



New Hampshire

Department of Education

Spending Handbook

Title I, Part A

Title II, Part A

Title III, Part A

Title IV, Part A, Subpart 1

Title V

2022 - 2023

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Introduction to Spending Handbook

This New Hampshire Department of Education (NHED) document provides general guidance on how local educational agencies (LEAs) may spend funds under the *Every Student Succeeds Act of 2015* (ESSA). ESSA is the most recent version of the Elementary and Secondary Education Act (ESEA) which was signed into law on December 10, 2015 and replaces the *No Child Left Behind Act of 2001* (NCLB). More information about ESSA, and the transition from NCLB, is available on [the United States Department of Education \(USED\) website](#).

This spending guidance addresses the following four formula programs:

- Title I, Part A (Improving Basic Programs);
- Title II, Part A (Supporting Effective Instruction);
- Title III, Part A (Language Instruction for English Learners and Immigrant Students); and
- Title IV, Part A, Subpart 1 (Student Support and Academic Enrichment Grants).
- Title V, Rural and Low-Income Schools (RLIS), Subpart 2

It is important to note that this handbook only provides an overview of each of these programs' spending rules and is not all-inclusive regarding all compliance requirements that apply to these programs. There are several hyperlinks embedded in this document providing direct electronic access to other resources.

General Spending Considerations

There are three general issues that affect LEA spending under all of the programs discussed in this handbook. First, all costs charged must be **necessary and reasonable** considering the amount of money being spent and the needs of the program. ¹This requirement comes from a set of federal regulations known as the Uniform Grant Guidance (UGG).² The UGG affects grant spending in a number of ways. It:

- Lists costs that may never be paid for with federal funds.³ For example, federal funds can never pay for alcohol⁴ and typically cannot pay for lobbying.⁵
- Lists general criteria all costs supported with federal funds must satisfy.⁶ For example, federal funds can only pay for costs that are allocable to the relevant grant.⁷
- Sets additional requirements for certain costs supported with federal funds.⁸ For example, LEAs that use federal funds for employee salaries and benefits must keep records documenting how much time the employees spent on grant activities.⁹

¹ 2 CFR 200.403(a).

² The Uniform Grant Guidance (UGG) is contained in [Part 200 of Title 2 of the Code of Federal Regulations](#).

³ See 2 CFR Part 200, Subpart E.

⁴ 2 CFR § 200.423.

⁵ 2 CFR § 200.450.

⁶ See 2 CFR § 200.403.

⁷ 2 CFR § 200.403(a).

⁸ See 2 CFR §§ 200.420-200.475.

⁹ 2 CFR § 200.430.

- Sets rules for how LEAs procure goods and services with federal funds,¹⁰ how they track items paid for with federal funds,¹¹ and the kinds of records they must keep about their grant spending.¹²

Second, activities supported by the programs discussed in this handbook must be **consistent with the LEA's application** for funds approved by the SEA.¹³

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

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

Spending Title I, Part A Funds to Support Student Achievement

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

- an overview of the Title I, Part A, program;
- use of Title I, Part A, funds by LEAs;
- use of Title I, Part A, funds by schools operating "schoolwide programs;"
- use of Title I, Part A, funds by schools operating "targeted assistance programs;" and
- key fiscal tests LEAs must meet as a condition of receiving Title I, Part A funds.

Title I, Part A, is the U.S. Department of Education's (USED) largest K-12 grant program.¹⁴ The grant provides supplemental funding to help low-income schools improve the academic achievement of educationally disadvantaged students. USED awards Title I funds to state educational agencies (SEAs), which then subgrant funds

¹⁰ 2 CFR §§ 200.317-200.326.

¹¹ 2 CFR §§ 200.313-200.314.

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

¹³ 34 CFR § 76.700.

¹⁴ Title I is a title of the Elementary and Secondary Education Act (ESEA). ESEA was most recently amended by the Every Student Succeeds Act (ESSA). For simplicity, the rest of this document will use the abbreviation "ESSA" when citing to the most recent version of the Elementary and Secondary Education Act. This document will use the abbreviation "NCLB" when citing to the prior version of ESEA, the No Child Left Behind Act. Title I, Part A is the focus of this section of the spending handbook. Please note the following sections of Title I that are technically not included in Part A, but are also relevant to spending:

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

to LEAs. LEAs retain some money to carry out certain activities, and then must allocate the rest to eligible schools.

For convenience, this section will refer to the program as “Title I.” For more information about Title I please contact your New Hampshire Department of Education Title I consultants: Ashlee Fye - Ashlee.fye@doe.nh.gov or (603) 217-7382, Christina Dotson - christina.dotson@doe.nh.gov or (603) 271-3840. More information can also be found on the Office of ESEA Programs NHED website – [Title I, Part A](#)

Purpose of Title I

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

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

- State-adopted challenging academic standards in mathematics, reading/language arts, and science;¹⁶
- High-quality academic assessments that measure how well students are mastering state standards in mathematics, reading/language arts, and science;¹⁷
- A system that differentiates school performance based on multiple indicators;¹⁸
- A system to identify and support low-performing schools; and
- Reporting student achievement and other data to USED and the public.¹⁹

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

- Developing and implementing plans to support and improve student outcomes in low-performing schools identified by the state through its accountability system;²⁰
- Reporting student achievement and other data to the SEA and the public;²¹
- Notifying parents about issues such as teacher qualifications, assessments, and identification of students as English learners;²²
- Collaborating with child welfare agencies to ensure the educational stability of children in foster care;²³
- Providing services to homeless children;²⁴
- Providing services to children in local institutions for neglected children, and if appropriate, to children in local institutions for delinquent children, and neglected or delinquent children in community day

¹⁵ ESSA, Section 1001.

¹⁶ ESSA, Section 1111(b)(1).

¹⁷ ESSA, Section 1111(b)(2).

¹⁸ ESSA, Section 1111(c)(4)(B).

¹⁹ ESSA, Section 1111(h).

²⁰ ESSA, Section 1111(d)(1)&(2).

²¹ ESSA, Section 1111(h).

²² ESSA, Section 1112(e).

²³ ESSA, Section 1112(c)(5)(B).

²⁴ ESSA, Section 1113(c)(3)(A)(i). Please see footnote 49 for more information.

programs;²⁵

- Allocating Title I funds to eligible schools through a poverty-based procedure known as “ranking and serving;”²⁶
- Developing policies and providing services to engage parents and families;²⁷
- Providing services to eligible private school students;²⁸ and
- Overseeing Title I activities in Title I schools.²⁹

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

- A **schoolwide model**, available to any school with at least forty percent poverty (or to schools below forty percent poverty with a waiver, which, under ESSA, can be issued by the SEA).³⁰
 - Schools operating a schoolwide model can use Title I funds to upgrade their entire educational program;³¹
 - All students are considered eligible for Title I services;³² and
 - Schoolwide schools must develop a schoolwide plan describing the services they will provide based on a comprehensive assessment of the school’s needs.³³ This needs assessment must take into account the academic achievement of all students, particularly the needs of those of students struggling to meet state academic standards, and any other factors as determined by the LEA.³⁴
- A **targeted assistance model**, available to any Title I school that does not operate a schoolwide program.³⁵
 - Schools operating a targeted assistance model must use Title I funds to help students who are educationally disadvantaged meet state standards; and³⁶
 - Students are eligible for Title I if they: (1) are failing, or at risk of failing, to meet state standards, (2) participated in certain federally funded preschool programs, (3) received services under the Migrant Education Program, (4) are in a local institution for neglected or delinquent children or are attending a community day program, or (5) are homeless.³⁷

How Title I Funds May Be Used

²⁵ ESSA, Section 1113(c)(3)(A)(ii)&(iii).

²⁶ ESSA, Section 1113.

²⁷ ESSA, Section 1116.

²⁸ ESSA, Section 1117.

²⁹ 2 CFR § 200.328(a).

³⁰ ESSA, Section 1114(a)(1).

³¹ ESSA, Section 1114(a)(1)(A).

³² ESSA, Section 1114(a)(2).

³³ ESSA, Section 1114(b).

³⁴ ESSA, Section 1114(b)(6).

³⁵ ESSA, Section 1115.

³⁶ ESSA, Section 1115(b)(2)(A).

³⁷ ESSA, Section 1115(c).

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

- Providing eligible students with a well-rounded education;³⁸
- Instructional supports;
- Non-instructional supports like behavior and mentoring supports, and social and emotional learning; and
- Improving school quality.

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

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.³⁹ *LEAs must reserve “such funds as are necessary,” based on an assessment of homeless children’s needs and consultation with the district homeless liaison; ESSA does not specify an amount.*⁴⁰
- Services for children in local institutions for neglected children, and if appropriate, services for children in local institutions for delinquent children, and **neglected or delinquent children** in community day programs. *LEAs must reserve “such funds as are necessary,” ESSA does not specify an amount.*⁴¹
- **Parent and family engagement.** *LEAs that receive \$500,000 or more of Title I funds must reserve at least one percent of their total award,⁴² ninety percent of which must be distributed to schools.*⁴³
- **Equitable services** for eligible private school students. *LEAs must reserve a proportional amount based on the number of eligible private school students in the LEA.*⁴⁴

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

³⁸ Please see ESSA, Section 8101(52) defining a “well-rounded education” 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, with the purpose of providing all students access to an enriched curriculum and educational experience.]

³⁹ Please note ESSA amended the set-aside for homeless children. Under NCLB, the set-aside was limited to homeless children “who do not attend participating schools,” meaning homeless children who do not attend Title I schools. This limitation was removed from ESSA.

⁴⁰ ESSA, Section 1113(c)(3)(C).

⁴¹ ESSA, Section 1113(c)(3).

⁴² ESSA, Section 1116(a)(3)(A). ESSA clarifies LEAs can reserve more than one percent at their discretion.

⁴³ Please note ninety percent is a change from NCLB which required LEAs to distribute ninety-five percent of the reserved funds to schools.

⁴⁴ ESSA, Section 1117(a)(4). Please note ESSA now requires the equitable services be calculated based on an LEA’s total Title I, Part A allocation. Under NCLB, certain parts of an LEA’s Title I, Part A allocation were excluded from the calculation, such as funds reserved for school improvement. For more information about the equitable services calculation please see U.S. Department of Education, [Fiscal Changes and Equitable Services Requirements Under the Elementary and Secondary Education Act of 1965 \(ESEA\), as Amended by the Every Student Succeeds Act \(ESSA\)](#) (2016).

- Transportation for students in comprehensive support and improvement (CSI) schools if the LEA offers these students the option to transfer to another school. *LEAs may reserve up to five percent.*⁴⁵
- Financial incentives and rewards to teachers in CSI or targeted support and improvement (TSI) schools for the purpose of attracting and retaining qualified and effective teachers. *LEAs may reserve up to five percent.*⁴⁶
- Early childhood education programs for eligible children. *LEAs have discretion over how much, if any, to reserve; ESSA does not specify an amount.*⁴⁷
- The additional costs needed to transport children in foster care to their school of origin consistent with Section 1112(c)(5). *LEAs have discretion over how much, if any, to reserve; ESSA does not specify an amount.*⁴⁸
- Administering the Title I program. *LEAs may reserve a reasonable and necessary amount.*⁴⁹
- LEA-level initiatives in Title I schools. *See below.*⁵⁰

A Deeper Look at LEA-Level Title I Initiatives

LEAs have the option to reserve Title I funds to implement LEA-level Title I initiatives. These initiatives are managed at the central level (rather than the school level) and are designed to improve the achievement of students eligible for Title I services. LEA-level initiatives benefit all, or a group, of Title I schools. Guidance from USED permits LEAs to use Title I funds for the following types of LEA-level initiatives for all, or a subset of, an LEA's Title I schools:⁵¹

- Summer school courses, or after-school tutoring, to prepare low-achieving students to participate successfully in advanced coursework;
- Supplemental instructional materials to improve the academic achievement of low-achieving students, including students with disabilities and English language learners;
- Hiring an outside expert to work with the staff in low-achieving Title I schools to build their capacity to analyze student data and identify promising interventions;
- 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;
- 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; and
- Extending learning time in Title I schools (before- and after-school programs, Saturday school and summer school, extending half-day kindergarten to a full day, extending the school year, extended learning opportunities during the school day, adding time during the day for teachers to plan collaboratively).

The examples above illustrate possible uses of Title I funds for a LEA-level Title I initiative and are not

⁴⁵ ESSA, Section 1111(d)(1)(D)(v).

⁴⁶ ESSA, Section 1113(c)(4).

⁴⁷ ESSA, Section 1113(c)(5).

⁴⁸ 34 CFR § 200.77.

⁴⁹ 34 CFR § 200.77.

⁵⁰ 34 CFR § 200.77.

⁵¹ ED 2009 Title I Reform Guidance, Q&A

meant to limit the use of funds. Other uses of funds that are consistent with Title I rules are also permissible.

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

Using Title I Funds in Schools that Operate Schoolwide Programs

Schools with at least forty percent poverty, as well as any school with a waiver of this poverty rate (which the state can issue),⁵² may operate a schoolwide program as long as the school conducts a comprehensive needs assessment and develops a schoolwide plan for meeting its needs.⁵³

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

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

Spending Options in a Schoolwide Program

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

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

⁵² Under ESSA, SEAs have the discretion to waive the forty percent poverty threshold if the SEA believes it will best serve student needs. ESSA, Section 1114(a)(1)(B).

⁵³ ESSA, Section 1114(b).

- 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 collaborate with peers, and related training for educators; and
- Two-generation approaches that consider the needs of both vulnerable children and parents, together, in the design and delivery of services and programs to support improved economic, educational, health, safety, and other outcomes that address the issues of intergenerational poverty.⁵⁴

For more information about using Title I funds in a schoolwide setting under ESSA, please see USED’s guidance [Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program](#).

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

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

Schoolwide Plan Elements

A schoolwide plan must be based on a **comprehensive needs assessment** of the entire school that takes into account information on the academic achievement of children, particularly the needs of those children who are failing, or are at-risk of failing, to meet state standards, and any other factors as determined by the LEA.⁵⁵

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

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

⁵⁴ U.S. Department of Education, [Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program](#), pp. 4-5 (2016). This guidance will be referred to as “ED 2016 Schoolwide Guidance” for the rest of this document.

⁵⁵ ESSA, Section 1114(b)(6).

- Implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act;
- Professional development and other activities for teachers, paraprofessionals, and other school personnel to improve instruction and use of data from academic assessments, and to recruit and retain effective teachers, particularly in high-need subjects; and
- Strategies for assisting preschool children in the transition from early childhood education programs to local elementary school programs.⁵⁶

Other Schoolwide Plan Requirements

The schoolwide plan must be developed:

- During a 1-year period, for schools not already operating schoolwide programs, unless the LEA determines, in consultation with the school, that less time is needed to develop and implement the schoolwide program;⁵⁷
- With the involvement of key stakeholders⁵⁸ and
- In coordination and integration with other federal, state, and local services, resources, and programs, if appropriate, such as programs supported under ESSA, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and schools implementing comprehensive support and improvement activities or targeted support and improvement activities.⁵⁹

ESSA clarifies that schoolwide plans:

- Remain in effect for the duration of the school's participation in Title I, except that schools must regularly monitor and revise their plan and implementation as necessary based on student needs to ensure that all students are provided opportunities to meet state standards;⁶⁰ and
- Must be available to the LEA, parents, and the public, and the information contained in the plan should be understandable to the extent practical.⁶¹

Using Title I Funds in Schools that Operate Targeted Assistance Programs

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

Identifying Title I Students

⁵⁶ ESSA, Section 1114(b)(7)(A).

⁵⁷ ESSA, Section 1114(b)(1).

⁵⁸ ESSA, Section 1114(b)(2). ESSA specifies parents and other members of the community and individuals who will carry out such plan, including teachers, principals, other school leaders, paraprofessionals, administrators, the LEA, tribes and tribal organizations (to the extent feasible), and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, if the plan relates to a secondary school, students, and other individuals determined by the school.

⁵⁹ ESSA, Section 1114(b)(5).

⁶⁰ ESSA, Section 1114(b)(3).

⁶¹ ESSA, Section 1114(b)(4).

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

- Students identified as failing, or most at risk of failing, to meet state standards;
- Students who participated in Head Start, or certain ESSA-funded preschool programs or literacy programs for young children, within the past two years (including Title I supported preschool);
- [Migrant students](#);
- [Neglected and delinquent students](#); and
- Homeless children.⁶²

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.⁶³ Targeted assistance schools may use Title I funds to serve their eligible students by:

- Expanding learning time for eligible students, including before- and afterschool programs, and summer programs and opportunities;
- Providing early intervening services to eligible students, including services coordinated with similar activities and services carried out under IDEA;
- Providing eligible students with extra supports aligned to the school's regular education program, which may include services to assist preschool children in the transition from early childhood education programs to elementary school programs;
- Providing professional development to teachers, principals, other school leaders, paraprofessionals, and, if appropriate, specialized instructional support personnel, and other school personnel who work with eligible students; and
- Implementing strategies to increase the involvement of parents of eligible students.⁶⁴

Targeted assistance schools can also use Title I funds to provide eligible students with health, nutrition, and other social services⁶⁵ that are not otherwise available to them if:

- The school has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, if appropriate; and
- Funds are not reasonably available from other public or private sources.⁶⁶

A secondary school operating a targeted assistance program may use Title I funds to provide dual or concurrent enrollment program services to eligible children.⁶⁷

⁶² ESSA, Section 1115(c).

⁶³ ESSA, Section 1115(b)(2)(A).

⁶⁴ ESSA, Section 1115(b)(2).

⁶⁵ Examples of such services include basic medical equipment such as eyeglasses and hearing aids, compensation of a coordinator, family support and engagement services, integrated student supports, and professional development necessary to assist teachers, specialized instructional support personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children. ESSA, Section 1115(e)(2)(B).

⁶⁶ ESSA, Section 1115(e)(2).

⁶⁷ ESSA, Section 1115(f).

Targeted assistance schools must:

- Help provide an accelerated, high-quality curriculum;
- Minimize the removal of children from the regular classroom during regular school hours for instruction provided by Title I; and
- Review the progress of eligible students on an ongoing basis and revise the targeted assistance program, if necessary, to provide students additional assistance to meet state standards.⁶⁸

Other Spending Rules

Maintenance of Effort

LEAs that receive Title I funds must comply with a maintenance of effort requirement.⁶⁹ In short, maintenance of effort requires LEAs to spend at least 90 percent of the combined fiscal effort (state and local funds) per student or aggregate expenditures for the second preceding fiscal year. If an LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA), the NHED must reduce the LEA's allocation under the covered programs in the exact proportion by which the LEA failed to maintain effort.

Supplement, not Supplant

Title I has a supplement, not supplant requirement. Title I funds must add to (supplement) and not replace (supplant) state and local funds. Prior to ESSA, supplement, not supplant was typically tested by analyzing an individual Title I cost's compliance with "three presumptions of supplanting."⁷⁰ This test still applies to the other Title programs. However, for under ESSA, Title I, Part A, compliance with supplement, not supplant will no longer be tested through individual Title I costs,⁷¹ so these three presumptions no longer apply. Instead, LEAs must demonstrate that the methodology they use to allocate state and local funds to schools provides each Title I school with all of the state and local money it would receive if it did not participate in the Title I program.⁷² *Every Title I cost must still be allowable and must still support eligible students.*

Comparability

As a condition of receiving Title I, LEAs must ensure that state and local funds are used to provide services that taken as a whole, are comparable between Title I and non-Title I schools.⁷³ Annually, LEAs are required to verify comparability by completing a web-based Title I, Part A, Comparability Report.

Equitable Services

⁶⁸ ESSA, Section 1115(b)(2)(G).

⁶⁹ ESSA, Sections 1118(a) and 8521.

⁷⁰ Under NCLB and previous versions of ESEA, a Title I supplanting violation was presumed if Title I, Part A paid for:

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

⁷¹ ESSA, Section 1118(b)(3)(A).

⁷² ESSA, Section 1118(b)(2).

⁷³ ESSA, Section 1118(c).

Title I funds are subject to an equitable services requirement.⁷⁴ LEAs must reserve funds to provide Title I services to eligible private school students, teachers and other educational personnel, and families. ESSA makes important changes and clarifications to the way LEAs must reserve Title I funds for equitable services. ESSA requires an LEA to determine the amount of funds available for providing equitable services under Title I *prior* to any expenditures or transfers of funds.⁷⁵ This includes all reservations previously taken “off the top” of an LEA’s Title I allocation, including reservations for administration, parental involvement, and district-wide initiatives.⁷⁶

Spending Title II, Part A Funds to Support Effective Instruction

This section provides information about how LEAs can spend Title II, Part A, funds. Title II, Part A, is a USED grant program that provides supplemental funding to help support effective instruction. USED awards Title II, Part A funds to SEAs, which then subgrant funds to LEAs.

For convenience, this section will refer to the program as “Title II.” For more information about Title II please contact Kathryn “Joey” Nichol, Title II Consultant at (603) 271-6087 or Kathryn.nichol@doe.nh.gov. Additional resources can be found on the New Hampshire Department of Education’s website: [Title II resources](#).

Purpose of the Title II Program

In general, Title II funds can be used to provide supplemental activities that strengthen the quality and effectiveness of teachers, principals,, and other school leaders.⁷⁷ The purpose of Title II is to:

- Increase student achievement consistent with state standards;
- Improve the quality and effectiveness of teachers, principals, and other school leaders;
- Increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and
- Provide low-income and minority students greater access to effective teachers, principals, and other school leaders.⁷⁸

How Title II Funds May Be Used

Overview and General Requirements

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:

⁷⁴ ESSA, Section 1117.

⁷⁵ ESSA, Section 1117(a)(4).

⁷⁶ See U.S. Department of Education, [Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Education Act of 1965 \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#) (November 2016), Q&A O-1. This guidance will be referred to as “ED 2016 Fiscal Changes Guidance” for the rest of this document.

⁷⁷ 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). This guidance will be referred to as ED 2016 Title II, Part A Guidance for the rest of this document.

⁷⁸ ESSA, Section 2001.

- 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.⁷⁹

LEAs must prioritize Title II funds to schools that:

- Are implementing comprehensive support and improvement (CSI) activities or targeted support and improvement (TSI) activities; **and**
- Have the highest percentage of children counted under section 1124(c)⁸⁰ (these are primarily low-income children).⁸¹

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

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

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

- First, ESSA changed the formula USED uses to distribute Title II money to states.⁸² This change will be phased in over time between 2017 and 2023.
- Second, ESSA changed the formula SEAs use to distribute Title II money to LEAs. Under prior law, LEAs were (with some caveats) guaranteed to receive a minimum amount of money regardless of how their student population changed over time.⁸³ This was known as a hold harmless. ESSA eliminated the hold harmless, and LEAs will now generate money based only on their number of 5–17-year-olds (twenty percent of the allocation), and their number of low-income 5–17-year-olds (eighty percent of the allocation) as indicated by the most recently available Census figures posted by the United States Census Bureau.⁸⁴

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

Title II requires LEAs to consult meaningfully with a wide array of stakeholders on the LEA's plan for carrying out Title II activities.⁸⁵ LEAs must also conduct ongoing consultation with those stakeholders to update and improve

⁷⁹ ESSA, Section 2103(b)(1)-(2).

⁸⁰ ESSA, Section 2102(b)(2)(C).

⁸¹ ESSA, Section 1124(c) is located in Title I of ESSA, and describes the children that should be counted.

⁸² 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).

⁸³ NCLB, Section 2121(a)(2).

⁸⁴ ESSA, Section 2102(a).

⁸⁵ 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).

activities supported with Title II funds.⁸⁶ In carrying out consultation, USED suggests LEAs consider the following activities:

- Conduct outreach to, and solicit input from, relevant stakeholders during the design and development of plans for Title II funds ensuring there is a diverse representation of educators from across LEA, especially those who work in high-need schools and in early education.
- Be flexible when consulting with stakeholders, especially educators, by holding meetings or conferences outside the hours of the school day or by using a variety of communications tools, such as electronic surveys.
- Seek out diverse perspectives within stakeholder groups, when possible, and ensure that consultation is representative of the LEA as much as possible.
- Make stakeholders aware of past and current uses of Title II funds, and research or analysis of the effectiveness of those uses, if available, as well as research or analysis of proposed new uses of funds, in order to consider the best uses for schools and districts to support teacher and school leader development.
- Consider the concerns identified during consultation, and revise uses of Title II funds when appropriate.⁸⁷

Allowable Uses of Local Title II Funds

LEAs are encouraged to prioritize activities that will have the highest impact on teaching and learning. When determining which of the allowable Title II strategies and activities will have the highest impact, USED guidance suggests LEAs undertake a five-step framework:

1. Choose interventions aligned with identified local needs;⁸⁸
2. Consider the evidence base and the local capacity when selecting a strategy;
3. Develop a robust implementation plan;
4. Provide adequate resources so the implementation is well-supported; and
5. Gather information regularly to examine the strategy and to reflect on and inform next steps.⁸⁹

LEAs must use data and ongoing stakeholder consultation to continually update and improve Title II-supported activities.⁹⁰

SAUs are encouraged to align activities with state priorities outlined in the [New Hampshire Department of Education's Consolidated State Plan](#).

Evaluation and Support Systems

LEAs may use Title II funds to develop or improve evaluation and support systems for teachers, principals, or

⁸⁶ ESSA, Section 2102(b)(2)(D).

⁸⁷ ED 2016 Title II, Part A Guidance, p. 28.

⁸⁸ LEAs were required to conduct a formal needs assessment under NCLB. ESSA eliminated that requirement.

⁸⁹ ED 2016 Title II, Part A Guidance, p. 30. Pages 30-34 of ED's guidance contain more information about these five steps.

⁹⁰ ESSA, Section 2102(b)(2)(D).

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.⁹¹

Recruiting, Hiring, and Retaining Effective Teachers 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.⁹² LEAs may also use Title II funds to implement supports for principals and other school leaders. This can include:

- Expert help in screening candidates and enabling early hiring;⁹³
- 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;⁹⁴
- Teacher, paraprofessional, principal, or other school leader advancement and professional growth,⁹⁵ which, according to USED 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;⁹⁶
- New teacher, principal, or other school leader induction and mentoring programs⁹⁷ ([USED Non-Regulatory Guidance for Title II, Part A](#)) includes resources and considerations for induction and mentoring programs);
- 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;⁹⁸ and
- A system for auditing the quality of evaluation and support systems.⁹⁹

Example: Teacher Residency Program

According to USED guidance,¹⁰⁰ 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

⁹¹ ESSA, Section 2103(b)(3)(A).

⁹² ESSA, Section 2103(b)(3)(B).

⁹³ ESSA, Section 2103(b)(3)(B)(i).

⁹⁴ ESSA, Section 2103(b)(3)(B)(ii).

⁹⁵ ESSA, Section 2103(b)(3)(B)(iii).

⁹⁶ *ED 2016 Title II, Part A Guidance*, p. 14.

⁹⁷ ESSA, Section 2103(b)(3)(B)(iv).

⁹⁸ ESSA, Section 2103(b)(3)(B)(v).

⁹⁹ ESSA, Section 2103(b)(3)(B)(vi).

¹⁰⁰ *ED 2016 Title II, Part A Guidance*, p. 8.

- 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.¹⁰¹

Example: Supporting Educator Diversity

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

- Providing financial support to educator recruitment programs within the community to improve hiring and retention of a diverse workforce;
- Offering career advancement opportunities for current staff members, such as paraprofessionals, who have worked in the community for an extended period of time, to support their efforts to gain the requisite credentials to become classroom instructors;
- Partnering with preparation providers including local community colleges, Institutions of Higher Education (IHEs), Minority Serving Institutions, and alternative route providers, to build a pipeline of diverse candidates;
- Providing ongoing professional development aimed at cultural competency and responsiveness and equity coaching, designed to improve conditions for all educators and students, including educators and students from underrepresented minority groups, diverse national origins, English language competencies, and varying genders and sexual orientations;
- Providing time and space for differentiated support for all teachers, including affinity group support;
- Supporting leadership and advancement programs aimed to improve career and retention outcomes for all educators, including educators from underrepresented minority groups; and
- Developing and implementing other innovative strategies and systemic interventions designed to better attract, place, support, and retain culturally competent and culturally responsive effective educators, especially educators from underrepresented minority groups, such as having personnel or staff-time dedicated to recruiting diverse candidates of high-quality who can best teach to the diversity of the student population.¹⁰²

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.¹⁰³

¹⁰¹ ESSA, Section 2002(5).

¹⁰² *ED 2016 Title II, Part A Guidance*, p. 19.

¹⁰³ ESSA, Section 2103(b)(3)(C).

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.¹⁰⁴ According to USED guidance, LEAs may consider reducing class size as one strategy to attract and retain effective educators in high-need schools.¹⁰⁵ LEAs wishing to utilize Title II funds for class-size reduction are expected to ensure that the conditions are present that research indicates are most likely to produce positive results. Potential resources include:

- [Class-size Reduction in Grades K-3](#)
- [Class Size and Academic Results, with a Focus on Children from Culturally, Linguistically, and Economically Disenfranchised Communities](#)

Personalized Professional Development

LEAs may use Title II funds to provide high-quality, personalized professional development¹⁰⁶ for teachers, instructional leadership teams, principals, or other school leaders.¹⁰⁷ 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.¹⁰⁸

Examples: Personalized Professional Development

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

- Peer-led, evidence-based professional development in LEAs and schools;¹⁰⁹
- Community of learning opportunities and other professional development opportunities with diverse stakeholder groups such as parents, civil rights groups, and

¹⁰⁴ ESSA, Section 2013(b)(3)(D).

¹⁰⁵ ED 2016 Title II, Part A Guidance, p. 24.

¹⁰⁶ ED 2016 Title II, Part A Guidance, p. 11.

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

Section 8101(42) defines "professional development," specifically noting that the professional development activities are sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused. For the full definition of professional development, please see ESSA, Section 8101(42).

¹⁰⁷ ESSA, Section 2103(b)(3)(E).

¹⁰⁸ ESSA, Section 2103(b)(3)(E)(i)-(vi).

¹⁰⁹ ED 2016 Title II, Part A Guidance, p. 14.

administrators, to positively impact student outcomes; for example, through a forum to discuss the implications of a policy or practice on a school community, or organizing a community-wide service-learning project, where teachers work together afterwards to incorporate lessons learned into their teaching;¹¹⁰

- Community of learning opportunities where principals and other school leaders engage with their school teams to fully develop broad curriculum models;¹¹¹
- Opportunities for principals and other school leaders to collaborate, problem-solve, and share best practices;¹¹²
- “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);¹¹³ and
- Ongoing cultural proficiency training to support stronger school climate for educators and students.¹¹⁴

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.¹¹⁵

LEAs are encouraged to coordinate IDEA and Title II initiatives to support teachers (including general education teachers) who teach students with disabilities.

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.¹¹⁶

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.¹¹⁷

¹¹⁰ ED 2016 Title II, Part A Guidance, p. 14.

¹¹¹ ED 2016 Title II, Part A Guidance, p. 15.

¹¹² ED 2016 Title II, Part A Guidance, p. 15.

¹¹³ ED 2016 Title II, Part A Guidance, p. 24

¹¹⁴ ED 2016 Title II, Part A Guidance, p. 24

¹¹⁵ ESSA, Section 2103(b)(3)(F).

¹¹⁶ ESSA, Section 2103(b)(3)(G)(i).

¹¹⁷ ESSA, Section 2103(b)(3)(G)(ii).

Additional resources are available on the NHED [Early Childhood webpage](#).

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.¹¹⁸

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.¹¹⁹

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.¹²⁰

School Library Programs

LEAs may use Title II funds to support the instructional services provided by effective school library programs.¹²¹

¹¹⁸ ESSA, Section 2103(b)(3)(H).

¹¹⁹ ESSA, Section 2103(b)(3)(I).

¹²⁰ ESSA, Section 2103(b)(3)(J).

¹²¹ ESSA, Section 2103(b)(3)(K).

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.¹²²

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.¹²³

Feedback Mechanisms to Improve School Working Conditions

LEAs may use Title II funds to develop feedback mechanisms to improve working conditions in school. This can include periodically and publicly reporting feedback on educator support and working conditions.¹²⁴

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.¹²⁵

Other Activities

LEAs may also spend Title II funds on other activities that meet Title II purposes (see “Purpose of the Title II Program” above) and are evidence-based to the extent the SEA (in consultation with LEAs) determines that such evidence is reasonably available.¹²⁶

Other Spending Rules

LEA-Level Administrative Costs

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

Maintenance of Effort

LEAs that receive Title II funds must comply with a maintenance of effort requirement.¹²⁷ LEAs to spend at least 90 percent of the combined fiscal effort (state and local funds) per student or aggregate expenditures for the

¹²² ESSA, Section 2103(b)(3)(L).

¹²³ ESSA, Section 2103(b)(3)(M).

¹²⁴ ESSA, Section 2103(b)(3)(N).

¹²⁵ ESSA, Section 2103(b)(3)(O).

¹²⁶ ESSA, Section 2103(b)(3)(P).

¹²⁷ ESSA, Section 8521.

second preceding fiscal year. If an LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA), the NHED must reduce the LEA's allocation under the covered programs in the exact proportion by which the LEA failed to maintain effort.

Supplement, not Supplant

LEAs that receive Title II funds must comply with a supplement, not supplant requirement.¹²⁸ Title II funds should add to (supplement) and not replace (supplant) state and local funds.

Please note ESSA made a change to the way supplement/not supplant is tested in Title I. This change *does not* affect how supplement/not supplant is tested in Title II. In Title II supplanting is presumed when:

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

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

Equitable Services

Title II funds are subject to an equitable services requirement.¹²⁹ LEAs must reserve funds to provide Title II services to eligible private school teachers and other educational personnel. Under NCLB, an LEA only had to reserve a share of the Title II money it spent on professional development. Under ESSA, the reservation is now based on an LEA's entire Title II allocation.¹³⁰

Spending Title III, Part A, Funds to Support English Learners and Immigrant Children and Youth

This section provides information about how LEAs can spend Title III, Part A funds.

Title III, Part A is a USED grant program that provides supplemental funding to help support English learners (ELs) and immigrant children and youth (IY) students. USED awards Title III, Part A funds to SEAs, which then subgrant funds to LEAs.

For convenience this section will refer to the program as "Title III." For more information about Title III please contact Wendy Perron, Title III Consultant, at wendy.perron@doe.nh.gov or 603-271-3514.

Purpose of Title III Subgrants to LEAs

¹²⁸ ESSA, Section 2301.

¹²⁹ ESSA, Section 8501(b)(1)(B).

¹³⁰ ESSA, Section 8501(b). See also *ED 2016 Fiscal Changes Guidance*, Q&A P-1 & P-2.

LEAs must use Title III funds for effective approaches and methodologies for teaching ELs and IY students for the following:

1. Developing and implementing new language instruction educational programs and academic content instructional programs for ELs and IY students, 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 IY students.
3. Implementing schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for ELs and IY students.
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 IY students.¹³¹

Definition of English Learner and IY Students under ESSA

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

- (A) who is aged 3 through 21;
- (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C)(i) who was not born in the United States or whose native language is a language other than English;
 - (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
 - (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
 - (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual —
 - (i) the ability to meet the challenging State academic standards;
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society.¹³²

Clarification on the Definition of Immigrant Children and Youth (IY)

¹³¹ ESSA, Section 3115(a). For federal non-regulatory guidance on the Title III program, please see U.S. Department of Education, [English Learners and Title III of the Elementary and Secondary Education Act \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#) (September 2016). This guidance will be referred to as ED 2016 Title III, Part A Guidance for the rest of this document.

¹³² ESSA, Section 8501(b). See also *ED 2016 Fiscal Changes Guidance*, Q&A P-1 & P-2.

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

- (A) are aged 3 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than 3 full academic years.¹³³

An IY Student may or may not be also identified as an EL. Under Section 3101(14) of ESSA, the term “state” means each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico. Therefore, students born in Puerto Rico are not considered IY students. However, students born in U.S. territories other than Puerto Rico, such as Guam, American Samoa, or the U.S. Virgin Islands, may be considered as IY students.

LEAs must apply the “three full academic years” requirement on a cumulative basis.

- The following students may be considered as IY if they meet all of the criteria in the federal definition of immigrant children and youth:
 - Children of U.S. military personnel;
 - Children of NATO families;
 - Children of visiting faculty;
 - Children who are temporarily residing in the U.S. because of parental employment; and
 - Students on Exchange Visitor (J-1) visas or Exchange High School Student (F-1) visas.

[Please see this federal resource for more information about identifying English Learners.](#)

Title III and the Supplement, not Supplant, Requirement

Title III is subject to a strict supplement, not supplant requirement that affects how Title III funds are spent.¹³⁴ Because supplement, not supplant operates differently in Title III than other federal programs this section addresses supplement, not supplant before addressing other Title III spending issues.

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

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

Issue 1: Compliance with Supplement, not Supplant is tested using two “presumptions”

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

1. An LEA uses Title III funds to provide services the LEA is required to make available under other laws; or
2. An LEA uses Title III funds to provide services the LEA paid for with state or local funds the prior year.¹³⁵

¹³³ ESSA, Section 3201(5). Also, *ED 2016 Title III, Part A Guidance*, p. 43

¹³⁴ ESSA, Section 3115(g).

¹³⁵ *ED 2016 Title III, Part A Guidance*, Question A-2.

These presumptions can be “rebutted” (disputed with evidence) and possibly overcome if the LEA can show it could not have provided the services in question with state or local funds.¹³⁶

Example of Presumed Supplanting Violation

Paying for an interventionist that provides intensive small-group interventions to EL students with Title III funds would violate the second presumption of supplanting if the LEA paid for this interventionist with local funds the prior year. The LEA may be able to rebut this presumption of supplanting if it can show it did not have local funds available to pay for the interventionist.

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

Under the first presumption of supplanting an LEA may not use Title III funds to meet the requirements of federal, state, or local law. Under federal law, specifically Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA), LEAs have legal obligations to ensure that ELs can meaningfully and equally participate in educational programs and services.¹³⁷ USED guidance explains that to meet these civil rights obligations to ELs LEAs must:

- Identify and assess all potential ELs in a timely, valid, and reliable manner;
- Provide ELs 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. Nichol*;
- Provide sufficiently well prepared and trained staff and support the language assistance programs for ELs;
- Ensure that ELs have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of ELs;
- Ensure that ELs 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 ELs who opt out of language assistance programs;
- Monitor and evaluate ELs in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level content knowledge, exit ELs 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 ELs in each program acquire English proficiency and that each program is reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and

¹³⁶ ED 2016 Title III, Part A Guidance, Question A-2.

¹³⁷ ED 2016 Title III, Part A Guidance, Question A-2 and A-3.

- Ensure meaningful communication with limited English proficient (LEP) parents.¹³⁸

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

Impermissible Title III Spending on Civil Rights Obligations

An LEA may not use Title III funds to identify ELs. Identifying ELs is a civil rights obligation under Title VI and the EEOA.¹³⁹

Permissible Title III Supplemental Spending

An LEA that meets its civil rights obligations on staffing may use Title III funds to hire extra staff under certain circumstances. For example, an LEA could use Title III funds to hire staff that would provide *supplemental* instructional support to teachers of ELs. USED guidance notes that determinations about the supplement, not supplant requirement in Title III are always situationally specific.¹⁴⁰

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

Under the first presumption of supplanting, an LEA may not use Title III funds to meet the requirements of federal, state, or local law. Under NCLB, this meant LEAs could not use Title III funds to pay for EL-related requirements under Title I, Part A. Under ESSA, however, certain requirements that were previously part of the Title III program have moved to Title I. Because of this, USED guidance permits LEAs to use Title III funds to pay for activities that were in Title III under NCLB, but are now part of Title I in ESSA such as:

- LEP parental notification regarding language instruction educational programs (LIEPs) and related information (ESEA Section 1112(e)(3));
- Parental participation (e.g., regular LEP 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)).¹⁴¹

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

1. The activity being supported is consistent with the purposes of Title III (English language acquisition) and meets federal guidelines for “reasonable and necessary costs;”¹⁴²
2. The activity being supported is supplemental to the LEA’s civil rights obligations to ELs under Title VI of the Civil Rights Act and the EEOA; and

¹³⁸ 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).

¹³⁹ ED 2016 Title III, Part A Guidance, Question A-8.

¹⁴⁰ ED 2016 Title III, Part A Guidance, Question D-7.

¹⁴¹ ED 2016 Title III, Part A Guidance, Question A-4.

¹⁴² The concept of “reasonable and necessary” costs comes from federal regulations known as the Uniform Grant Guidance (UGG). See, for example, the discussion in *Basic Considerations* of the UGG, [available here](#).

3. The LEA can demonstrate it is also using Title III funds to conduct activities required under Title III.¹⁴³ (See below for more information about required Title III EL activities).

Please note LEAs may not use Title III funds for Title I, Part A activities that are also used to meet civil rights obligations. For example, under Title VI of the Civil Rights Act of 1964 and the EEOA, LEAs must track EL student progress in achieving English language proficiency. LEAs often use an annual English language proficiency (ELP) assessment, which is now required under Title I,¹⁴⁴ for this purpose. If an LEA uses an annual ELP assessment to track EL student progress, Title III funds could not be used to pay for costs related to administering the ELP assessment.¹⁴⁵

Required and Authorized Uses of Title III Funds

Title III includes two types of subgrants to LEAs.

1. Formula subgrants of at least \$10,000, determined on a per pupil basis, are awarded to LEAs or a consortium of LEAs. These subgrants must be used to support ELs in achieving English proficiency and meeting the same state academic standards as all students. LEAs that would receive an award of less than \$10,000 may participate in an LEA consortium so that the \$10,000 threshold is met. (See Section I below – these funds will be referred to as “Title III EL funds.”)
2. Targeted subgrants are awarded to LEAs that experience a significant increase in IY students as compared to the average of the two preceding fiscal years. IY funds should provide IY students with enhanced instructional opportunities and may be used only to support programs and services for IY students and/or their families.¹⁴⁶

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

LEAs must use Title III EL funds to assist ELs in achieving English proficiency and meeting the same state academic standards as all students.¹⁴⁷ LEAs must use Title III EL funds for three activities:

1. Providing **effective language instruction educational programs (LIEPs)** that meet the needs of ELs and demonstrate success in increasing English language proficiency and student academic achievement.¹⁴⁸
2. Providing **effective professional development** to classroom teachers (including teachers in classroom settings that are not the settings of LIEPs), principals and other school leaders, administrators, and other school or community-based organizational personnel, that is:
 - 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;
 - Effective in increasing children’s English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and

¹⁴³ ED 2016 Title III, Part A Guidance, Question A-4.

¹⁴⁴ ESSA, Section 1111(b)(2)(G).

¹⁴⁵ ED 2016 Title III, Part A Guidance, Question A-7.

¹⁴⁶ ED 2016 Title III, Part A Guidance, Question G-3.

¹⁴⁷ ESSA, Section 3115(a).

¹⁴⁸ ESSA, Section 3115(c)(1). For federal guidance about LIEPs, please see ED 2016 Title III, Part A Guidance, Section C.

- 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.¹⁴⁹
- 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.¹⁵⁰

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

Authorized Uses of Title III Funds at the LEA-Level

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

- Upgrading program objectives and effective instructional strategies;¹⁵¹
- Improving the instructional program for ELs by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures;¹⁵²
- Providing to ELs tutorials and academic or career and technical education, and intensified instruction to ELs, which may include materials in a language that the student can understand, interpreters, and translators;¹⁵³
- Developing and implementing effective preschool,¹⁵⁴ elementary school, or secondary school language instruction educational programs that are coordinated with other relevant programs and services,¹⁵⁵
- Improving the English language proficiency and academic achievement of ELs;¹⁵⁶
- 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;¹⁵⁷
- 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;¹⁵⁸

¹⁴⁹ ESSA, Section 3115(c)(2). For federal guidance on educators of English Learners, including professional development, please see *ED 2016 Title III, Part A Guidance*, Section D.

¹⁵⁰ ESSA, Section 3115(c)(3). For federal guidance on parent, family, and community engagement, please see *ED 2016 Title III, Part A Guidance*, Section E.

¹⁵¹ ESSA, Section 3115(d)(1).

¹⁵² ESSA, Section 3115(d)(2).

¹⁵³ ESSA, Section 3115(d)(3).

¹⁵⁴ For more information on Title III and Early Learning, please see *ED 2016 Title III, Part A Guidance*, Section F.

¹⁵⁵ ESSA, Section 3115(d)(4).

¹⁵⁶ ESSA, Section 3115(d)(5).

¹⁵⁷ ESSA, Section 3115(d)(6).

¹⁵⁸ ESSA, Section 3115(d)(7).

- Offering early college high school or dual or concurrent enrollment programs or courses designed to help ELs achieve success in postsecondary education;¹⁵⁹ and
- Carrying out other activities that are consistent with the purposes of Title III subgrants.¹⁶⁰

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

Title III IY Funds

LEAs that experience a significant increase in IY students as compared to the average of the two preceding fiscal years are offered Title III IY funds. IY funds must be spent on programs and services for IY students and/or their families. Activities should enhance instructional opportunities for IY students, 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 IY students;
- Provision of tutorials, mentoring, and academic or career counseling for IY students;
- 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 IY students 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 IY students 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 IY students by offering comprehensive community services.¹⁶¹

Other Spending Considerations and Rules

LEA-Level Administrative Costs

LEAs may use up to two percent of their Title III funds for direct administrative costs.¹⁶² Indirect costs are not part of the two percent cap.¹⁶³

Maintenance of Effort

LEAs that receive Title III funds must comply with a maintenance of effort requirement.¹⁶⁴ In short, maintenance of effort requires LEAs to spend at least 90 percent of the combined fiscal effort (state and local funds) per student or

¹⁵⁹ ESSA, Section 3115(d)(8).

¹⁶⁰ ESSA, Section 3115(d)(9).

¹⁶¹ ESSA, Section 3115(e). See also *ED 2016 Title III, Part A Guidance*, Question G-4.

¹⁶² ESSA, Section 3115(b) and 20 U.S.C. §6825(b).

¹⁶³ *ED 2016 Title III, Part A Guidance*, Question A-10.

¹⁶⁴ ESSA, Section 8521.

aggregate expenditures for the second preceding fiscal year. If an LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA), the NHED must reduce the LEA's allocation under the covered programs in the exact proportion by which the LEA failed to maintain effort.

Equitable Services

Title III funds are subject to an equitable services requirement.¹⁶⁵ LEAs must ensure that eligible private school students, their teachers, and other educational personnel are served by Title III.¹⁶⁶ For more information, please visit the [Title III page](#) on the NHED's website.

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

This section provides information about how LEAs can spend funds under the Student Support and Academic Enrichment (SSAE) grant program - Title IV, Part A, Subpart 1.¹⁶⁷ SSAE is a USED grant program that provides supplemental funding to help provide students with a well-rounded education, improve school conditions, and improve the use of technology. USED awards SSAE funds to SEAs, which then subgrant funds to LEAs.

For more information about the SSAE program, contact Stan Freeda – Stanley.J.Freeda@doe.nh.gov or (603)271-5132. Information about the SSAE grant program is also provided on the New Hampshire Department of Education's [Title IV, Part A, website](#). There is also a Title IV-A Toolkit available at www.nheon.org.titleiva.

Purpose of the SSAE Program

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

1. Provide all students with access to a well-rounded education;
2. Improve school conditions for student learning; and
3. Improve the use of technology in order to improve the academic achievement and digital literacy of all students.¹⁶⁸

How SSAE Funds May Be Used

Use of Funds Overview

SSAE funds can be used for a wide range of activities to support well-rounded educational opportunities, safe and

¹⁶⁵ ESSA, Section 8501(b)(1)(C).

¹⁶⁶ ED 2016 Title III, Part A Guidance, Question C-6. See also ED 2016 Fiscal Changes Guidance, Section P.

¹⁶⁷ Title IV of ESSA is divided into different "parts" and "subparts," each of which contains one or more grant programs. Title IV, Part A, Subpart 1, which is the focus of this handbook, is known as Student Support and Academic Enrichment (SSAE) Grants.

¹⁶⁸ ESSA, Section 4101. For federal non-regulatory guidance on the SSAE program, please see U.S. Department of Education, [Non-Regulatory Guidance: Student Support and Academic Enrichment Grants](#) (October 2016). This guidance will be referred to as ED 2016 SSAE Guidance for the rest of this document.

healthy students, and the effective use of technology. LEA spending options are listed in the section below, but there are several things to consider when deciding which activities to support, including:

- LEA needs;
- School needs;
- The LEA's objectives and intended outcomes;
- Stakeholder input; and
- Funding requirements and limitations on certain activities.

Local Needs Assessment

LEAs that receive \$30,000 or more in SSAE funds must, at least once every three years or more frequently as determined by the SEA,¹⁶⁹ conduct a comprehensive needs assessment of the following:

- Access to and opportunities for, a well-rounded education for all students;
- School conditions for student learning to create a healthy and safe school environment;
- Access to personalized learning experiences supported by technology and professional development for the effective use of data and technology.¹⁷⁰

LEAs that receive less than \$30,000 in SSAE funds do not have to conduct a formal needs assessment,¹⁷¹ but are encouraged to consider the needs above when deciding how to spend SSAE funds.¹⁷²

Conducting a needs assessment is an important and required aspect of the SSAE program. LEAs must engage in timely and meaningful consultation with a broad range of stakeholders (ESEA section 4106(c)) and should examine relevant data to understand students' and schools' most pressing needs, including the potential root causes of such needs. If the LEA has recently conducted a needs assessment that corresponds to the SSAE requirements, the LEA may want to consider how best to incorporate the information from the completed needs assessment into the comprehensive needs assessment for the SSAE program.

Questions to consider:

- Which stakeholders can help identify local needs and/or root causes? How can they be engaged early and in a meaningful way throughout the process?
- What data are needed to best understand local needs?
- Do the LEA's current systems fully capture the needs of the hardest to serve students, including those who might experience adversity that might not be revealed in a survey or other data tools (e.g. trauma experienced by a recent influx of refugee students)?
- Are there inequities inherent in the system that influence local needs?
- How should the identified needs be prioritized when several significant needs are identified?

¹⁶⁹ ESSA, Section 4106(d)(3).

¹⁷⁰ ESSA, Section 4106(d).

¹⁷¹ ESSA, Section 4106(d)(2).

¹⁷² ED 2016 SSAE Guidance, p. 16 at footnote 14.

Prioritizing High-Need Schools

LEAs must prioritize SSAE funds to schools that:

- Have the greatest needs as determined by the LEA;
- Have the highest percentages or numbers of low-income children;
- Are identified for comprehensive support and improvement (CSI) under Title I;
- Are implementing targeted support and improvement (TSI) plans under Title I; or
- Are identified as a persistently dangerous school under Section 8532.¹⁷³

Objectives and Outcomes

LEAs must develop objectives for their SSAE programs and intended outcomes for SSAE-funded activities.¹⁷⁴ LEAs must use these objectives and outcomes to periodically evaluate the effectiveness of SSAE-funded activities.¹⁷⁵ LEAs must also provide SEAs with information about their progress towards their objectives and outcomes so SEAs can satisfy their reporting requirements.¹⁷⁶

Stakeholder Engagement

LEAs must meaningfully consult with a wide array of stakeholders when designing their SSAE programs.¹⁷⁷ 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.¹⁷⁸

Funding Requirements and Limitations

Required activities

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

- At least twenty percent on activities to support a well-rounded education,
- At least twenty percent to activities to support safe and healthy students, and

¹⁷³ ESSA, Section 4106(e)(2)(A). ESSA requires LEAs to prioritize the distribution of funds to high-need schools. USED's SSAE guidance clarifies that an LEA can provide district-wide services with SSAE funds, but must prioritize activities for high-need schools (pp.14-15).

¹⁷⁴ ESSA, Section 4106(e)(1)(E).

¹⁷⁵ ESSA, Section 4106(e)(1)(E).

¹⁷⁶ ESSA, Section 4104(a)(2); see also ESSA, Section 4106(e)(2)(F).

¹⁷⁷ Stakeholders include parents, teachers, principals, other school leaders, specialized instructional support personnel, students, community-based organizations, local government representatives (which may include a local law enforcement agency, local juvenile court, local child welfare agency, or local public housing agency), Indian tribes or tribal organizations that may be located in the region served by the local educational agency (where applicable), charter school teachers, principals, and other school leaders (if such agency or consortium of such agencies supports charter schools), and others with relevant and demonstrated expertise in programs and activities designed to meet SSAE purposes. Section 4106(c)(1).

¹⁷⁸ ESSA, Section 4106(c)(2).

- At least some funds for activities to support the effective use of technology.¹⁷⁹ (Please note the cap on technology infrastructure below.)

A single activity can satisfy more than one category of required costs.¹⁸⁰

LEAs that receive *less* than \$30,000 in SSAE funds must meet at least one of the above requirements (that is, spend at least twenty percent on activities to support a well-rounded education or at least twenty percent on activities to support safe and healthy students or at least some funds for activities to support the effective use of technology).¹⁸¹

Cap on Technology Infrastructure

Of the SSAE funds spent on technology, LEAs may not spend more than fifteen percent of those technology funds to purchase technology infrastructure.¹⁸² Specifically, this means that LEAs may not spend more than fifteen percent of its SSAE technology funds on devices, equipment, software applications, platforms, digital instructional resources and/or other one-time IT purchases.¹⁸³

Cap on Administrative Costs

LEAs may not spend more than two percent of their SSAE funds on direct administrative costs.¹⁸⁴

Local SSAE Spending Options

An overview of all LEA SSAE spending options under the law is provided below. Spending in a specific LEA should be aligned to the spending requirements and limitations, the LEA's needs assessment (if applicable), and stakeholder input. Additional information on SSAE uses of funds is available in the [USED non-regulatory guidance](#).

Activities to Support a Well-Rounded Education

LEAs may (and in some cases must)¹⁸⁵ spend SSAE funds to develop and implement programs and activities that support access to a well-rounded education.¹⁸⁶ Activities should be coordinated with other schools and community-based services and programs.¹⁸⁷ They can also be conducted in partnership with an institution of higher education, business, nonprofit organization, community-based organization, or other public or private entity with a demonstrated record of success.¹⁸⁸ Examples of allowable activities are listed below.¹⁸⁹

College and Career Guidance

¹⁷⁹ ESSA, Section 4106(e)(2)(C)-(E).

¹⁸⁰ *ED 2016 SSAE Guidance*, p. 13.

¹⁸¹ ESSA, Section 4106(f).

¹⁸² ESSA, Section 4109(b).

¹⁸³ *ED 2016 SSAE Guidance*, p. 32.

¹⁸⁴ ESSA, Section 4105(c).

¹⁸⁵ LEAs that receive \$30,000 or more in SSAE funds must spend at least twenty percent of funds on activities to support a well-rounded education. Section 4106(e)(2)(C).

¹⁸⁶ ESSA, Section 4107(a).

¹⁸⁷ ESSA, Section 4107(a)(1).

¹⁸⁸ ESSA, Section 4107(a)(2).

¹⁸⁹ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 39- 43.

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.¹⁹⁰

Music and Arts to Support Student Success

LEAs may use SSAE funds for programs and activities that use music and the arts as tools to support student success through the promotion of constructive student engagement, problem solving, and conflict resolution.¹⁹¹

Science, Technology, Engineering, and Mathematics (STEM)

LEAs may use SSAE funds for programs and activities to improve instruction and student engagement in STEM, including computer science.¹⁹² Examples include:

- Increasing access to high-quality courses for underrepresented student groups such as female students, minority students, English learners, children with disabilities, and economically disadvantaged students;
- Supporting low-income students to participate in nonprofit competitions related to STEM subjects;
- Providing hands-on learning and exposure to STEM and supporting the use of field-based or service learning to enhance student understanding;
- Supporting the creation and enhancement of STEM-focused specialty school;
- Facilitating collaboration among school, afterschool program, and informal program personnel to improve the integration of programming and instruction; and
- Integrating other academic subjects, including the arts, into STEM subject programs to increase participation in STEM subjects, improve attainment of skills related to STEM subjects, and promote well-rounded education.¹⁹³

Accelerated Learning

LEAs may use SSAE funds to raise student academic achievement through accelerated learning programs that provide courses or instruction accepted for credit at institutions of higher education (like dual or concurrent enrollment courses, early college high school courses, AP and IB).¹⁹⁴ This may 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.¹⁹⁵ It may 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.¹⁹⁶

Other Instructional Opportunities

¹⁹⁰ ESSA, Section 4107(a)(3)(A).

¹⁹¹ ESSA, Section 4107(a)(3)(B).

¹⁹² ESSA, Section 4107(a)(3)(C).

¹⁹³ ESSA, Section 4107(a)(3)(C)(i)-(vi).

¹⁹⁴ ESSA, Section 4107(a)(3)(D). See also ESSA, Section 4104(b)(3)(A)(i)(IV).

¹⁹⁵ ESSA, Section 4107(a)(3)(D)(i).

¹⁹⁶ ESSA, Section 4107(a)(3)(D)(ii).

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;¹⁹⁷
- Foreign language instruction;¹⁹⁸ and
- Environmental education.¹⁹⁹

Volunteerism and Community Involvement

LEAs may use SSAE funds for programs and activities that promote volunteerism and community involvement.²⁰⁰

Integrating Multiple Disciplines

LEAs may use SSAE funds to support educational programs that integrate multiple disciplines, such as programs that combine arts and mathematics.²⁰¹

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.²⁰²

Activities to Support Safe and Healthy Students

LEAs may (and in some cases must²⁰³) use SSAE funds to develop, implement and evaluate comprehensive programs and activities that:

- Are coordinated with other schools and community-based services and programs;
- Foster safe, healthy, supportive, and drug-free environments that support academic achievement; and
- Promote parent involvement in activities or programs.²⁰⁴

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.²⁰⁵

Allowable activities are listed below.²⁰⁶ Resources are also available through New Hampshire's [Bureau of Student Wellness](#).

Evidence-Based Drug and Violence Prevention

¹⁹⁷ ESSA, Section 4107(a)(3)(E).

¹⁹⁸ ESSA, Section 4107(a)(3)(F).

¹⁹⁹ ESSA, Section 4107(a)(3)(G).

²⁰⁰ ESSA, Section 4107(a)(3)(H).

²⁰¹ ESSA, Section 4107(a)(3)(I).

²⁰² ESSA, Section 4107(a)(3)(J).

²⁰³ LEAs that receive \$30,000 or more in SSAE funds must spend at least twenty percent of funds on activities to support safe and healthy students. Section 4106(e)(2)(D).

²⁰⁴ ESSA, Section 4108(1)-(3).

²⁰⁵ ESSA, Section 4108(4).

²⁰⁶ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 43- 45.

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.²⁰⁷

Activities may 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.²⁰⁸

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.²⁰⁹

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

- Based on trauma-informed practices that are evidence-based (to the extent the state, in consultation with LEAs, determines that such evidence is reasonably available);
- Coordinated (where appropriate) with early intervening services provided under the Individuals with Disabilities Education Act (IDEA); and
- Provided by qualified mental and behavioral health professionals who are certified or licensed by the state and practicing within their area of expertise.²¹⁰

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.²¹¹ Before obtaining consent, the LEA must provide the parent with written notice describing in detail:

- The mental health assessment or service;
- The purpose for the assessment or service;
- The provider of such assessment or service;
- When the assessment or service will begin; and

²⁰⁷ ESSA, Section 4108(5)(A).

²⁰⁸ ESSA, Section 4108(5)(A)(i)-(ii).

²⁰⁹ ESSA, Section 4108(5)(A)(B)(i).

²¹⁰ ESSA, Section 4108(5)(A)(B)(ii).

²¹¹ ESSA, Section 4001(a)(1)(A). Please note informed written consent is not required in an emergency where it is necessary to protect the immediate health and safety of the child, other children, or LEA personnel. Informed written consent is also not required when the LEA actively seeks parental consent but cannot reasonably obtain it, including when a parent does 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).

- How long such assessment or service may last.²¹²

Providing this consent does not waive any rights or protections under Family Educational Rights and Privacy Act (FERPA).²¹³

Health and Safety Activities or Programs

LEAs may use SSAE funds for programs or activities that:

- Integrate health and safety practices into school or athletic programs;
- Support a healthy, active lifestyle, including nutritional education and regular, structured physical education activities and programs, that may address chronic disease management with instruction led by school nurses, nurse practitioners, or other appropriate specialists or professionals to help maintain the well-being of students;
- Help prevent bullying and harassment;
- Improve instructional practices for developing relationship-building skills, such as effective communication, and improve safety through the recognition and prevention of coercion, violence, or abuse, including teen and dating violence, stalking, domestic abuse, and sexual violence and harassment;
- Provide mentoring and school counseling to all students, including children who are at risk of academic failure, dropping out of school, involvement in criminal or delinquent activities, or drug use and abuse,
- Establish or improve school dropout and reentry programs; and
- 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.²¹⁴

Addressing Trauma and Violence

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

- Suicide prevention;
- Effective and trauma-informed practices in classroom management;
- Crisis management and conflict resolution techniques;
- Human trafficking;²¹⁵
- School-based violence prevention strategies;;
- Drug abuse prevention, including educating children facing substance abuse at home; and
- Bullying and harassment prevention.²¹⁶

²¹² ESSA, Section 4001(a)(1)(B).

²¹³ ESSA, Section 4001(a)(1)(C).

²¹⁴ ESSA, Section 4108(5)(C).

²¹⁵ Defined as an act or practice described in paragraph (9) or (10) of section 103 of the [Trafficking Victims Protection Act of 2000 \(22 U.S.C. 7102\)](#).

²¹⁶ ESSA, Section 4108(5)(D).

Addressing Sexual Abuse

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

- Age-appropriate and developmentally appropriate instruction for students in child sexual abuse awareness and prevention, including how to recognize child sexual abuse and how to safely report child sexual abuse; and
- Information to parents and guardians of students about child sexual abuse awareness and prevention, including how to recognize child sexual abuse and how to discuss child sexual abuse with a child.²¹⁷

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.²¹⁸

Positive Behavioral Interventions and Supports

LEAs may use SSAE funds to implement schoolwide positive behavioral interventions and supports.²¹⁹ This may include coordinating with similar IDEA activities to improve academic outcomes and school conditions for student learning.

Resource Coordinator

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

- Establishing partnerships within the community to provide resources and support for schools;
- Ensuring that all service and community partners are aligned with the academic expectations of a community school in order to improve student success; and
- Strengthening relationships between schools and communities.²²⁰

Pay for Success

LEAs may use pay for success initiatives aligned with the goal of supporting safe and healthy students.²²¹

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

²¹⁷ ESSA, Section 4108(5)(E).

²¹⁸ ESSA, Section 4108(5)(F).

²¹⁹ ESSA, Section 4108(5)(G).

²²⁰ ESSA, Section 4108(5)(H).

²²¹ ESSA, Section 4108(5)(I).

savings or cost avoidance to the public sector.²²²

Activities to Support the Effective Use of Technology

LEAs may (and in some cases must²²³) use SSAE funds to improve the use of technology to improve the academic achievement, academic growth and digital literacy of all students.²²⁴ Of the amount an LEA chooses to spend on technology, only fifteen percent may be used for technology infrastructure.

Activities may include:²²⁵

Professional Learning

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

- Personalize learning to improve student academic achievement;
- Discover, adapt, and share relevant high-quality educational resources;
- Use technology effectively in the classroom, including by administering computer-based assessments and blended learning strategies; and
- Implement and support school- and district-wide approaches for using technology to inform instruction, support teacher collaboration, and personalize learning.²²⁶

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.²²⁷

LEAs may not spend more than fifteen percent of the SSAE funds used for technology on technological infrastructure.²²⁸

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.²²⁹

Blended Learning

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

²²² ESSA, Section 8101(40).

²²³ LEAs that receive \$30,000 or more in SSAE funds must spend some SSAE funds on activities that support the effective use of technology. Section 4106(e)(2)(E).

²²⁴ ESSA, Section 4109(a).

²²⁵ For additional resources and tools to support LEAs in implementing these activities, see *ED 2016 SSAE Guidance*, pp. 46- 47.

²²⁶ ESSA, Section 4109(a)(1).

²²⁷ ESSA, Section 4109(a)(2).

²²⁸ ESSA, Section 4109(b).

²²⁹ ESSA, Section 4109(a)(3).

- Planning activities like developing new instructional models (including blended learning technology software and platforms), the purchase of digital instructional resources, initial professional development activities, and one-time information technology purchases (that do not include significant construction or renovation of facilities) (please note all technology infrastructure costs count towards the fifteen percent cap noted above); or
- Ongoing professional development for teachers, principals, other school leaders, or other personnel involved in the project that is designed to support the implementation and academic success of the project.²³⁰

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.²³¹

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.²³²

Other Spending Rules

Maintenance of Effort

LEAs that receive SSAE funds must comply with a maintenance of effort requirement.²³³ LEAs to spend at least 90 percent of the combined fiscal effort (state and local funds) per student or aggregate expenditures for the second preceding fiscal year. If an LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA), the NHED must reduce the LEA's allocation under the covered programs in the exact proportion by which the LEA failed to maintain effort.

Supplement not Supplant

LEAs that receive SSAE funds must comply with the supplement, not supplant requirement.²³⁴ SSAE funds should add to (supplement) and not replace (supplant) state and local funds.

For the SSAE program, supplanting is presumed when:

- An LEA uses SSAE funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses SSAE funds to pay for an activity that was supported using state or local funds the previous

²³⁰ ESSA, Section 4109(a)(4).

²³¹ ESSA, Section 4109(a)(5).

²³² ESSA, Section 4109(a)(6).

²³³ ESSA, Section 8521.

²³⁴ ESSA, Section 4110.

year.²³⁵

An LEA may overcome the presumption of supplanting if it has written documentation (e.g., state or local legislative action, budget information, or other materials) to document 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.²³⁶

Equitable Services

SSAE funds are subject to an equitable services requirement.²³⁷ LEAs must reserve funds to provide SSAE services to eligible private school children, teachers, and other educational personnel in private schools.²³⁸

Spending Title V—Part B. Rural Education Achievement Program (REAP)

Subpart 1, Small Rural School Achievement (SRSA)

Subpart 2, Rural and Low-Income Schools (RLIS)

REAP is a USED grant program that contains two separate but similar initiatives. This section provides information about how LEAs can spend funds under Title V – Part B, Rural Education Achievement Program (REAP), Subpart 1 Small Rural School Achievement (SRSA) and Subpart 2, Rural and Low-Income Schools.

For more information about the REAP program, contact Marcia McCaffrey at marcia.mccaffrey@doe.nh.gov or (603) 271-3193. Information about this grant program is also on the New Hampshire Department of Education's [website here](#).

Purpose of REAP

SEC. 6202 5202. PURPOSE. (20 U.S.C. 7341a)

It is the purpose of this part to address the unique needs of rural school districts that frequently—

- (1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and
- (2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

Small school districts may meet eligibility requirements for one or both SRSA and/or RLIS. If eligible for both (dual), the LEA must select one of the two programs in which to participate. Commitment to the SRSA program typically occurs in the spring, prior to the end of the school year that precedes the grant year. The US ED manages this part of the grant process directly with LEAs.

Subpart 1, Small Rural School Achievement (SRSA)

SRSA is not a state flow-through program. Eligible districts work directly with the US Department of Education to request access to funds, approval of activities for funding, and release of funds to the district. The NH Department of Education provides support to districts for establishing communication with the US DOE to

²³⁵ ED 2016 SSAE Guidance, p. 14.

²³⁶ ED 2016 SSAE Guidance, p. 14

²³⁷ ESSA, Section 4106(e)(2)(b); ESSA, Section 8501(b)(1)(D).

²³⁸ ESSA, Section 4106(e)(2)(b); ESSA, Section 8501(b)(1)(D).

initiate grant access. To learn more about this grant and find districts eligible for SRSA funding, [go here](#).

Alternative Uses of Funds Authority:

The *Alternative Uses of Funds Authority* allows SRSA-eligible LEAs greater flexibility in spending the funds they receive under Title II, Part A and Title IV, Part A, to best address the LEA's particular needs. Under the *Alternative Uses of Funds Authority*, LEAs are able to use their Title II, Part A and Title IV, Part A, funds to pay for activities under any of the allowable uses for SRSA grant funds. (See Section 5211(a) of the ESEA, as amended, for more information.)

Subpart 2, Rural and Low-Income Schools (RLIS)

The Rural Education Initiative supports states and districts in meeting the unique needs of rural school districts that frequently lack the personnel and resources needed to compete effectively for federal competitive grants and receive formula funds in amounts too small to be effective in meeting their intended purposes.

Districts should consider the needs of their schools and district overall before completing the online application in the New Hampshire Grants Management System (GMS). Full consideration to the needs of schools and identifying the most effective activities to meet the needs of students is of primary concern. Consideration for “needs” over “wants” is critical. Category, priority, activity performance measures, and outcomes should align.

The New Hampshire Department of Education follows a two-step process for notifying school districts of their eligibility for RLIS funding on an annual basis. The first step is to alert schools that have dual eligibility for SRSA and RLIS once the US ED releases the master eligibility spreadsheet for the upcoming fiscal year. This allows dual eligible LEAs the opportunity to select which grant program best meets their needs for the upcoming fiscal year. This level of communication happens in support of the US ED emails that go out to each district from a no-reply email. Repetitive contact occurs for districts that have not yet committed to either program as the deadline approaches.

SEC. 5225. CHOICE OF PARTICIPATION. (20 U.S.C. 7351d)

(a) IN GENERAL. If a local educational agency is eligible for funding under both this subpart and subpart 1, such local educational agency may receive funds under either this subpart or subpart 1 for a fiscal year, but may not receive funds under both subparts for such fiscal year.

(b) NOTIFICATION. A local educational agency eligible for funding under both this subpart and subpart 1 shall notify the Secretary and the State educational agency under which of such subparts the local educational agency intends to receive funds for a fiscal year by a date that is established by the Secretary for the notification.

The second step occurs once the US ED issues the GAN letter for RLIS. Once the GAN letter is received, the NH DOE determines the allocation for each district based on the amount allocated to the state and after the state sets aside 5%. Next, all eligible LEAs receive an email that includes their allocation for that year along with information about how to apply for funding (see below). Then, the information is posted on our NH DOE website.

Allowable Uses of Funds

SEC. 5222. USES OF FUNDS. (20 U.S.C. 7351a)

Grant funds awarded to local educational agencies under this subpart shall be used for any of the following:

- (1) Activities authorized under part A of title I.
- (2) Activities authorized under part A of title II.

- (3) Activities authorized under title III.
- (4) Activities authorized under part A of title IV.
- (5) Parental involvement activities.

SEC. 6232 5232. SUPPLEMENT, NOT SUPPLANT. (20 U.S.C. 7355a)

Funds made available under subpart 1 or subpart 2 shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

SEC. 6233 5223. RULE OF CONSTRUCTION. (20 U.S.C. 7355b)

Nothing in this part shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this part.