

RESTART & RECOVERY

ESEA & COVID-19

State Strategies for Supporting Local Educational Agencies in Confronting the Effects of the Pandemic

We are grateful to our colleagues at the Federal Education Group, PLLC for their help in developing this guide.

AUTHORS: Melissa Junge and Sheara Krvaric

CCSSO
One Massachusetts Avenue, NW
Suite 700 Washington, DC 20001



TABLE OF CONTENTS

INTRODUCTION 4

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS 5

 A. Title I & COVID-19 6

 1. Underused Title I Spending Options 6

 2. Strategic Distribution of Title I Funds 8

 B. Title II & COVID-19 9

 1. Revisiting Class-Size Reduction Policies 9

 2. Highlighting Other Spending Options 10

 3. Clarifying Supplement, Not Supplant Rules 11

II. ESEA WAIVERS 12

 A. Submitting a Waiver Request 12

 B. Possible Waiver Requests 13

III. TRANSFERABILITY 16

IV. CONSOLIDATED ADMINISTRATION 17

 A. Allowable Uses of LEA Consolidated Administrative Funds 17

 B. Paperwork Reduction for Employees Paid with Consolidated Administrative Fund 18

 C. State Role in Local Consolidated Administration 19

 1. In General 19

 2. Accounting for Consolidated Administrative Funds 19

APPENDIX A: ALLOWABLE TITLE II ACTIVITIES 20

KEY POINTS

This document discusses ways states can support local educational agencies (LEAs) in responding to COVID-19 by helping them adapt Elementary and Secondary Education Act (ESEA) programs and spending to new and evolving needs. Specifically:

- States can help LEAs understand and take advantage of all their spending options under ESEA's largest programs, Title I and Title II, including non-traditional and innovative options that may have new importance in light of COVID-19 (such as extended instructional time, upgraded curriculum, and Multi-Tier Systems of Support).
 - Maximizing Title I and Title II is particularly important because these programs focus on historically underserved communities that have been disproportionately impacted by the pandemic. Helping LEAs take advantage of all their Title I and Title II options is crucial for ensuring they can design services to meet student needs in light of COVID-19.
- States can request waivers of ESEA requirements to provide LEAs with more flexibility and minimize burdens.
- States can facilitate the local use of ESEA's transferability options to help LEAs better target spending to needs.
- States can promote the consolidation of local administrative funds to give LEAs more spending options and the ability to better coordinate ESEA and other programs.

THIS DOCUMENT IS ONE OF THREE IN A SERIES:

Restart & Recovery: ESEA and COVID-19
(this document)

Restart & Recovery: IDEA and COVID-19
(discussing ways states can support LEAs in spending IDEA funds to meet the needs of special education students during the pandemic and beyond)

Restart & Recovery: Federal Funds and COVID-19 – A System Workbook for States
(outlining specific system actions an SEA can take to maximize LEA spending options for federal formula funds)

INTRODUCTION

School needs are changing rapidly in light of the COVID-19 pandemic. Elementary and Secondary Education Act (ESEA) programs support schools and districts, but local educational agencies (LEAs) rarely tap into their full potential.¹ In addition, LEAs are often reluctant to change how their ESEA programs are run for fear of making compliance mistakes, which might impede efforts to respond to new and evolving needs.²

State educational agencies (SEAs) can help LEAs adapt their ESEA programming and spending to meet COVID-19-related needs by highlighting:

- Underused Title I spending options,
- Underused Title II spending options,
- ESEA waiver options,
- The option to transfer funds out of certain programs and into others to better target spending to needs, and
- The option to consolidate ESEA administrative funds, which increases spending options, facilitates coordination across programs, and minimizes paperwork burdens.

This guide is designed to help SEA staff understand how they can support LEAs in using ESEA funds as part of their COVID-19 responses.

RESOURCES

For more information about how SEAs and LEAs can approach the 2020-2021 school year, see CCSSO's [RESTART & RECOVERY: Considerations for Teaching & Learning Overview](#) and related guidance documents including:

- A state-focused [State Policies and Actions](#) document, and
- Three documents focused on school districts and school systems: [System Conditions](#), [Wellbeing & Connection](#), and [Academics](#).

These documents can be used together with this guide to help identify what activities might be most effective during restart and recovery and how ESEA funds can support them.

¹ Kerstin Carlson Le Floch et al., *Study of Title I Schoolwide and Targeted Assistance Programs: Final Report*, US Department of Education, 2018, <https://www2.ed.gov/rschstat/eval/title-i/schoolwide-program/report.pdf>.

² Nora Gordon, *Increasing Targeting, Flexibility, and Transparency in Title I of the Elementary and Secondary Education Act to Help Disadvantaged Students*, Brookings Institution, March 2016, <https://www.brookings.edu/research/increasing-targeting-flexibility-and-transparency-in-title-i-of-the-elementary-and-secondary-education-act-to-help-disadvantaged-students/>.

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS

Title I, Part A and Title II, Part A are ESEA's two largest programs. Both offer broad programming and spending options, but LEAs tend to spend their funds on a narrow set of activities that rarely change from year-to-year.

In some cases, this is because LEAs do not understand all their options. States can address that lack of understanding a few ways.

First, states can provide guidance with examples of allowable activities and uses of funds. Ideally, such guidance would be developed for as broad an audience as possible, such as superintendents, school board members, and school leaders, so all local stakeholders understand ESEA's options.

RESOURCE

For tips about writing effective guidance please see CCSSO's [Developing Effective Guidance: A Handbook for State Educational Agencies](#).

Second, states can review their grant oversight systems to look for ways they might inadvertently reinforce a narrow view of spending options. For example, a state might ask LEAs applying for Title I and Title II funds to identify what kinds of activities they will support from lists that include some, but not all, of those programs' allowable options.

Another reason LEAs might spend Title I and Title II funds narrowly is because some states prohibit or discourage spending on activities that are allowed under federal law. Sometimes, these prohibitions are inadvertent, based on state misperceptions; but other times they reflect deliberate policy choices to limit spending. For example, some states limit spending on class size reduction activities given conflicting evidence of their effectiveness. Now that circumstances and needs have changed due to COVID-19, states might want to revisit policies that restrict spending.

Maximizing Title I and Title II is particularly important because these programs focus on historically underserved communities that have been disproportionately impacted by the pandemic.³ Helping LEAs take advantage of all their Title I and Title II options is crucial for ensuring they can design services to better meet student needs in light of COVID-19.

³Title I provides funding for schools affected by poverty, while Title II prioritizes services for schools affected by poverty.

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS

A. Title I & COVID-19

Title I is a program designed to close achievement gaps and to support all children in receiving a fair, equitable, and high-quality education.⁴ In many ways, Title I is a flexible program that gives LEAs broad spending options, but Title I is also a technical program that can be challenging to navigate. To support LEAs, SEAs can:

- Highlight non-traditional spending options that LEAs may not be aware of, and
- Provide user-friendly guidance on options for distributing Title I funds to schools (known as “ranking and serving”) to help LEAs understand how they can target funds to high-need schools.

1. Underused Title I Spending Options

Title I funds are predominately used for supplemental reading and math instruction,⁵ but Title I can be used for much more. For example, to meet Title I goals, Title I schools can spend their funds on activities like:

EXTENDED OR ADDITIONAL INSTRUCTIONAL TIME, such as extending the school day, week, or year; providing summer school; reorganizing the school schedule to provide additional instructional blocks during the school day; providing intensive supports during the school day; and providing after-school tutoring.⁶ These services could be in-person, or remote, or a combination, with particular attention paid to the needs of struggling students. *Please note:* instructional services do not have to be limited to reading and math. They can be offered in any subject that is part of a well-rounded education.⁷

UPGRADING CURRICULUM, which could include purchasing, developing, or improving online curricula; purchasing, developing, or improving curricula to address identified gaps in student learning; and addressing other curricular needs in light of changed conditions.⁸

CAREER AND TECHNICAL EDUCATION PROGRAMS to prepare students for postsecondary education and the workforce, and to keep students engaged (especially during remote learning).⁹

PROFESSIONAL DEVELOPMENT for educators on issues such as engaging students during remote learning and adapting instruction to remote or hybrid learning environments.¹⁰

COLLABORATIVE PLANNING TIME for teachers, which can be done remotely or in-person.¹¹

EDUCATOR SUPPORT STRATEGIES to recruit and retain effective teachers.¹²

NON-INSTRUCTIONAL STUDENT SUPPORTS, such as counseling; mental health supports; mentoring programs; early warning systems to identify at-risk students; health, nutrition, and other social services; and family support and engagement.¹³

TECHNOLOGY, such as devices and other items needed to support student learning.¹⁴

MULTI-TIER SYSTEMS OF SUPPORT (MTSS), which is an evidence-based framework for effectively integrating multiple systems and services to simultaneously address students’ academic achievement, behavior, and social-emotional well-being.¹⁵

⁴ For an overview of the Title I, Part A program please see: <https://www2.ed.gov/programs/titleiparta/index.html>.

⁵ *Study of Title I Schoolwide and Targeted Assistance Programs* at p. xi.

⁶ ESEA, Sections 1114(b)(7)(A)(ii) and 1115(b)(2)(B)(i).

⁷ ESEA, Sections 1114(b)(7)(A)(ii) and Section 1115(b)(2)(A). ESEA, Section 8101(52) defines a “well-rounded education” as:

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

⁸ ESEA, Sections 1114(b)(7)(A)(ii) and 1115(b)(2)(B)&(C).

⁹ ESEA, Sections 1114(b)(7)(A)(iii)(II) and 1115(b)(2)(A)&(F).

¹⁰ ESEA, Sections 1114(b)(7)(A)(iii)(IV) and 1115(b)(2)(D).

¹¹ ESEA, Sections 1114(b)(7)(A)(iii)(IV) and 1115(b)(2)(D).

¹² ESEA, Sections 1114(b)(7)(A)(iii)(IV) and 1115(b)(2)(D).

¹³ ESEA, Sections 1114(b)(7)(A)(iii)(I) and 1115(b)(2)(B)(ii).

¹⁴ ESEA, Sections 1114(b)(7)(A)(ii) and 1115(b)(2)(A).

¹⁵ ESEA, Sections 1114(b)(7)(iii) and 1115 (b)(2)(B).

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS

Please note: Title I can support activities like the ones listed on the prior page in both schoolwide and targeted assistance schools.¹⁶ In schoolwide schools, the activities can benefit all students.¹⁷ In targeted assistance schools, only eligible students can benefit.¹⁸

Districts also have the option to spend Title I funds at the district level to support Title I students in all or a subset of Title I schools.¹⁹ Such district-managed initiatives could include:

EXTENDING LEARNING TIME FOR STUDENTS IN TITLE I SCHOOLS, including face-to-face learning, remote learning, or a hybrid environment. This could include 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, and after-school tutoring.²⁰

SUPPLEMENTAL INSTRUCTIONAL MATERIALS to support academically at-risk students, including students with disabilities and English language learners.²¹

DEVELOPING A DATA DASHBOARD to help teachers in Title I schools identify, track, and analyze data to help them better target interventions to struggling students.²²

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 or to add collaborative planning time to the school day.²³

The examples above illustrate possible uses of Title I funds and are not to suggest that school or district spending is limited to these examples.

Importantly, tapping into these spending options might require schools and districts to rethink how they deliver Title I services to students. Research suggests many schools serve Title I students through pull-out services (that is, add-on interventions delivered outside of the classroom by staff other than classroom teachers). During the COVID-19 pandemic, schools might also want to consider new strategies in light of new needs, for example, in-class supports for struggling students (particularly in the remote environment), enhanced instructional materials for struggling students, or dedicated intervention times so struggling students do not miss out on core instruction.

¹⁶ The terms “schoolwide” and “targeted assistance” refer to the two programming options available to Title I schools. A Title I school with at least 40% poverty, or a waiver from its state, can run a schoolwide program, which means it can use Title I for activities that improve outcomes for struggling students even if other students benefit. Unless it receives a waiver from its state, a Title I school with less than 40% poverty must run a targeted assistance program, which means only certain academically at-risk students can participate in Title I activities.

¹⁷ For additional examples of allowable schoolwide activities and a description of the role the comprehensive needs assessment plays in Title I spending in a schoolwide school, please see this guidance document: U.S. Department of Education, *Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program*, 2016, <https://www2.ed.gov/policy/elsec/leg/essa/essaswpguidance9192016.pdf>.

¹⁸ Targeted assistance schools must determine which students they will serve by identifying the students with the greatest need for assistance from among the following eligible groups: students identified as failing, or most at risk of failing, to meet state standards; students who participated in Head Start, or certain ESEA-funded preschool programs or literacy programs for young children, within the past two years (including Title I supported preschool); migrant students; neglected and delinquent students; and homeless children. ESEA, Section 1115(c).

¹⁹ U.S. Department of Education, *Using Title I, Part A ARRA Funds for Grants to Local Educational Agencies to Strengthen Education, Drive Reform, and Improve Results for Students*, 2009, Q&A B-8, <https://www2.ed.gov/policy/gen/leg/recovery/guidance/titlei-reform.pdf>. Please note: this guidance was developed to address the extra Title I funds that were appropriated under the American Recovery and Reinvestment Act (ARRA), but it applies to regular Title I funds as well. This guidance will be referred to as *ED 2009 Title I Reform Guidance* from now on.

²⁰ *ED 2009 Title I Reform Guidance*, Q&A G-5.

²¹ *ED 2009 Title I Reform Guidance*, Q&A C-8.

²² *ED 2009 Title I Reform Guidance*, Q&A D-3.

²³ *ED 2009 Title I Reform Guidance*, Q&A D-4 and G-5.

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS**2. Strategic Distribution of Title I Funds**

Beyond tapping into underused spending options, LEAs could reconsider how they distribute Title I funds among their eligible schools. This aspect of Title I spending, known as “ranking and serving,” is often overlooked but could be an important tool for addressing changed needs.

Briefly, after reserving some Title I money to spend at the district level, LEAs must distribute the rest to eligible schools in order of poverty.²⁴ LEAs must distribute funds to schools with at least 75 percent poverty in order of poverty regardless of grade span (with an exception for high schools described below). After that, LEAs have the option to group schools by grade span (for example, an LEA could choose to distribute funds to all eligible elementary schools before middle or high schools).²⁵

In practice, distributions to schools rarely change from year-to-year even though LEAs have a great deal of flexibility in how they rank and serve. This flexibility may be particularly useful in light of COVID-19. For example, LEAs can:

- After distributing funds to all schools with at least 75 percent poverty, distribute funds to high schools with at least 50 percent poverty before distributing to other eligible schools (this is a new option under the Every Student Succeeds Act),
- Give higher per-pupil amounts to schools with higher poverty rates,
- Distribute funds only to schools above a certain poverty rate to concentrate support for higher poverty schools, or, alternatively, distribute funds more broadly so all eligible schools receive at least some support, and
- After distributing funds to all schools with at least 75 percent poverty, prioritize grade spans with the highest needs or, alternatively, forgo grade span grouping to target funds to higher poverty schools. For example, an LEA might decide its elementary schools (below 75 percent poverty) have the greatest needs and distribute only to them. As a result, lower-poverty elementary schools might receive funds over higher poverty middle and high schools. Or, an LEA might decide higher poverty schools need more support than lower poverty schools regardless of grade span. Both choices are permissible, but the decision should reflect current needs, not past practice.

Ranking and serving decisions will be affected by a number of local conditions including where COVID-19 has had the greatest impact in a community, what instructional plans look like for the 2020-2021 school year, how Coronavirus Aid, Relief, and Economic Security (CARES) Act funding will be used, and other local pandemic, financial, and school considerations.

To support LEAs, SEAs can make LEAs aware of their options. Many states have ranking and serving guidance, but it is often focused on technical rules for a technical audience. States might want to consider user-friendly guidance for a broader audience with examples of different scenarios LEAs might consider.

SEAs can also review their consolidated application tool (1) to verify it permits LEAs to exercise all their options and (2) to determine if it incentivizes a certain approach to ranking and serving. For example, if the application automatically ranks an LEA's schools in order of poverty, it may not be clear to LEAs they have the option to serve schools with less than 75 percent poverty by grade span. Or, if the application automatically loads the LEA's ranking and serving list from last year, it might disincentivize the LEA from changing the list even if changes are warranted.

²⁴ In general, a school must have at least 35% poverty to be eligible for Title I funds. (There are some exceptions.)

²⁵ For more information about the ranking and serving process please see: U.S. Department of Education, *Within-District Allocations Under Title I, Part A of the Elementary and Secondary Education Act of 1965, As Amended by the Every Student Succeeds Act (Draft for Public Comment)*, 2020, <https://oese.ed.gov/files/2020/03/Draft-Within-District-Allocations-Guidance-3-11-2020-1.pdf>.

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS

B. Title II & COVID-19

Title II, Part A is ESEA's second largest program and focuses on educator and school leader effectiveness. While Title II has many spending options, LEAs typically limit their spending to a few activities. To help LEAs adapt their spending to new needs SEAs could:

- Revisit existing policies on the use of Title II funds for class-size reduction activities,
- Highlight underused spending options that are relevant to needs during the COVID-19 pandemic, and
- Clarify Title II's Supplement, Not Supplant rules, which are sometimes applied overbroadly in ways that limit coordination with other programs.

Importantly, although Title II is not a school-based program (meaning unlike Title I LEAs are not required to distribute funds directly to schools), when spending Title II funds, LEAs must prioritize funds to schools that:

- Are implementing comprehensive support and improvement activities and targeted support and improvement activities, and
- Have the highest percentage of low-income (and certain other disadvantaged) children.²⁶

It is likely these schools have significant new needs that Title II might help to address.

1. Revisiting Class-Size Reduction Policies

LEAs may use Title II funds to reduce class size to a level that is evidence-based, to the extent the SEA – in consultation with LEAs – determines such evidence is reasonably available.²⁷

States have taken different approaches to evidence and class-size reduction. Some restrict the use of Title II funds for class-size reduction. Others permit class-size reduction in only certain cases, for example, as a strategy to retain teachers, at certain grade levels or subjects, or to meet the needs of certain students. Still others impose no restrictions.

In light of COVID-19, states might revisit their Title II class-size reduction policies. For example, different approaches might be needed given social distancing requirements, remote instruction (which, in certain cases, could support larger class sizes), and intensive interventions for some students to address learning loss or trauma (with care taken not to over-remediate). If an SEA changes its approach, it may have to amend existing policies or re-tool parts of its grants system.

²⁶ ESSA, Section 2102(b)(2)(C).

²⁷ ESSA, Section 2013(b)(3)(D).

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS

2. Highlighting Other Spending Options

A full list of Title II spending options is in Appendix A, but states might want to highlight for LEAs activities like:

PROFESSIONAL DEVELOPMENT in light of COVID-19, which could include things like:

- Adapting materials to remote or hybrid instruction,
- Methods and practices to engage all students during remote or hybrid instruction,
- Strategies for family engagement and partnership, and
- Methods to identify and address learning gaps without over-remediation.²⁸

“TEACHER TIME BANKS” to allow 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).²⁹

OPPORTUNITIES FOR PRINCIPALS AND OTHER SCHOOL LEADERS TO COLLABORATE, problem-solve, and share best practices.³⁰

COMMUNITY OF LEARNING OPPORTUNITIES where principals and other school leaders engage with their school teams to fully develop broad curriculum models. This might be particularly important for schools adapting existing materials to hybrid or fully remote teaching models or adopting new curriculum.³¹

ONGOING CULTURAL PROFICIENCY TRAINING to support stronger school climate for educators and students.³²

OBSERVATION (including training observers) **OF INSTRUCTION AND TEACHER COLLABORATION** (including via remote means), and actionable feedback.³³

IN-SERVICE TRAINING (which could be remote or in-person) for school personnel in:

- The techniques and supports needed to help educators understand when and how to refer students affected by trauma, and children with, or at risk of, mental illness,
- The use of referral mechanisms that effectively link such children to appropriate treatment and intervention services in the school and in the community, where appropriate,
- Forming partnerships between school-based mental health programs and public or private mental health organizations, and
- Addressing issues related to school conditions for student learning, such as safety, peer interaction, drug and alcohol abuse, and chronic absenteeism.³⁴

MENTORING AND INDUCTION PROGRAMS FOR NOVICE EDUCATORS, which could include early “release” time (either remotely or in-person) for mentoring, compensation for mentors, and evidence-based professional development for novice educators and mentors.³⁵

Some state grant application systems are not set up to support spending on these or other allowable Title II activities (see Appendix A for all allowable uses of funds). For example, a state’s consolidated application tool might ask LEAs to describe what activities they will support with Title II funds from a list that only includes some spending options. If so, re-tooling the system, or providing short-term fixes so LEAs can access all options, could help LEAs better respond to educator needs in light of COVID-19.

²⁸U.S. Department of Education, *Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Learning*, 2016, <https://www2.ed.gov/policy/eisec/leg/essa/essatitleiipartaguidance.pdf>. This guidance will be referred to as *ED 2016 Title II, Part A Guidance* from now on.

²⁹ED 2016 Title II, Part A Guidance, p. 24.

³⁰ED 2016 Title II, Part A Guidance, p. 15.

³¹ED 2016 Title II, Part A Guidance, p. 15.

³²ED 2016 Title II, Part A Guidance, p. 24.

³³ED 2016 Title II, Part A Guidance, p. 12.

³⁴ESSA, Section 2103(b)(3)(I).

³⁵ED 2016 Title II, Part A Guidance, pp. 9-10.

I. SUPPORTING LEAS TO ADAPT TITLE I, PART A & TITLE II, PART A ACTIVITIES IN LIGHT OF NEW NEEDS

3. Clarifying Supplement, Not Supplant Rules

Title II, Part A is subject to a Supplement, Not Supplant requirement, but it is sometimes applied overbroadly.

PRESUMPTIONS OF SUPPLANTING

ED tests for compliance with Title II's Supplement, Not Supplant requirement using two presumptions:

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

Some SEAs and LEAs, however, mistakenly apply a third presumption that limits coordination with other programs.³⁶ Specifically, some SEAs and LEAs believe Title II cannot pay for a service in some schools or for some participants if another funding source pays for the service in other schools or for other participants; but this presumption does not apply to Title II, Part A. In fact, SEAs and LEAs can coordinate Title II with other funding sources in a variety of ways. For example:

- An SEA or LEA could use a combination of Title II and IDEA funds for professional development for all teachers on how to support struggling students during remote learning. Title II could pay for the cost of general educators and IDEA could pay the cost of special educators.
- An SEA or LEA could use a combination of Title II and local funds to provide intensive supports to novice educators.

To ensure LEAs fully understand the option to coordinate Title II with other funding sources, SEAs can review their grant-related materials and processes to ensure they do not reference three presumptions of supplanting. If they do, it could be helpful to explain the correct standards to LEAs and what they mean for Title II spending.

OVERCOMING A SUPPLANTING PRESUMPTION

If a cost raises supplanting concerns, an LEA may be able to overcome those concerns by showing it would not have carried out the activity with state and local funds in the absence of Title II.³⁷ For example, the LEA may have documentation like state or local legislative action, budget information, or other materials to show it does not have the state and local funds to implement an activity and would not do so absent Title II. Understanding this option to overcome supplanting concerns may be particularly important given anticipated budget cuts in light of COVID-19.

³⁶A third presumption of supplanting applies to Migrant Education Program (MEP) funds but not to other ESEA programs. See OMB Compliance Supplement, 2020, pp. 4-84.000-14-15, https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement_FINAL_08.06.20.pdf (A third presumption also used to apply to Title I, Part A funds, but that changed under the Every Student Succeeds Act.)

³⁷In practice, it is typically difficult to overcome a presumption of supplanting when Title II, Part A funds have been used for an activity that is required by law.

II. ESEA WAIVERS

The CARES Act authorized the U.S. Department of Education (ED) to waive certain parts of ESEA for the 2019-2020 academic year,³⁸ but ESEA itself gives the U.S. Secretary of Education broad waiver authority that SEAs can use for the 2020-2021 academic year.³⁹ ED may publish additional information about waivers for 2020-2021 in the fall of 2020. Regardless, SEAs can use ESEA's waiver authority to apply for all of the fiscal ESEA waivers ED granted in Spring 2020 and could request waivers from other ESEA provisions as well.

Only SEAs and Indian tribes may apply directly to ED for waivers. If an LEA wants a waiver that the SEA has not applied for on its behalf, the LEA must send the waiver request to its SEA, then the SEA may submit to ED if the SEA determines the waiver is appropriate.

A. Submitting a Waiver Request

An SEA's waiver request to ED should:

- Identify the federal program(s) affected,
- Describe which Federal statutory or regulatory requirements to be waived,
- Describe how waiving the requirements will advance student academic achievement,
- Describe the methods the SEA will use to monitor and regularly evaluate the effectiveness of the implementation of the plan,
- Include only information directly related to the waiver request,
- Describe how schools will continue to provide assistance to the same populations served by programs for which waivers are requested, and
- If the waiver relates to Title I's standards and assessment requirements or reporting requirements (including report cards), describe how the SEA will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including subgroup achievement.⁴⁰

In addition, when an SEA applies for a waiver, either for itself or on behalf of its LEAs, the SEA must:

- Provide the public and any interested LEA with notice and a reasonable opportunity to comment and provide input on the request, to the extent the request impacts LEAs,
- Submit the comments and input to the Secretary, with a description of how the state addressed the comments and input, and
- Provide notice and a reasonable time to comment to the public and LEAs in the manner in which the SEA customarily provides similar notice and opportunity to comment to the public.⁴¹

Congress may authorize additional waiver options in future relief legislation, but in the meantime, SEAs may wish to submit waiver requests through the traditional process described above.

³⁸ CARES Act, Section 3511(c)(4).

³⁹ ESEA, Sec. 8401.

⁴⁰ ESEA, Section 8401(b)(1).

⁴¹ ESEA, Section 8401(b)(3).

II. ESEA WAIVERS

B. Possible Waiver Requests

ED has existing authority to waive any ESEA requirement, **except for:**

- The allocation or distribution of funds to states, LEAs, or other recipients,
- Comparability,
- Supplement, Not Supplant,
- Equitable services,
- Parental participation and involvement,
- Civil rights requirements,
- The requirements for a charter school under Title IV, Part C,
- Prohibitions on using ESEA funds for certain activities like religious worship or instruction, construction (except where specifically authorized), transportation (except where specifically authorized), and
- Ranking and serving rules under Title I, Part A (with one exception).⁴²

Technically, maintenance of effort (MOE) is also listed as a provision ED cannot waive, but ESEA gives ED separate authority to waive local MOE requirements if it determines a waiver would be equitable due to:

- Exceptional or uncontrollable circumstances, such as a natural disaster or a change in the LEA's organizational structure, or
- A precipitous decline in the LEA's financial resources.⁴³

The following chart describes some waivers that might be helpful in light of COVID-19. *Please note:* this chart does not address waivers of ESEA's assessment, accountability, or reporting requirements. In addition, Secretary DeVos stated in a September 3, 2020 letter that SEAs should not expect waiver requests of ESEA assessment and accountability requirements to be granted during the 2020-2021 school year.

⁴²ESEA, Section 8401(c). For ranking and serving, the Secretary may grant a waiver to allow an otherwise ineligible school to participate in Title I if its poverty rate is within 10% of the poverty rate of the district's lowest ranked eligible school.

⁴³ESEA, Section 8521(c).

II. ESEA WAIVERS

PROGRAM	REQUIREMENT	WHY A WAIVER MIGHT BE HELPFUL IN LIGHT OF COVID-19
<p>TITLE I, PART A</p>	<p>Schoolwide plan requirements.⁴⁴ <i>ESEA, Sec. 1114(b)</i></p> <p>Schools operating a schoolwide program must develop a plan with various community members. The plan must address certain issues specified in the law, including a description of school needs, and schools must regularly monitor its implementation and revise as necessary. Title I spending (as well as any other funds consolidated with Title I) must then be aligned to the plan.</p>	<p>Schools are developing a variety of plans for the 2020-2021 school year in light of COVID-19. Using those plans to serve as the focus for Title I schoolwide schools (rather than a traditional schoolwide plan) could minimize burden and reduce the risk of incoherence.</p> <p>Also, school-level needs are likely to change throughout the coming year. Since Title I spending must be aligned to a school's schoolwide plan, schools might have to amend their plans frequently as needs change. This could be time consuming and burdensome, particularly if schools have other plans to amend as well.</p>
<p>TITLE I, PART A</p>	<p>15 percent carryover limitation. <i>ESEA, Sec. 1127(b)</i></p> <p>Usually, LEAs must spend at least 85 percent of their Title I funds within one year and can carry over up to 15 percent into the next year. SEAs can waive the 15 percent carryover limit once every three years.</p>	<p>Given the rapid shutdown of activities in spring 2020, Title I spending may have slowed due to cancelled events and activities that could not easily be rescheduled or re-budgeted. Recognizing this, ED gave SEAs authority to waive the carryover limit for an LEA in 2019-2020 even if it had already done so within the past three years, meaning LEAs might begin this year (2020-2021) with more money on hand than usual. Since the rate of spending for this year is hard to predict, waiving the carryover limit could give LEAs additional time to responsibly plan future Title I spending, and additional flexibility to respond to COVID-19 as appropriate without losing important Title I funds.</p>
<p>TITLE IV, PART A*</p>	<p>Needs assessment. <i>ESEA, Sec. 4106(d)</i></p> <p>LEAs receiving \$30,000 or more in Title IV, Part A funds must conduct a needs assessment in three areas: student access to a well-rounded education for all students; school conditions for student learning in order 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. This needs assessment must be conducted once every three years, and spending should be aligned to the results.</p>	<p>In light of COVID-19, local needs are changing dramatically. It may not be feasible to reflect those changing needs in a comprehensive needs assessment, which could make it hard to adjust spending as needs change.</p>
<p>TITLE IV, PART A*</p>	<p>Content area spending requirements. <i>ESEA, Secs. 4106(e)(2)(C), (D), and (E)</i></p> <p>LEAs that receive \$30,000 or more in Title IV, Part A funds must spend:</p> <ul style="list-style-type: none"> • At least 20 percent on activities to support a well-rounded education, • At least 20 percent on activities to support safe and healthy students, and • At least some funds on activities to support the effective use of technology. 	<p>Giving LEAs flexibility to use Title IV, Part A funds in the ways that best meet their needs will help better support students.</p>

⁴⁴Title I does not require a separate schoolwide plan; any plan that meets all Section 1114 requirements will satisfy the schoolwide plan requirement. However, in practice many schools have a schoolwide plan that is separate from other school-level planning documents. In addition, even where schools have a combined planning document, it might not be feasible in light of COVID-19 challenges to ensure combined planning document meet Section 1114 requirements. In these circumstances, a waiver might be considered.

* ED recently announced it will invite waivers of certain Title IV, Part A requirements: <https://www.govinfo.gov/content/pkg/FR-2020-09-17/pdf/2020-20524.pdf>.

©© 2020 by the Council of Chief State School Officers, (ESEA & COVID-19 State Strategies for Supporting Local Educational Agencies in Confronting the Effects of the Pandemic), except where otherwise noted, is licensed under a Creative Commons Attribution 4.0 International License <http://creativecommons.org/licenses/by/4.0> it is available at www.ccsso.org.

II. ESEA WAIVERS

PROGRAM	REQUIREMENT	WHY A WAIVER MIGHT BE HELPFUL IN LIGHT OF COVID-19
TITLE IV, PART A'	<p>15 percent cap on the use of funds to purchase technology infrastructure.</p> <p><i>ESEA, Sec. 4109(b)</i></p> <p>LEAs may not spend more than 15 percent of their technology funds on devices, equipment, software applications, platforms, digital instructional resources, and/or other one-time IT purchases.</p>	<p>Without the cap on technology infrastructure, an LEA can support greater access to online learning, at-home intervention supports, and hybrid learning approaches, all of which may be necessary given COVID-19.</p>
TITLE IV, PART B	<p>Definition of community learning centers.</p> <p><i>ESEA, Sec. 4201(b)(1)(A)</i></p> <p>A community learning center is defined as an entity that operates “during non-school hours or periods when school is not in session.” In general, this means 21st CCLC funds are typically used for activities that occur outside of the regular school day.</p>	<p>ED recently announced it will invite waivers of the “non-school hours” requirement.⁴⁵ This would permit 21st CCLC recipients to provide services during the school day. A recipient could, for example, operate learning hubs to support students engaged in remote learning during the school day.</p>
GENERAL PROVISIONS	<p>Definition of professional development.</p> <p><i>ESEA, Sec. 8101(42)</i></p> <p>ESEA’s definition of professional development prohibits stand-alone, one-day, or short-term workshops.</p>	<p>Professional development needs may rapidly change throughout school year 2020-2021 in light of COVID-19. The ability for LEAs and schools to rapidly provide short-term professional development opportunities in light of changing conditions will permit LEAs to better serve students.</p>
TYDINGS	<p>Waiver of “Tydings period”</p> <p><i>General Education Provisions Act (GEPA), Sec. 421(b)</i></p> <p>Many ESEA programs are governed by a rule known as the Tydings Amendment, which gives SEAs and LEAs 27 months to spend their funds. After 27 months, unspent funds must be returned to ED.</p>	<p>Because of the unpredictable nature of the 2020-2021 school year, it is possible that needs, and therefore, budgets will shift in response to COVID-19. More time to obligate ESEA funds will help LEAs to budget and spend those funds responsibly.</p>
MAINTENANCE OF EFFORT (MOE)	<p>Waiver of MOE requirements.</p> <p><i>ESEA Secs. 1118(a) and 8521</i></p> <p>LEAs must spend a consistent amount of state and local funding for free public education from year-to-year.</p>	<p>Given the effect COVID-19 is expected to have on local budgets, LEAs may need waivers of MOE requirements in order to receive all of the ESEA funds they are eligible for. (<i>Please note:</i> the failure to maintain effort will not affect an LEA’s ESEA allocation unless the LEA fails to meet MOE more than once in a five-year span.)</p>

Under the ESEA waiver process, a waiver approved by the Secretary may not exceed four years in duration.⁴⁶

* ED recently announced it will invite waivers of certain Title IV, Part A requirements: <https://www.govinfo.gov/content/pkg/FR-2020-09-17/pdf/2020-20524.pdf>.

⁴⁵ <https://www.govinfo.gov/content/pkg/FR-2020-09-03/pdf/2020-19474.pdf>. In a letter to Chiefs on September 18, 2020, Frank T. Brogan, the Assistant Secretary for Elementary and Secondary Education, invited states to apply for these waivers and attached an optional, streamlined template for states to use.

⁴⁶ ESEA, Sec. 8401(d)(1). *Please note:* ED can extend the period of the waiver past four years if that state can demonstrate that the waiver has been effective and contributed to improved student achievement; and the extension is in the public interest. ESEA, Sec. 8401(d)(2).

III. TRANSFERABILITY

ESEA permits LEAs to transfer some or all of the funding they receive under two ESEA programs to other ESEA programs.⁴⁷ This flexibility may help LEAs better meet their needs in light of COVID-19.

Specifically, LEAs may transfer funds **out of**:

- Title II, Part A, Supporting Effective Instruction, and
- Title IV, Part A, Student Support and Academic Enrichment.⁴⁸

LEAs may transfer funds **into**:

- Title I, Part A, Improving Basic Programs,
- Title I, Part C, Migrant Education,
- Title I, Part D, Neglected and Delinquent,
- Title II, Part A, Supporting Effective Instruction,
- Title III, Part A, English Language Acquisition,
- Title IV, Part A, Student Support and Academic Enrichment, and
- Title V, Part B, Rural Education.⁴⁹

How Transferability Could Help LEAs Respond to Needs in Light of COVID-19

Transferability could help LEAs better target funds to needs. For example:

- If an LEA has more Title II money than it needs (or can responsibly spend) for educator support activities, and students in juvenile facilities have needs, the LEA could consider transferring Title II funds to Title I, Part D. An SEA could check in with LEAs with large Title II carryover balances to explore whether transferability might be helpful.
- If an LEA has continuing need for devices and technology infrastructure for students, it could transfer Title II funds to Title IV, Part A. This would be particularly helpful if the SEA applies for and receives a waiver of Title IV's cap on technology infrastructure purchases.

Under federal law, to transfer funds LEAs must:

- Engage in timely and meaningful consultation with private school officials before the transfer,⁵⁰
- Notify the SEA of the transfer at least 30 days before its effective date,⁵¹
- Modify LEA-to-SEA plans or applications to account for the transfer,⁵² and
- Submit a copy of the modified plan or application to the SEA within 30 days of the transfer.⁵³

To help LEAs fully understand transferability options, an SEA could provide guidance to LEAs explaining how transferability might help LEAs meet their needs in light of COVID-19 or add a section to the local consolidated application that flags the transferability option.

⁴⁷ ESEA, Sec. 5103(b)(1)(A).

⁴⁸ ESEA, Sec. 5103(b)(2).

⁴⁹ ESEA, Sec. 5103(b)(1)(B).

⁵⁰ ESEA, Sec. 5103(e)(2).

⁵¹ ESEA, Sec. 5103(d)(2)(c).

⁵² ESEA, Sec. 5103(d)(2)(A).

⁵³ ESEA, Sec. 5103(d)(2)(B).

IV. CONSOLIDATED ADMINISTRATION

Consolidated administration is the option to combine ESEA administrative funds from two or more programs into one pool of money.⁵⁴ These pooled funds can be used for administrative costs, as well as other costs like coordinating with other federal and non-federal programs, technical assistance, disseminating information about model programs and practices, cooperative audit resolution, and fiscal support teams.

Normally, only ESEA administrative funds may be consolidated; however, in July 2020, ED authorized that CARES Act programs – specifically the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor’s Emergency Education Relief (GEER) Fund – as additional administrative funds that can be part of the consolidated administrative pool.

The benefits of consolidated administration include additional **spending options, easier coordination** among staff who work on different programs, and **paperwork reduction** for staff paid from the consolidated pool.

These benefits may be particularly helpful in light of COVID-19, but many LEAs do not take advantage of the option to consolidate funds. SEAs can support LEAs by:

- Highlighting the allowable uses of consolidated administrative funds with examples specific to COVID-19 and ensuring the local consolidated application permits LEAs to exercise all their spending options,
- Highlighting the paperwork reduction opportunities and ensuring state monitoring protocols reflect the right standards, and
- Setting easy-to-implement policies and procedures that facilitate consolidation for LEAs.

A. Allowable Uses of LEA Consolidated Administrative Funds

LEAs can spend consolidated administrative funds on:

- The administration of any consolidated program, and
- Administrative activities designed to enhance the effective and coordinated use of funds under the consolidated programs such as:
 - Coordinating those programs with other federal and non-federal programs,
 - Establishing and operating peer-review mechanisms under ESEA,
 - Administrative activities under Title VIII (General Provisions) of ESEA,
 - Disseminating information about model programs and practices,
 - Technical assistance under any ESEA program,
 - Local-level activities designed to carry out Title VIII (General Provisions) of ESEA,
 - Training personnel engaged in audit and other monitoring activities,
 - Implementing cooperative audit resolution, and
 - Implementing fiscal support teams that provide technical fiscal support assistance, which includes evaluating fiscal, administrative, and staffing functions, and any other key operational function.⁵⁵

⁵⁴ ESEA, Section 8203.

⁵⁵ ESEA, Sec. 8203(d).

IV. CONSOLIDATED ADMINISTRATION**How Consolidating Administrative Funds Could Help LEAs Respond to Needs in Light of COVID-19: Examples**

- Staff paid with consolidated administrative funds might collaborate with other staff (such as staff supported with IDEA, Perkins, and local funds) on the implementation of a coordinated school re-opening plan supported by both federal and non-federal funds.
- Similarly, staff paid with consolidated administrative funds might collaborate with other staff to support the implementation of effective hybrid learning practices. For example, staff paid with consolidated administrative funds might collaborate with IDEA-funded staff to determine how federal funds can best support evidence-based literacy programs and practices.

B. Paperwork Reduction for Employees Paid with Consolidated Administrative Funds

As a condition of using federal funds to pay an employee's salary, wages and benefits, LEAs must maintain records that reflect the work the employee performed,⁵⁶ these are commonly referred to as "time and effort" records.

These records must, among other things, support the distribution of the employee's salary or wages among the specific activities or cost objectives on which the employee works.⁵⁷ For time and effort purposes, consolidated administrative activities are considered to be one cost objective, which simplifies time and effort compliance.⁵⁸ This, in turn, makes it easier for staff paid with consolidated administration to work across programs.

Paperwork Advantages of Consolidated Administration: Example

- Over the summer an employee works primarily on a committee focused on the re-opening needs of the LEA's students in Title I schools. The employee's work then shifts to supporting effective professional learning for teachers responsible for conducting remote classes (a Title II type activity), with a focus on the professional development needs of general education teachers who have of English Learners in their classrooms (a Title III type activity). Because the employee is paid out of the consolidated administrative pool, the employee does not have to break out the time between Title I, Part A, Title II, Part A, and Title III, Part A, allowing the LEA to use staff flexibly as needed in response to COVID 19.

⁵⁶ 2 CFR § 200.430(i).

⁵⁷ 2 CFR § 200.430(i)(1)(vii).

⁵⁸ See ESEA, Sec. 8203(e). U.S. Department of Education, Nonregulatory Guidance on Consolidated Plans and Consolidated Administrative Funds, Q22 (1997), available at <https://www2.ed.gov/policy/gen/guid/caroi/titlexiv.html>. (From now on, this guidance will be referred to as *ED 1997 Consolidated Administrative Funds Guidance*. Please note: the guidance was issued under an earlier version of the Elementary and Secondary Education Act and is not directly applicable to the current law. It is cited here for its historical value.) While there are flexibilities in how to keep time and effort records that can simplify paperwork even more, the most common practice is to have employees who work on a single program sign a certification every six months verifying they spent all their time on that program. The "program" in this case would be ESEA consolidated administration.

IV. CONSOLIDATED ADMINISTRATION

C. State Role in Local Consolidated Administration

1. In General

An LEA may consolidate ESEA administrative funds with the SEA's approval.⁵⁹ ESEA requires states to establish procedures for responding to requests from LEAs to consolidate funds,⁶⁰ but some states either do not have procedures in place, or LEAs are not aware of the procedures. ESEA also requires states to establish procedures for setting limits on how much LEAs can consolidate from programs that do not impose a statutory cap on administration.⁶¹

Ensuring the SEA has clear, easy-to-follow procedures for consolidating administrative funds could encourage LEAs to take advantage of this flexibility option.

2. Accounting for Consolidated Administrative Funds

SEAs have discretion when determining how its LEAs should account for the consolidation of administrative funds.⁶²

One option is to charge allowable expenses proportionally among the consolidated programs.⁶³ For example, if in a given year if Title I contributed 30 percent to an LEA's consolidated administrative pool and Title II contributed five percent, then the LEA could charge 30 percent of allowable expenses to Title I and five percent of allowable expenses to Title II.⁶⁴

At a minimum, LEAs should be able to show:

- The amount of administrative funds from each program for each grant year that were consolidated for administrative activities,
- That the amount consolidated from each program does not exceed any statutory or regulatory cap on administrative funds,
- That funds were obligated within the period of availability, and
- That the activities for which the funds were used were allowable.⁶⁵

⁵⁹ ESEA, Section 8203(a).

⁶⁰ ESEA, Section 8203(b).

⁶¹ ESEA, Sec. 8203(b).

⁶² ED 1997 Consolidated Administrative Funds Guidance at Q22.

⁶³ ED 1997 Consolidated Administrative Funds Guidance at Q22.

⁶⁴ Some states establish a separate code in their accounting system to track consolidated administrative expenses. These expenses are then periodically allocated to the contributing funding sources proportionally. See, for example, these procedures from the California Department of Education: <https://www.cde.ca.gov/fg/aa/co/ca19wguiconsadmin.asp>.

⁶⁵ ED 1997 Consolidated Administrative Funds Guidance at Q22. Please note: although these criteria are cited in guidance from an earlier version of the ESEA, they are consistent with federal financial management standards that apply to all current programs such as the standards in 2 CFR § 200.302.

APPENDIX A: ALLOWABLE TITLE II ACTIVITIES

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

- Be consistent with Title II's purpose, and
- Address the learning needs of all students, including children with disabilities, English learners, and gifted and talented students.⁶⁶

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

- Are implementing comprehensive support and improvement activities and targeted support and improvement activities, and
- Have the highest percentage of low-income (and other disadvantaged) students.⁶⁷

Title II requires LEAs to consult meaningfully with a wide array of stakeholders on the LEA's plan for carrying out Title II activities.⁶⁸ LEAs must also conduct ongoing consultation with those stakeholders to update and improve activities supported with Title II funds.⁶⁹

Allowable activities include:

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.⁷⁰

⁶⁶ ESSA, Section 2103(b)(1)-(2).

⁶⁷ ESSA, Section 2102(b)(2)(C). The children counted are the same as are counted under Title I, Part A: children aged 5 to 17, inclusive, who live in (1) families with incomes at or below the poverty level (according to Department of Commerce); (2) families with incomes above the poverty level, but who receive local assistance through Part A of Title IV of the Social Security Act (i.e., Temporary Aid to Needy Families, or TANF) (according to Department of Health and Human Services); (3) institutions for neglected and delinquent children that local governments administer (according to ED); and (4) foster homes in which the foster parents receive payments from a state or county for the children's support (according to Department of Health and Human Services). See National Center for Education Statistics, *Allocating Grants for Title I* (2016), p. 5, available at <https://nces.ed.gov/surveys/AnnualReports/pdf/title120160111.pdf>.

⁶⁸ ESSA, Section 2102(b)(3). Stakeholders include teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a LEA that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet Title II purposes. ESSA, Section 2102(b)(3)(A).

⁶⁹ ESSA, Section 2102(b)(2)(D).

⁷⁰ ESSA, Section 2103(b)(3)(A).

APPENDIX A: ALLOWABLE TITLE II ACTIVITIES

RECRUITING, HIRING, AND RETAINING effective teachers, and implementing supports for principals and other school leaders. 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.⁷¹ LEAs may also use Title II funds to implement supports for principals and other schools leaders. This can include:

- Expert help in screening candidates and enabling early hiring,⁷²
- 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,⁷³
- Teacher, paraprofessional, principal, or other school leader advancement and professional growth,⁷⁴ 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,⁷⁵
- New teacher, principal, or other school leader induction and mentoring programs,⁷⁶
- Development and provision of training for school leaders, coaches, mentors, and evaluators on how accurately to differentiate performance, provide useful feedback, and use evaluation results to inform decision-making about professional development, improvement strategies, and personnel decisions,⁷⁷ and
- A system for auditing the quality of evaluation and support systems.⁷⁸

RECRUITING FROM OTHER FIELDS. LEAs may use Title II funds to recruit qualified individuals from other fields to become teachers, principals, or other school leaders. Qualified individuals from other fields include mid-career professionals from other occupations, former military personnel, and recent graduates of institutions of higher education with records of academic distinction who demonstrate the potential to become effective teachers, principals or other school leaders.⁷⁹

CLASS SIZE REDUCTION. LEAs may use Title II funds to reduce class size to a level that is evidence-based, to the extent the SEA (in consultation with LEAs) determines such evidence is reasonably available.⁸⁰ According to ED guidance, LEAs may consider reducing class size as one strategy to attract and retain effective educators in high-need schools.⁸¹

⁷¹ ESSA, Section 2103(b)(3)(B).

⁷² ESSA, Section 2103(b)(3)(B)(i).

⁷³ ESSA, Section 2103(b)(3)(B)(ii).

⁷⁴ ESSA, Section 2103(b)(3)(B)(iii).

⁷⁵ ED 2016 Title II, Part A Guidance, p. 14.

⁷⁶ ESSA, Section 2103(b)(3)(B)(iv).

⁷⁷ ESSA, Section 2103(b)(3)(B)(v).

⁷⁸ ESSA, Section 2103(b)(3)(B)(vi).

⁷⁹ ESSA, Section 2103(b)(3)(C).

⁸⁰ ESSA, Section 2103(b)(3)(D).

⁸¹ ED 2016 Title II, Part A Guidance, p. 24.

APPENDIX A: ALLOWABLE TITLE II ACTIVITIES

PERSONALIZED PROFESSIONAL DEVELOPMENT. LEAs may use Title II funds to provide high-quality, personalized professional development⁸² for teachers, instructional leadership teams, principals, or other school leaders.⁸³ The professional development must be evidence-based, to the extent the SEA (in consultation with LEAs) determines such evidence is reasonably available. The professional development must also focus on improving teaching and student learning and achievement, including supporting efforts to train teachers, principals, or other school leaders to:

- Effectively integrate technology into curricula and instruction (including education about the harms of copyright piracy),
- Use data to improve student achievement and understand how to ensure individual student privacy is protected,
- Effectively engage parents, families, and community partners, and coordinate services between school and community,
- Help all students develop the skills essential for learning readiness and academic success,
- Develop policy with school, LEA, community, or state leaders, and
- Participate in opportunities for experiential learning through observation.⁸⁴

INCREASING TEACHER EFFECTIVENESS for students with disabilities and English learners. LEAs may use Title II to develop programs and activities that increase teachers' ability to effectively teach children with disabilities and English learners, which may include the use of multi-tiered systems of support and positive behavioral intervention and supports.⁸⁵

SUPPORTING EARLY EDUCATION. LEAs may use Title II funds to provide programs and activities to increase the knowledge base of teachers, principals, or other school leaders on instruction in the early grades and on strategies to measure whether young children are progressing.⁸⁶ LEAs may also use Title II funds to provide programs and activities to increase the ability of principals or other school leaders to support teachers, teacher leaders, early childhood educators, and other professionals to meet the needs of students through age eight, which may include providing joint professional learning and planning activities for school staff and educators in preschool programs that address the transition to elementary school.⁸⁷

SUPPORTING EFFECTIVE USE OF ASSESSMENTS. LEAs may use Title II funds to provide training, technical assistance, and capacity-building to assist teachers, principals, or other school leaders with selecting and implementing formative assessments, designing classroom-based assessments, and using data from such assessments to improve instruction and student academic achievement, which may include providing additional time for teachers to review student data and respond, as appropriate.⁸⁸

⁸² ED's guidance describes ESSA's definition of "professional development" in the following way:

Section 8101(42) defines "professional development," specifically noting that the professional development activities are sustained (not stand-alone, one-day, or short term work shops), intensive, collaborative, job-embedded, data-driven, and classroom-focused.

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

⁸³ ESSA, Section 2103(b)(3)(E).

⁸⁴ ESSA, Section 2103(b)(3)(E)(i)-(vi).

⁸⁵ ESSA, Section 2103(b)(3)(F).

⁸⁶ ESSA, Section 2103(b)(3)(G)(i).

⁸⁷ ESSA, Section 2103(b)(3)(G)(ii).

⁸⁸ ESSA, Section 2103(b)(3)(H).

APPENDIX A: ALLOWABLE TITLE II ACTIVITIES

SUPPORTING AWARENESS AND TREATMENT of trauma and mental illness, and school conditions for student learning. LEAs may use Title II funds to carry out in-service training for school personnel in:

- The techniques and supports needed to help educators understand when and how to refer students affected by trauma, and children with, or at risk of, mental illness,
- The use of referral mechanisms that effectively link such children to appropriate treatment and intervention services in the school and in the community, where appropriate,
- Forming partnerships between school-based mental health programs and public or private mental health organizations, and
- Addressing issues related to school conditions for student learning, such as safety, peer interaction, drug and alcohol abuse, and chronic absenteeism.⁸⁹

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

- Early entrance to kindergarten,
- Enrichment, acceleration, and curriculum compacting activities (techniques relating to differentiated instruction), and
- Dual or concurrent enrollment programs in secondary school and postsecondary education.⁹⁰

SCHOOL LIBRARY PROGRAMS. LEAs may use Title II funds to support the instructional services provided by effective school library programs.⁹¹

PREVENTING AND RECOGNIZING CHILD SEXUAL ABUSE. LEAs may use Title II funds to provide training for all school personnel, including teachers, principals, other school leaders, specialized instructional support personnel, and paraprofessionals, regarding how to prevent and recognize child sexual abuse.⁹²

SUPPORTING SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM). LEAs may use Title II funds to develop and provide professional development and other comprehensive systems of support for teachers, principals, or other school leaders to promote high-quality instruction and instructional leadership in science, technology, engineering, and mathematics subjects, including computer science.⁹³

FEEDBACK MECHANISMS TO IMPROVE SCHOOL WORKING CONDITIONS. LEAs may use Title II funds to develop feedback mechanisms to improve school working conditions. This can include periodically and publicly reporting feedback on educator support and working conditions.⁹⁴

⁸⁹ ESSA, Section 2103(b)(3)(I).

⁹⁰ ESSA, Section 2103(b)(3)(J).

⁹¹ ESSA, Section 2103(b)(3)(K).

⁹² ESSA, Section 2103(b)(3)(L).

⁹³ ESSA, Section 2103(b)(3)(M).

⁹⁴ ESSA, Section 2103(b)(3)(N).

APPENDIX A: ALLOWABLE TITLE II ACTIVITIES

SUPPORTING POSTSECONDARY AND WORKFORCE READINESS. LEAs may spend Title II funds to provide high-quality professional development for teachers, principals, or other school leaders on effective strategies to integrate rigorous academic content, career and technical education, and work-based learning (if appropriate), which may include providing common planning time, to help prepare students for postsecondary education and the workforce.⁹⁵

OTHER ACTIVITIES. LEAs 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.⁹⁶

⁹⁵ ESSA, Section 2103(b)(3)(O).

⁹⁶ ESSA, Section 2103(b)(3)(P).