 2103(b)(3)(K).

⁹³ Section 2103(b)(3)(L).

⁹⁴ Section 2103(b)(3)(M).

⁹⁵ Section 2103(b)(3)(N).

⁹⁶ Section 2103(b)(3)(O).

⁹⁷ Section 2103(b)(3)(P).

Title II: Other Spending Considerations and Fiscal Rules

A. Requirement for Stakeholder Consultation

Title II requires LEAs/schools to consult meaningfully with a wide array of stakeholders on the LEA's plan for carrying out Title II strategies and activities.⁹⁸ LEAs/schools must also conduct ongoing consultation with stakeholders to update and improve activities supported with Title II funds.⁹⁹ For a full list of stakeholders who must be consulted and considerations for conducting stakeholder engagement, see the [Stakeholder Engagement](#) section of this document.

B. LEA-Level Administrative Costs

In Tennessee school districts may not reserve more than 2% of their Title II allocation for administrative costs.

C. Maintenance of Effort

LEAs that receive Title II funds must comply with a maintenance of effort requirement.¹⁰⁰ In short, maintenance of effort ensures districts maintain a consistent level of state and local funding for free public education from year to year. See the [General Provisions](#) section of this document for more information.

D. Supplement not Supplant (SNS)

LEAs/schools that receive Title II funds must comply with a supplement not supplant requirement.¹⁰¹ In general terms, this means that Title II funds should add to (supplement) and not replace (supplant) state and local funds.

An LEA/school is considered in violation of Title II supplanting if:

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

Supplement, Not Supplant (SNS) Note While the *Every Student Succeeds Act (ESSA)* changed Title I SNS rules, ***it did not*** change Title II SNS rules.

An LEA/school 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.

⁹⁸ Section 2102(b)(3).

⁹⁹ Section 2102(b)(2)(D).

¹⁰⁰ Section 8521.

¹⁰¹ Section 2301.

E. Equitable Services for Nonpublic Schools

Title II funds are subject to an equitable services requirement.¹⁰² In short, this means LEAs must reserve funds to provide Title II services to eligible private school teachers and other educational personnel. See the [Nonpublic](#) section of this document for more information.

ESSA and Equitable Share

ESSA changed the way LEAs must reserve funds for nonpublic school services. Under NCLB, LEAs only had to reserve a share of the Title II, Part A money they spent on professional development. Under ESSA, the reservation is based on an LEA's entire Title II allocation.

¹⁰² Section 8501(b)(1)(B).

ESEA Formula Grants: Title III

Purpose of Title III

In General

LEAs/Schools must use Title III funds for effective approaches and methodologies for serving English Learners (ELs) and immigrant children and youth (definitions of these terms appear below) for the following purposes:

1. Developing and implementing new language instruction educational programs and academic content instructional programs for 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 initiatives 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; and
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.¹⁰³

Definition of English Learner (EL) under ESSA

Under ESSA, an “English learner” means an individual:

1. Who is aged 3 through 21;
2. Who is enrolled or preparing to enroll in an elementary school or secondary school;
3. Who meets one of the following:
 - a. Was not born in the United States or whose native language is a language other than English;
 - b. Is a Native American or Alaska Native, or a native resident of the outlying areas and 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**

English Learner (EL) and English Language Learner (ELL)

ESEA uses the term English learner (EL). The term most commonly used is English language learner (ELL). These terms mean the same thing.

¹⁰³ 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) [hereinafter *ED 2016 Title III, Part A Guidance*] available at <http://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiguidenglishlearners92016.pdf>.

- c. 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**
- 4. Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
 - a. The ability to meet the challenging state academic standards;
 - b. The ability to successfully achieve in classrooms where the language of instruction is English; **or**
 - c. The opportunity to participate fully in society.¹⁰⁴

Definition of Immigrant Children and Youth under ESSA

The term “immigrant children and youth” means individuals who:

- 1. Are aged 3 through 21;
- 2. Were not born in any State (including Washington D.C. and Puerto Rico); **and**
- 3. Have not been attending one or more schools in any one or more states for more than three full academic years.¹⁰⁵

Note: An immigrant student need not be an EL. For instance, a student who moved from Australia who is fluent in English meets the criteria to be identified as an immigrant student but may not be an EL.

Here is a link to Tennessee’s ESL Program Policy:

[https://tn.gov/assets/entities/sbe/attachments/3.207 ESL Program Policy 10-20-17.pdf](https://tn.gov/assets/entities/sbe/attachments/3.207%20ESL%20Program%20Policy%2010-20-17.pdf)

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.¹⁰⁶ Because SNS works differently in Title III than other federal programs this guidance addresses SNS first.

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 cannot use Title III funds to meet its civil rights obligations to EL students; and
- 3. In some circumstances, an LEA can use Title III funds to pay for EL-related activities under Title I, Part A of *ESEA*.

¹⁰⁴ Section 8101(20). Also, *ED 2016 Title III, Part A Guidance*, p. 43.

¹⁰⁵ Section 3201(5). Also, *ED 2016 Title III, Part A Guidance*, p. 43.

¹⁰⁶ Section 3115(g).

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

The federal government presumes **an LEA is out of compliance with SNS rules for Title III in the following two situations:**

1. An LEA uses Title III funds to provide services the LEA is required to make available under other federal, state, or local laws, or
2. An LEA uses Title III funds to provide services the LEA paid for with state or local funds the prior year.¹⁰⁷

These presumptions can be “rebutted” (disputed with evidence) and possibly overcome if the LEA can show it would not have provided the services in question with non-federal funds had the federal funds not been available.

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

Under the first presumption of supplanting an LEA cannot 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.¹⁰⁸ 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

¹⁰⁷ ED 2016 Title III, Part A Guidance, Question A-2.

¹⁰⁸ ED 2016 Title III, Part A Guidance, Question A-2 and A-3.

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.¹⁰⁹

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

Example of Supplanting

An LEA uses its Title III funds for the cost of an interpreter to assist in the evaluation of ELs suspected of having a disability. The LEA's use of Title III funds supplants state/local funds because **the LEA is required to** evaluate ELs for a disability pursuant to *IDEA* or Section 504 of the *Rehabilitation Act of 1973*. Therefore, in the absence of Title III funds, **the LEA would be required to** provide interpretation services during the evaluation process.

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

Under the first presumption of supplanting an LEA cannot use Title III funds to meet the requirements of federal, state, or local law. This has meant LEAs could not use Title III funds to pay for Title I, Part A's EL-related requirements. Under *ESEA* as amended by *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 are now part of Title I, Part A 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)).¹¹⁰

LEAs can use Title III funds for activities that moved to Title I *if* they ensure that:

1. The activity being supported is consistent with the purposes of Title III and meets federal guidelines for "reasonable and necessary costs;"¹¹¹
2. The activity being supported is supplemental to the LEA's civil rights obligations to ELs under Title VI and the *EEOA*; and
3. The LEA can demonstrate it is also using Title III funds to conduct activities required under Title III.¹¹² (See page 32 of this guidance for more information about required activities).

¹⁰⁹ *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>.

¹¹⁰ *ED 2016 Title III, Part A Guidance*, Question A-4.

¹¹¹ The concept of "reasonable and necessary" costs comes from federal regulations known as the Uniform Grant Guidance (UGG). Please see page 3 for more information about the UGG.

¹¹² *ED 2016 Title III, Part A Guidance*, Question A-4.

Please note, LEAs cannot 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 monitor the effectiveness of their language instruction program for ELs. Therefore, since it is a civil rights requirement, an LEA may not use Title III funds to contract with a third-party to conduct an evaluation of its language instruction program for ELs, if such an evaluation were being used to meet the civil rights obligation.¹¹³

Title III: Two Types of Subgrants

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 language acquisition, language enhancement and academic achievement of English learners (ELs). Second, are “targeted” subgrants awarded to LEAs that experience a significant increase in immigrant children and youth. These subgrants will be referred to as “Title III-Immigrant” and must be used to support immigrant students and their families acclimate to U.S. schools and to help immigrant students achieve academically.

Using Title III Funds to Support English Language Acquisition and Language Enhancement and Academic Achievement

LEAs must use Title III funds to assist ELs in learning English and meeting state academic standards.¹¹⁴

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

LEAs **must use** Title III funds for three activities¹¹⁵:

1. Supplementing the existing **effective language instruction educational programs (LIEPs)** established to meet the needs of ELs and demonstrate success in increasing English language proficiency and student academic achievement;¹¹⁶
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 supplements the professional development requirements and is:
 - Designed to improve the instruction and assessment of ELs;
 - Designed to enhance the ability to understand and implement curricula, assessment practices and measures, and instructional strategies for ELs;¹¹⁷

¹¹³ Additional information about the civil rights obligations for EL students is available in a joint U.S. Department of Education and U.S. Department of Justice [Dear Colleague Letter \(2015\)](#), available here.

¹¹⁴ Section 3115(a).

¹¹⁵ For information on how to implement LIEPs, provide professional development and/or engaging the parents and families of ELs see *ED 2016 Title III, Part A Guidance* pp. 20 – 31

¹¹⁶ Section 3115(c)(1). For federal guidance about LIEPs, please see *ED 2016 Title III, Part A Guidance*, Section C.

¹¹⁷ 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.

- Effective in increasing children’s English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and
 - 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; and
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.¹¹⁸

As with all Title III costs, these three required Title III 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 and to comply with the requirements of state laws and regulations.

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

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

- Upgrading program objectives and effective instructional strategies;¹¹⁹
- Improving the instructional program for ELs by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures;¹²⁰
- 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;¹²¹
- Developing and implementing effective preschool,¹²² elementary school, or secondary school language instruction educational programs that are coordinated with other relevant programs and services;¹²³
- Improving the English language proficiency and academic achievement of ELs;¹²⁴
- 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;¹²⁵

¹¹⁸ Section 3115(c)(3). For federal guidance on parent, family, and community engagement, please see *ED 2016 Title III, Part A Guidance*, Section E.

¹¹⁹ Section 3115(d)(1).

¹²⁰ Section 3115(d)(2).

¹²¹ Section 3115(d)(3).

¹²² For more information on Title III and Early Learning, please see *ED 2016 Title III, Part A Guidance*, Section F.

¹²³ Section 3115(d)(4).

¹²⁴ Section 3115(d)(5).

¹²⁵ Section 3115(d)(6).

- 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;¹²⁶
- Offering early college high school or dual or concurrent enrollment programs or courses designed to help ELs achieve success in postsecondary education; and¹²⁷
- Carrying out other activities that are consistent with the purposes of Title III subgrants.¹²⁸

If an LEA uses its Title III 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 and the *EEOA* or to comply with the state requirements.

Title III Funds to Support Immigrant Children and Youth

The Title III-Immigrant subgrant is targeted to LEAs that have experienced a significant increase in immigrant children and youth. These funds must be used to pay for activities that address the unique needs of 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.¹²⁹

¹²⁶ Section 3115(d)(7).

¹²⁷ Section 3115(d)(8).

¹²⁸ Section 3115(d)(9).

¹²⁹ Section 3115(e). See also *ED 2016 Title III, Part A Guidance*, Question G-4.

A. Requirement for Stakeholder Consultation

Title III requires LEAs to consult meaningfully with a wide array of stakeholders on the LEA's plan for carrying out Title III activities.¹³⁰ For a full list of stakeholders who must be consulted and considerations for conducting stakeholder engagement, see the [Stakeholder Engagement](#) section of this document.

B. LEA-Level Administrative Costs

LEAs may use up to 2% of their Title III funds for direct administrative costs.¹³¹ Indirect costs are not part of the 2% cap.¹³²

C. Maintenance of Effort

LEAs that receive Title III funds must comply with a maintenance of effort requirement.¹³³ In short, maintenance of effort ensures districts maintain a consistent level of state and local funding for free public education from year to year.¹³⁴ See the [General Provisions](#) section of this document for more information.

D. Equitable Services

Title III funds are subject to an equitable services requirement.¹³⁵ This means that the LEA must ensure that eligible private school students, their teachers, and other educational personnel are served by Title III.¹³⁶ See the [Nonpublic](#) section of this document for more information.

¹³⁰ Section 3116(b)(4)(C)

¹³¹ Section 3115(b).

¹³² *ED 2016 Title III, Part A Guidance*, Question A-10.

¹³³ Section 8521.

¹³⁴ *ED 2016 Title III, Part A Guidance*, Question A-17.

¹³⁵ Section 8501(b)(1)(C).

¹³⁶ *ED 2016 Title III, Part A Guidance*, Question C-6.

ESEA Formula Grants: Title IV, Part A

Purpose of Title IV, Part A Funds for Student Support and Academic Enrichment (SSAE)

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:

- Provide all students with access to a well-rounded education;
- Improve school conditions for student learning; and
- Improve the use of technology in order to improve the academic achievement and digital literacy of all students.¹³⁷

Using SSAE Funds to Support Students

I. Use of Funds Overview

A. Local Needs Assessment¹³⁸

LEAs that receive **\$30,000 or more** in SSAE funds must, at least once every three years,¹³⁹ 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; and
- Access to personalized learning experiences supported by technology and professional development for the effective use of data and technology.¹⁴⁰

LEAs that receive **less than \$30,000** in SSAE funds do not have to conduct a formal needs assessment,¹⁴¹ but are encouraged to consider the unique and diverse needs of its students when deciding how to spend SSAE funds.¹⁴²

B. Prioritizing High-Need Schools

LEAs must prioritize SSAE funds to support 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

¹³⁷ 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) [hereinafter referred to as *ED 2016 SSAE Guidance*], available [here](#).

¹³⁸ *ED 2016 SSAE Guidance* pp. 15-16.

¹³⁹ Section 4106(d)(3).

¹⁴⁰ Section 4106(d).

¹⁴¹ Section 4106(d)(2).

¹⁴² *ED 2016 SSAE Guidance*, p. 16 at footnote 14.

- Are identified as a persistently dangerous school under Section 8532 (see the [General Provisions](#) section of this document for more information).¹⁴³

C. Objectives and Outcomes¹⁴⁴

LEAs must develop objectives and intended outcomes for their SSAE-funded programs, strategies, and activities.¹⁴⁵ LEAs must use these objectives and intended outcomes to periodically evaluate the effectiveness of SSAE-funded strategies.¹⁴⁶ LEAs must also provide SEAs with information about their progress towards their objectives and outcomes so the TDOE can satisfy its reporting requirements.¹⁴⁷

D. Special Funding Rules

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

- At least 20% on strategies to support a well-rounded education;
- At least 20% on strategies to support safe and healthy students; and
- At least some funds on strategies to support the effective use of technology.¹⁴⁸

Note: A single strategy can satisfy more than one category of required costs.¹⁴⁹

Annually, LEAs may not spend more than 15% of their SSAE funds to purchase technology infrastructure (see more in the section on Effective Use of Technology, below).¹⁵⁰

II. Local SSAE Spending Options¹⁵¹

What follows is an overview of all LEA SSAE spending options under the law. LEAs are encouraged to prioritize funding strategies and activities that are aligned to the unique and diverse needs of its students, informed by stakeholder input and that will have the greatest impact on academic achievement and student outcomes.

Strategies and Activities to Support a well-Rounded Education¹⁵²

LEAs may spend SSAE funds to develop and implement programs, activities, and strategies that support access to a well-rounded education.¹⁵³ Activities should be coordinated with other school- and community-based services and programs.¹⁵⁴ They can also be conducted in partnership with an institution

¹⁴³ Section 4106(e)(2)(A).

¹⁴⁴ *ED 2016 SSAE Guidance* pp. 17-18.

¹⁴⁵ Section 4106(e)(1)(E).

¹⁴⁶ Section 4106(e)(1)(E).

¹⁴⁷ Section 4104(a)(2); see also Section 4106(e)(2)(F).

¹⁴⁸ Section 4106(e)(2)(C)-(E).

¹⁴⁹ *ED 2016 SSAE Guidance* p. 13.

¹⁵⁰ Section 4109(b).

¹⁵¹ *ED 2016 SSAE Guidance* pp. 16-17.

¹⁵² See *ED 2016 SSAE Guidance*, p. 20 for specific examples of activities from throughout the country.

¹⁵³ Section 4107(a).

¹⁵⁴ Section 4107(a)(1).

of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success.¹⁵⁵

Allowable strategies and activities are listed below.¹⁵⁶

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.¹⁵⁷

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 academic success through the promotion of constructive student engagement, problem-solving, and conflict resolution.¹⁵⁸

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

LEAs may use SSAE funds for programs and activities to improve instruction and student engagement in STEM.¹⁵⁹ 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 programs, 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 a well-rounded education.¹⁶⁰

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 (such as dual or concurrent enrollment courses, early college high school courses, AP and IB).¹⁶¹

¹⁵⁵ Section 4107(a)(2).

¹⁵⁶ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 39-43.

¹⁵⁷ Section 4107(a)(3)(A).

¹⁵⁸ Section 4107(a)(3)(B).

¹⁵⁹ Section 4107(a)(3)(C).

¹⁶⁰ Section 4107(a)(3)(C)(i)-(vi).

¹⁶¹ Section 4107(a)(3)(D). See also Section 4104(b)(3)(A)(i)(IV).

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.¹⁶² (Please note LEAs may use SSAE funds in fiscal year 2017 to cover fees for exams taken in the 2016-17 school year.¹⁶³)

This 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.¹⁶⁴

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,¹⁶⁵
- Foreign language instruction;¹⁶⁶ and
- Environmental education.¹⁶⁷

F. Volunteerism and Community Involvement

LEAs may use SSAE funds for programs and activities that promote volunteerism and community involvement.¹⁶⁸

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.¹⁶⁹

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.¹⁷⁰

Strategies and Activities to Support Safe and Healthy Students¹⁷¹

LEAs may 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

¹⁶² Section 4107(a)(3)(D)(i).

¹⁶³ Section 4107(b).

¹⁶⁴ Section 4107(a)(3)(D)(ii).

¹⁶⁵ Section 4107(a)(3)(E).

¹⁶⁶ Section 4107(a)(3)(F).

¹⁶⁷ Section 4107(a)(3)(G).

¹⁶⁸ Section 4107(a)(3)(H).

¹⁶⁹ Section 4107(a)(3)(I).

¹⁷⁰ Section 4107(a)(3)(J).

¹⁷¹ See *ED 2016 SSAE Guidance*, p. 28 for specific examples of activities from throughout the country.

- Promote parent involvement in activities or programs.¹⁷²

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.¹⁷³

Allowable strategies and activities are listed below.¹⁷⁴

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.¹⁷⁵

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.¹⁷⁶

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.¹⁷⁷

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 as follows:

- 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 *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.¹⁷⁸

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.¹⁷⁹ Before obtaining consent, the LEA must provide the parent with written notice describing in detail:

¹⁷² Section 4108(1)-(3).

¹⁷³ Section 4108(4).

¹⁷⁴ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 43-45.

¹⁷⁵ Section 4108(5)(A).

¹⁷⁶ Section 4108(5)(A)(i)-(ii).

¹⁷⁷ Section 4108(5)(A)(B)(i).

¹⁷⁸ Section 4108(5)(A)(B)(ii).

¹⁷⁹ 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

- 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.¹⁸⁰

Providing this consent does not waive any rights or protections under the *Family Educational Rights and Privacy Act (FERPA)*.¹⁸¹

C. Health and Safety Activities or Programs

LEAs may use SSAE funds for programs or activities that do the following:

- 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.¹⁸²

D. Addressing Trauma and Violence

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

- Suicide prevention;
- Effective trauma-informed practices in classroom management;
- Crisis management and conflict resolution techniques;
- Human trafficking;¹⁸³
- School-based violence prevention strategies;
- Drug abuse prevention, including educating children facing substance abuse at home; and

written consent is also not required when the LEA actively seeks parental consent but cannot reasonably obtain it, including when a parent does 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).

¹⁸⁰ Section 4001(a)(1)(B).

¹⁸¹ Section 4001(a)(1)(C).

¹⁸² Section 4108(5)(C).

¹⁸³ 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>.

- Bullying and harassment prevention.¹⁸⁴

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 the following:

- 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.¹⁸⁵

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.¹⁸⁶

G. Positive Behavioral Interventions and Supports

LEAs may use SSAE funds to implement schoolwide positive behavioral interventions and supports.¹⁸⁷ This can include coordinating with similar *IDEA* activities to improve academic outcomes and school conditions for student learning.

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

- 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.¹⁸⁸

¹⁸⁴ Section 4108(5)(D).

¹⁸⁵ Section 4108(5)(E).

¹⁸⁶ Section 4108(5)(F).

¹⁸⁷ Section 4108(5)(G).

¹⁸⁸ Section 4108(5)(H).

H. Pay for Success

LEAs may fund pay-for-success initiatives aligned with the goal of supporting safe and healthy students.¹⁸⁹

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.¹⁹⁰

Strategies and Activities to Support the Effective Use of Technology¹⁹¹

LEAs may use SSAE funds to improve the use of technology to improve the academic achievement, academic growth and digital literacy of all students.

Allowable strategies and activities are listed below.^{192 193}

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 do the following:

- 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.¹⁹⁴

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.¹⁹⁵

Annually, LEAs may not spend more than 15% of their SSAE for technology infrastructure.¹⁹⁶

¹⁸⁹ Section 4108(5)(l).

¹⁹⁰ 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>.

¹⁹¹ See *ED 2016 SSAE Guidance*, p. 31 for specific examples of activities from throughout the country.

¹⁹² Section 4109(a).

¹⁹³ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 46-47.

¹⁹⁴ Section 4109(a)(1).

¹⁹⁵ Section 4109(a)(2).

¹⁹⁶ Section 4109(b).

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.¹⁹⁷

D. Blended Learning

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

- Planning strategies like developing new instructional models (including blended learning technology software and platforms), purchasing digital instructional resources, initial professional development activities, and one-time information technology purchases that do not include significant construction or renovation of facilities. (As noted above, any technology infrastructure costs count towards the 15% cap); 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.¹⁹⁸

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.¹⁹⁹

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.²⁰⁰

Title IV: Other Spending Considerations and Fiscal Rules

A. Requirements for Stakeholder Consultation

LEAs must meaningfully consult with a wide array of stakeholders when designing their SSAE programs.²⁰¹ 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.²⁰² For a full list of stakeholders who must be consulted and considerations for conducting stakeholder engagement, see the [Stakeholder Engagement](#) section of this document.

B. LEA-Level Administrative Costs

LEAs may not spend more than 2% of their SSAE funds on direct administrative costs.²⁰³

¹⁹⁷ Section 4109(a)(3)

¹⁹⁸ Section 4109(a)(4)

¹⁹⁹ Section 4109(a)(5)

²⁰⁰ Section 4109(a)(6)

²⁰¹ Section 4106(c)(1).

²⁰² Section 4106(c)(2).

²⁰³ Section 4105(c).

C. Maintenance of Effort

LEAs that receive SSAE funds must comply with a maintenance of effort requirement.²⁰⁴ In short, maintenance of effort requires districts to maintain a consistent level of state and local funding for free public education from year to year. See the [General Provisions](#) section of this document for more information.

D. Supplement not Supplant

LEAs that receive SSAE funds must comply with a supplement, not supplant requirement.²⁰⁵ In general terms, this means that SSAE funds should add to (supplement) and not replace (supplant) state and local funds.

For the SSAE program, an LEA is considered supplanting when:

- The LEA uses SSAE funds to pay for an activity that is required by federal, state or local law, **or**
- The LEA uses SSAE funds to pay for an activity it supported with state or local funds the prior year.²⁰⁶

An LEA may 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 SSAE program funds

E. Equitable Services

SSAE funds are subject to an equitable services requirement.²⁰⁷ In short, this means LEAs must reserve funds to provide SSAE services to eligible private school students and teachers. See the [Nonpublic](#) section of this document for more information.

²⁰⁴ Section 8521.

²⁰⁵ Section 4110.

²⁰⁶ *ED 2016 SSAE Guidance*, p. 14.

²⁰⁷ Section 4106(e)(2)(b); Section 8501(b)(1)(D).

General Provisions

I. **Maintenance of Effort (MOE)**²⁰⁸

Each year, LEAs receiving funds under *ESEA* must ensure that district or per-pupil spending of state and local funds remains at 90% or above what was spent in the preceding year. For those LEAs that fail MOE in both calculations (i.e., districtwide and per-pupil spending), the smaller percentage is used as the amount of the reduction. An LEA must fail to comply twice within a five-year span before any reduction in federal funding.

Example:

- School district A spent \$10,000 per pupil in state and local dollars in the 2014-15 school year with total district expenditures of \$1,000,000.
- School district A must spend at least \$9,000 per pupil (90% of \$10,000) **or** have total district expenditures of \$900,000 in 2015-16 to comply with the MOE requirement.

II. **Privacy of Assessment Results**²⁰⁹

Any results from an individual assessment referred to in *ESEA* of a student that become part of the education records of the student must have the protections provided in Section 444 of the *General Education Provisions Act*²¹⁰.

III. **School Prayer**²¹¹

By October 1 of each year, LEAs must certify in writing to the TDOE that no LEA policy prevents or otherwise denies participation in constitutionally protected prayer in public elementary and secondary schools, as detailed in guidance provided by the Secretary of Education.²¹²

IV. **Equal Access to Public School Facilities**²¹³

An LEA or public school that has a designated public forum or a limited public forum may not deny equal access or fair opportunity to meet to any group affiliated with the Boy Scouts of America or any other youth group listed as a “Patriotic Organization” in Title 36 of the *United States Code* that wishes to conduct a meeting in that public forum.

²⁰⁸ Section 8521.

²⁰⁹ Section 8523.

²¹⁰ See [General Education Provisions Act](#).

²¹¹ Section 8524.

²¹² [Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools](#).

²¹³ Section 8525.

V. Prohibited Use of Funds²¹⁴

No funds received under *ESEA* may be used as follows:

- To provide construction, renovation, or repair of any school facility, except as authorized under *ESEA*;
- To provide transportation unless otherwise authorized under *ESEA*;
- To develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;
- To distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;
- To provide sex education or HIV-prevention education in schools unless that instruction is age-appropriate and includes the health benefits of abstinence; or
- To operate a program of contraceptive distribution in schools.

VI. Armed Forces Recruiter Access to Students and Student Recruiting Information²¹⁵

Public high schools must give the names, addresses and telephone numbers of students to military recruiters, college/university recruiters, and prospective employers if the recruiters request the information. However, students or their parents have the right to instruct the school in writing not to release this information to any or all of these groups.

VII. Unsafe School Choice Option

LEAs must comply with the state's Unsafe School Choice Option policy, which can be found at the following link: <https://www.tn.gov/education/article/unsafe-schools-choice-policy>

VIII. Consultation with Indian Tribes²¹⁷

To ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students, LEAs in which 50% or more of the total student enrollment is American Indian or Alaska Native must ensure timely and meaningful consultation with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area prior to the LEAs submission of its application to carry out programs or activities paid for with funds provided under *ESEA*.

Documentation of such consultation must be maintained in the LEAs records and provided to the TDOE with a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations approved by the tribes that the required consultation has occurred.

IX. Gun-Free Requirements²¹⁸

Each LEA must provide an assurance to the state that the LEA is in compliance with state law regarding expulsion if a student is determined to have brought a firearm to school or possessed a firearm at a school. Such a student must be expelled from school for at least one year.

²¹⁴ Section 8526.

²¹⁵ Section 8528

²¹⁷ Section 8538

²¹⁸ Section 8561

X. Nonsmoking Policy²¹⁹

No person may allow smoking within any indoor facility owned or leased or contracted and utilized for health care, day care, preschool, kindergarten, elementary or secondary education, or library services for children.

²¹⁹ Section 8573

Equitable Services for Nonpublic Schools

LEAs that receive federal funds under *ESEA* and in which nonpublic schools are located must, after meaningful consultation with nonpublic school officials, provide equitable services directly or through contracts with public and/or private agencies, organizations, and/or institutions to eligible nonpublic school children, teachers and other educational personnel. These services, including materials and equipment, must be secular, neutral and non-ideological.²²⁰ This provision applies to the following funding sources:²²¹

- Title I, Part A – Improving Basic Programs Operated by Local Educational Agencies
- Title I, Part C – Education of Migratory Children
- Title II, Part A – Supporting Effective Instruction
- Title III, Part A – Language Acquisition
- Title IV, Part A – Student Support and Academic Enrichment Grants
- Title IV, Part B – 21st Century Community Learning Centers

Definition of Nonpublic School

A “nonpublic school” is defined as “an elementary or secondary school within the state, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements.

“Meaningful” Consultation²²⁴

Consultation with nonpublic school officials is required to be timely and meaningful. The goal of consultation is for school district and nonpublic school officials to reach an agreement on how to provide equitable and effective programs for eligible private nonpublic school children on issues such as:

- How children’s needs will be identified;
- What services will be offered;
- How, where, and by whom the services will be provided;
- How the services will be assessed and how the results of that assessment will be used to improve services;
- The size and scope of services provided, the amount of funds available for those services, and how that amount is determined;
- When, including approximate time of day, services will be provided;
- Whether to provide services through a third-party provider; and
- How and when decisions will be made about the delivery of services through third-party providers (must include considerations and analyses of nonpublic school officials).

²²⁰ Section 8501(a)(2)

²²¹ Section 8501(b)

“Timely” Consultation²²⁵

Consultation must provide a genuine opportunity for parties to express their views and **must take place**:

- Before the LEA makes any decisions that affect opportunities for eligible nonpublic school children, teachers and other educational personnel; and
- Throughout implementation and assessment of services provided.

Determining Funds for Nonpublic Schools²²⁶

Expenditures for services and other benefits provided to eligible nonpublic school children, teachers, and other educational personnel must:

- Be equal to the expenditures for participating public school children, taking into account the number and educational needs of the nonpublic school children to be served; and
- Be obligated in the funds the LEA receives for the fiscal year the funds are received (i.e. if the LEA receives funds for the 2017-18 school year, it must obligate those funds to provide services and benefits to nonpublic school children, teachers, and other educational personnel for that school year).

Documentation²²⁷

Each year, LEAs must keep a record of and provide to the state documentation signed by officials from each participating nonpublic school that timely and meaningful consultation did or did not take place.

Complaints and Enforcement of Rules²²⁸

- If private school officials believe the district did not meet consultation or other requirements, they may file a complaint with the TDOE:
 - If consultation was not meaningful or timely;
 - If the district did not give due consideration to the views of the private school official; or
 - If the district failed to make decisions that treat the private school or its students equitably.
- A State-designated Ombudsman will monitor and enforce nonpublic consultation and equitable service requirements to help ensure equitable services are provided to nonpublic children, teachers, and other educational personnel.

Requirements Unique to Title I, Part A

General

- LEAs must ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed under Title I, Part A.²²⁹

Consultation

- In addition to consultation requirements listed above, LEAs are required to consult nonpublic school officials as follows:²³⁰
 - During the design and development of Title I, Part A programs; and

²²⁵ Section 8501(c)(3)

²²⁶ Section 8501(c)(4)(A) and (B)

²²⁷ Section 8501(c)(5)

²²⁸ Section 8501(a)(3)(B) and (c)(6)

²²⁹ Section 1117(a)(1)(B)

²³⁰ Section 1117(b)(1)

- Regarding the method and sources of data that will be used to calculate the number of low-income children in nonpublic schools eligible for Title I, Part A programs and services. And
- LEAs must submit the results of the consultation regarding Title I, Part A programs to the nonpublic Ombudsman.²³¹

Determining Funds for Nonpublic Schools²³²

- Funds for services for nonpublic school students **must be based on the total amount of Title I funds received by the LEA** prior to any allowable expenditures or transfers.²³³
- In calculating the number of nonpublic school children eligible for services under Title I, **the LEA must utilize one of the following methods:**²³⁴
 - Use the same measure of low income used to count public school children;
 - Use the results of a survey that, to the extent possible, protects the identity of families of private school students, and allow such survey results to be extrapolated if complete actual data are unavailable;
 - Apply the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; **or**
 - Use an equated measure of low income correlated with the measure of low income used to count public school children.
- Determination of equitable share of funds for services for nonpublic school children may be determined each year or every two years.²³⁵

231 Section 1117(b)(1)

233 Section 1117(a)(4)(B)

234 Section 1117(c)(1)

235 Section 1117(a)(4)(D)