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Flexibility for Equitable Per-Pupil Spending Under Title I, Part E of the Elementary and Secondary Education Act

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SUMMARY

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Flexibility for Equitable Per-Pupil Spending Under Title I, Part E of the Elementary and Secondary Education Act

The Every Student Succeeds Act (ESSA; P.L. 114-95) amended the Elementary and Secondary Education Act (ESEA) to add the "Flexibility for Equitable Per-Pupil Spending" authority as Title I, Part E. Under Title I-E, the Secretary of Education (the Secretary) has authority to provide local educational agencies (LEAs) with flexibility to consolidate eligible federal funds with state and local funding to create a "single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students." The Title I-E authority is applicable to LEAs that are implementing "weighted student funding" systems to establish budgets for, and allocate funds to, individual public schools. In general, weighted student funding systems base school funding on the number of pupils in each school in specified categories. Under these funding systems, weights are assigned to pupil characteristics that are deemed to be related to the costs of educating such pupils—such as being from a low-income family, being an English Learner (EL), or having a disability—and their educational program (such as grade level or career-technical education).

Eligible federal funds that may be consolidated in an LEA's weighted student funding system include those available under ESEA Title I-A (Education for the Disadvantaged), Supporting Effective Instruction (Title II-A), English Language Acquisition (Title III-A), and Student Support and Academic Enrichment (Title IV-A). No non-ESEA funds (e.g., funds available under the Individuals with Disabilities Education Act (IDEA) or the Perkins Career and Technical Education (Perkins) Act) may be consolidated. Once eligible federal funds are consolidated in a participating LEA's weighted student funding system, these funds are treated the same way as the state and local funds.

LEAs participating in Title I-E must have a funding system that uses weights or allocation amounts that provide "substantially more funding" than is allocated to other students to ELs, students from low-income families, and students with any other characteristic related to educational disadvantage that is selected by the LEA. The system must also ensure that each high-poverty school receives in the first year of the local flexibility demonstration agreement more per-pupil funding for low-income students than was received for low-income students from federal, state, and local sources in the year prior to entering into the agreement and at least as much per-pupil funding for ELs as was received for ELs from federal, state, and local sources in the prior year. The weighted student funding system must include all school-level actual personnel expenditures for instructional staff, including staff salary differentials for years of employment, and actual nonpersonnel expenditures in the LEA's calculation of eligible federal funds and state and local funds to be allocated to the school level.

The Title I-E authority is limited to 50 LEAs in school years preceding 2019-2020, but could be offered to any LEA from that year onward, if a "substantial majority" of the LEAs participating in previous years have met program requirements. In February 2018, the Secretary announced that the U.S. Department of Education (ED) would begin accepting applications from LEAs to enter into agreements under the Student-Centered Funding Pilot, which is how ED refers to the Title I-E authority. To date, only six LEAs have applied for the Title I-E authority, and only Puerto Rico has been approved to enter into an agreement. Puerto Rico will begin implementing the Title I-E flexibility authority during the 2019-2020 school year. Thus, no LEAs will have implemented weighted student funding systems under Title I-E prior to the 2019-2020 school year.

While it is unclear why relatively few LEAs have expressed interest in participating in the Title I-E authority, there are several possible explanations, some of which are summarized below:

- ED did not act to implement the Title I-E authority until February 2018, more than two years after the enactment of the ESSA.
- Local flexibility demonstration agreements are for a three-year period with a possible renewal. LEAs may not feel that the changes needed to implement the required weighted student funding system are worthwhile for a three-year period without knowing for certain if the authority would be extended.
- States and LEAs that currently have weighted student funding systems often include funds for students with disabilities and career and technical education in their systems. However, LEAs would be prohibited from consolidating IDEA or Perkins funds under the Title I-E authority.

- Public schools that operate schoolwide programs under Title I-A already have the authority to consolidate state, local, and certain federal funds, including those available under IDEA or Perkins.
- There may be concerns that some public schools may lose funds by switching to a weighted student funding system. As the Title I-E authority does not include any funding to ease the transition to the new funding system for schools that may be negatively affected, LEAs may be hesitant to participate.
- Under the ESEA Title I-A program, which accounts for over 76% of the eligible federal funds under Title I-E, funds have historically been provided to public schools with the highest concentrations of low-income students. Under the Title I-E authority, if an LEA chooses to consolidate its Title I-A funds it is likely that the distribution of Title I-A funds would be more diffuse.
- It is possible that some LEAs may view the consolidation of federal funds and the resulting redistribution of funds among public schools in the LEA as a step toward the portability of federal funds, whereby funds would be associated with individual students rather than schools and could ultimately follow them to any school of their choosing, including a private school.

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Introduction

The Every Student Succeeds Act (ESSA; P.L. 114-95) amended the Elementary and Secondary Education Act (ESEA) to add a new Part E to Title I entitled "Flexibility for Equitable Per-Pupil Spending." Under Title I-E, the Secretary of Education (the Secretary) has the authority to provide local educational agencies (LEAs) with flexibility to consolidate eligible federal funds with state and local funding to create a "single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students." The ESEA Title I-E authority is applicable to LEAs that are using or agree to implement "weighted student funding" systems to establish budgets for, and allocate funds to, individual public schools. These funding systems base school funding on the number of pupils in each school in specified categories. Under these funding systems, weights are assigned to a variety of pupil characteristics that are deemed to be related to the costs of educating such pupils—such as being from a low-income family, being an English Learner (EL), or having a disability. Weights are also assigned on the basis of students' educational program (grade level, career-technical education, gifted and talented, or others). School budgets are based on these weighted pupil counts, in contrast to treating all pupils in the same manner. Under weighted student funding policies, school allocations are based on weighted counts of students enrolled in them; therefore, if students transfer from one public school to another within the same LEA, their weighted budget level transfers with them, although possibly with a time lag.[1]

The Secretary is permitted to waive a wide range of requirements under various ESEA programs, including provisions related to the allocation of Title I-A funds to schools, for LEAs entering into an agreement under Title I-E if an existing ESEA requirement would prevent the LEA from implementing its weighted student funding system under the agreement. LEAs must, however, meet Title I-E requirements for allocations to schools with students from low-income families and ELs. LEAs must also continue to meet a number of Title I-A and other requirements, though in somewhat modified fashion in some instances.

The Title I-E authority is limited to 50 LEAs in school years preceding 2019-2020, but it could be offered to any LEA from that year onward, as long as a "substantial majority" of the LEAs participating in previous years have met program requirements.[2] In February 2018, the Secretary announced that she would begin accepting applications from LEAs to enter into local flexibility demonstration agreements under the Student-Centered Funding Pilot, which is how the U.S. Department of Education (ED) refers to the Title I-E authority. To date, six LEAs have applied for the Title I-E authority, and only Puerto Rico[3] has been approved to enter into an agreement. Puerto Rico will begin implementing a weighted student funding system using the Title I-E flexibility authority during the 2019-2020 school year. Thus, no LEAs will have implemented weighted student funding systems under Title I-E prior to the 2019-2020 school year.

To provide context for the Title I-E authority, this report begins with a brief discussion of how public elementary and secondary education is financed at the state and local levels. It focuses on

[1] It is inherent in the weighted student funding concept that if students transfer between schools in the same LEA, their weighted funding level also transfers. However, depending on the specific timing and structure of relevant enrollment counts and school allocation procedures, there might be a time lag for this transfer of funds of up to a school year. This is in contrast to more-traditional school funding strategies, such as assigning a staff member for a certain number of students. Under this scenario, if a student changes schools it may or may not affect staffing levels and, as a result, funding in either school.

[2] ESEA Title I, Part E, Section 1501(c)(3).

[3] The Commonwealth of Puerto Rico functions as a single LEA.

the primary types of state school finance programs and school finance "equalization," including an overview of weighted student funding systems. For a more detailed discussion of state and local financing of public schools, see CRS Report R45827, *State and Local Financing of Public Schools*.

Building on this background, the remainder of the report focuses on the Title I-E authority. First, there is an examination of the Title I-E statutory authority and related non-regulatory guidance provided by ED. This is followed by a discussion of current Title I-E implementation issues. The next section considers possible interactions between the Title I-E authority and other ESEA programs, particularly Title I-A. The report concludes with discussion of some issues that may arise related to the Title I-E authority.

Overview of Financing for Public Elementary and Secondary Schools in the United States

This section provides a brief overview of funding sources for public elementary and secondary education. It also discusses school finance "equalization," including an examination of the use of weighted student funding at the state and LEA levels.[4]

Sources of Funding for Public Elementary and Secondary Education

The funding of public elementary and secondary schools in the United States involves a combination of local, state, and federal government revenues, in proportions that vary substantially both across and within states. Overall, a total of $678.4 billion in revenues was devoted to public elementary and secondary education in the 2015-16 school year (the latest year for which detailed data on revenues by source are available).[5] State governments provided $318.6 billion (47.0%) of these revenues, local governments provided $303.8 billion (44.8%), and the federal government provided $56.0 billion (8.3%). Over the last several decades, the share of public elementary and secondary education revenues provided by state governments has increased, the share provided by local governments has decreased, and the federal share has varied within a range of 6.0% to 12.7%. The primary source of local revenues for public elementary and secondary education is the property tax, while state revenues are raised from a variety of sources, primarily personal and corporate income and retail sales taxes, a variety of "excise" taxes such as those on tobacco products and alcoholic beverages, plus lotteries in several states.

All states (but not the District of Columbia)[6] provide a share of the total revenues available for public elementary and secondary education. This state share varies widely, from approximately

[4] As mentioned previously, CRS Report R45827, *State and Local Financing of Public Schools* provides more information about the financing of public elementary and secondary education.

[5] U.S. Department of Education, National Center for Education Statistics, *Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2015-16 (Fiscal Year 2016)*, December 2018, p. 2, https://nces.ed.gov/pubs2019/2019301.pdf.

[6] Funds provided for public education by the District of Columbia are considered local funds rather than state funds. U.S. Department of Education, National Center for Education Statistics, *Revenues and Expenditures for Public Elementary and Secondary Education: School Year 2015-16 (Fiscal Year 2016)*, December 2018, p. 4, https://nces.ed.gov/pubs2019/2019301.pdf.

25% in Illinois to almost 90% in Hawaii and Vermont. The programs through which state funds are provided to LEAs for public elementary and secondary education have traditionally been categorized[7] into five types of programs: (1) Foundation Programs,[8] (2) Full State Funding Programs,[9] (3) Flat Grants,[10] (4) District Power Equalizing,[11] and (5) Categorical Grants.[12,13] Of these, Foundation Programs are the most common,[14] although many states use a combination of program types.

School Finance "Equalization"

A goal of all of the various types of state school finance programs is to provide at least some limited degree of "equalization" of spending and resources, and/or local ability to raise funds, for public elementary and secondary education across all of the LEAs in the state. Such programs often establish target levels of funding "per pupil." The "pupil" counts involved in these programs may simply be based on total student enrollment as of some point in time, or they may be a "weighted" count of students, taking into account variations in a number of categories—special pupil needs (e.g., disabilities, low family income, limited proficiency in English), grade levels, specific educational programs (e.g., career and technical education), or geographic considerations (e.g., student population sparsity or local variation in costs of providing education).

State Use of Weighted Student Funding

A review of the individual state entries in a recent survey[15] is an instructive indication of the extent to which weighted student counts are used to determine funding levels under current state programs. It shows that at least 32 states used some degree of weighting of the pupil counts used to calculate state aid to LEAs. Most of these states have policies that assign numeric weights to different categories of pupils, while in other states the school finance program specifies different

[7] See, for example, L. Dean Webb, Arlene Matha, and K. Forbis Jordan, *Foundations of American Education*, 4th ed. (Upper Saddle River, NJ: Merrill Prentice Hall Publishers, 2003), pp. 420-425; and Kern Alexander, Richard G. Salmon, and F. King Alexander, "State School Funding Methods," in *Financing Public Schools: Theory, Policy, and Practice* (New York, NY: Routledge Publishers, 2015). Also see Deborah A. Verstegen, *A Quick Glance at School Finance: A 50 State Survey of School Finance Policies*, 2018, https://schoolfinancesdav.wordpress.com/ (hereinafter referred to as Verstegen (2018)).

[8] A typical Foundation Program includes required local tax effort, state equalization aid, and local leeway funds. Under a Foundation Program, the state establishes an annual target (often a "minimum") level of funding per pupil applicable to all of the state's LEAs.

[9] Full State Funding is only found in Hawaii. Under such a policy, there are virtually no local revenues. States such as Vermont and New Mexico come close to this category through programs that involve very limited local funding sources.

[10] This type of program provides grants of an equal amount per pupil to all LEAs in a state, regardless of the level of taxable property wealth in those localities or specific pupil characteristics.

[11] This program type focuses specifically on equalizing the ability of different LEAs in a state to raise revenues from their available taxable property.

[12] Categorical Grants provide funding based on the number of students with specific needs (students with disabilities or limited English proficiency, from low-income families, etc.) or in particular educational programs (career and technical programs, etc.).

[13] Other organizations have added additional categories for state programs, such as being "student based," "resource based," or "program based." These categorizations are not discussed in this report. For more information, see, for example, Ed Build, *FundEd: State Education Funding Policies for all 50 States*, 2019, http://funded.edbuild.org/.

[14] Kern Alexander, Richard G. Salmon, and F. King Alexander, *Financing Public Schools: Theory, Policy, and Practice* (New York, NY: Routledge Publishers, 2015), p. 379.

[15] Verstegen (2018).

target dollar amounts for specific categories of pupils, which is mathematically equivalent to assigning weights.[16]

Many states also adjust pupil weights for those in selected grade levels, geographic areas, or programs. Weights are often higher for pupils in the earliest grades or in grades 9-12, though policies vary widely, and a few states prioritize other grade levels such as 7-9. The population sparsity weights recognize the diseconomies of scale in areas with especially small LEAs or schools. The career and technical education weights recognize the extra costs of these types of programs.

Application of Weighted Student Funding in LEA Programs to Finance Individual Schools

As seen above, the concept of pupil weighting is often applied in determining funding levels for LEAs under state school finance programs. After state funds reach LEAs, they are combined with locally raised funds to provide educational resources to students in individual schools. It is this stage in the distribution of educational resources that is relevant to the weighted student funding authority in ESEA Title I, Part E (see subsequent discussion of Title I-E). Below is an overview of both conventional intra-LEA budgeting policies and the use of weighted student funding at the LEA level.

Conventional Intra-LEA Budgeting Policies

Under the traditional, and still most common, method of allocating resources within LEAs, there are no specific budgets for individual schools. Available state and local funds are managed centrally, by LEA staff, and various resources—facilities, teachers, support staff, school administrators, instructional equipment, etc.—are assigned to individual schools. In this process, LEA staff typically apply LEA-wide standards such as pupil-teacher ratios or numbers of various categories of administrative and support staff to schools of specific enrollment sizes and grade levels. While levels of expenditures per pupil may be determined for individual schools under these budgetary systems, they are calculated "after the fact," based on whatever staff and other resources have been assigned to the school. And while standard ratios of pupils per teacher or other resource measures may be applied LEA-wide in these situations, substantial variations in the amounts actually spent on teachers and other resources in each school can result from systematic variations in teacher seniority and other factors. These variations might be masked by local policies to apply average salaries, rather than specific actual salaries, in school accounting systems.[17] Further, under traditional school budgeting policies there is little or no immediate or direct adjustment of resources or spending when students transfer from one school to another.

Weighted Student Funding Concept Applied to Intra-LEA Budgeting for Schools

In contrast to traditional, fully centralized budgeting and accounting policies for public schools within LEAs, a number of LEAs have in recent years applied the weighted student funding concept to developing and implementing individual school budgets. These policies are not

[16] In addition, a few states apply weights, based on pupil categories, to "instructional units" in their state school finance formulas; this can also be mathematically equivalent to weighting pupil types directly. See Alexander et al., pp. 389-390.

[17] See, for example, Marguerite Roza, *Educational Economics: Where Do School Funds Go?* (Washington, DC: Rowman & Littlefield Publishers, 2010), particularly pp. 5-15.

currently applied to any federal program funds and are applied only to a portion of the state and local revenues received by these LEAs, as they continue to centrally administer and budget for various activities such as school facility construction, operations and maintenance, employee benefits, transportation, food services, and many administrative functions. The LEAs develop school budgets for teachers, support staff, and at least some other resources on the basis of weighted counts of the students currently enrolled in each school, and adjust these budgets when students transfer from one school to another.[18]

CRS is not aware of any comprehensive listing of all of the LEAs that are currently implementing weighted student funding policies for intra-LEA allocations to schools. The use of weighted student funding within LEAs is a relatively new practice in most cases,[19] and comprehensive research on its effects is not yet available. However, Dr. Marguerite Roza and her team at the Edunomics Lab at Georgetown University were awarded a three-year grant by the Institute of Education Sciences at ED to study whether spending patterns change with weighted student funding systems and what the effects of these systems are on equity and achievement, particularly for poor and at-risk students.[20] An interview with Dr. Roza based on their preliminary findings revealed that nearly all 19 LEAs in the study that use weighted student funding systems cite equity (89%) and flexibility for school principals (79%) as a main reason for implementing such systems.[21] Dr. Roza also noted that there is not a "standard" weighted student funding model used by LEAs and that LEAs differ with respect to the share of their total budgets allocated through weighted student funding systems, how base amounts are defined, and the weights assigned to various categories of students. She also noted that almost all of the LEAs in their study continue to use average salaries in their budgeting rather than actual personnel expenditures.

ESEA Title I-E

The remainder of this report focuses on the new authority for flexible per-pupil spending made available under ESEA Title I-E. The discussion begins with an examination of the Title I-E statutory requirements and implementation of that authority. This is followed by an analysis of how these requirements may interact with ESEA programmatic requirements for several programs, with a focus on interactions with the Title I-A program. The report concludes with discussion of possible issues related to the Title I-E authority.

[18] For more information, see Edunomics, *Student Based Allocation*, https://edunomicslab.org/our-research/student-based-allocations; and ERS, *Transforming School Funding: A Guide to Implementing Student-Based Budgeting*, https://www.erstrategies.org/tap/implementing_student-based_budgeting.

[19] Over the past two decades, dozens of large LEAs (i.e., New York City, Boston, Denver, Houston, and Chicago) have shifted to using weighted student funding systems to distribute a portion of their total budget. U.S. Department of Education, Institute of Education Sciences, *Weighted Student Funding Is On The Rise, Here's What We Are Learning.*, May 9, 2019, https://ies.ed.gov/blogs/research/post/weighted-student-funding-is-on-the-rise-here-s-what-we-are-learning.

[20] U.S. Department of Education, Institute of Education Sciences, How Do Spending Patterns Change with Weighted Student Funding (WSF), and What's Happening to Equity and Achievement, Particularly for Poor and At-Risk Students?, https://ies.ed.gov/funding/grantsearch/details.asp?ID=2063.

[21] U.S. Department of Education, Institute of Education Sciences, *Weighted Student Funding Is On The Rise, Here's What We Are Learning.*, May 9, 2019, https://ies.ed.gov/blogs/research/post/weighted-student-funding-is-on-the-rise-here-s-what-we-are-learning.

Title I-E Authority

This section discusses the requirements related to the Title I-E authority. All of the statutory provisions are included in ESEA, Section 1501.

Overview

The purpose of the Title I-E authority is to provide LEAs with flexibility to consolidate eligible federal funds with state and local funding to create a "single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students." Once consolidated in a participating LEA's weighted student funding system, the eligible federal funds are treated the same way as the state and local funds. There are no required uses associated with the eligible federal funds provided that the expenditures are "reasonable and necessary"[22] and the purposes of the eligible federal programs for which funds have been consolidated are met.

Federal Funds Eligible for Consolidation

Eligible federal funds that may be consolidated under the Title I-E authority include ESEA funds received by LEAs under the programs listed below.[23] Programs that provide formula grant funding to LEAs directly or via the state educational agency (SEA) are denoted by an asterisk.

- Title I-A*
- Migrant Education (Title I-C)
- Neglected and Delinquent (Title I-D-2)*[24]
- Supporting Effective Instruction (Title II-A)*
- Teacher and School Leader Incentive Program (Title II-B-1)
- Comprehensive Literacy State Development Grants (Title II-B-2)
- Innovative Approaches to Literacy (Title II-B-2)
- School Leader Recruitment and Support (Title II, Section 2243)
- English Language Acquisition (Title III)*
- Student Support and Academic Enrichment (Title IV-A)*
- Small, Rural School Achievement Program (Title V-B-1)*
- Rural and Low-Income School Program (Title V-B-2)*[25]

[22] U.S. Department of Education, *Why should your school district apply for the Student-centered Funding pilot?*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/scfbenefits.docx.

[23] Statutory language states that Title II-B programs are eligible programs. CRS examined each of the programs included in Title II-B to identify those providing funds to LEAs. Title II-B programs that do not appear to provide funding to LEAs include Presidential and Congressional Academies for American History and Civics (Title II-B-3, Section 2232), National Activities for American History and Civics Education (Title II-B-3, Section 2233), Supporting Effective Educator Development (Title II-B-4, Section 2242), and STEM Master Teacher Corps (Title II-B-4, Section 2245).

[24] When awarding subgrants to eligible LEAs, SEAs have the option of awarding funds by formula or through a discretionary grant process. For more information, see U.S. Department of Education, *Title I, Part D: Neglected, Delinquent, and At-Risk Youth, Nonregulatory Guidance*, 2006, Item M-1, https://www2.ed.gov/policy/elsec/guid/nord.doc.

[25] Funds provided under the Rural and Low-Income School Program may be provided to LEAs by formula or competition at the state educational agency's discretion.

In general, a participating LEA may use the consolidated federal funds without having to meet the specific requirements of each of the programs whose funds were consolidated provided the LEA is able to demonstrate the funds allocated through its weighted student funding systems address the purposes of each of the federal programs. For example, under the Student Support and Academic Enrichment (SSAE) grant program, LEAs must use funds for well-rounded education, safe and healthy students, and technology purposes. If SSAE funds were consolidated with state and local funds under a weighted student funding system, then the participating LEA would have to demonstrate that the activities being implemented in its schools meet these purposes. However, the LEA would not have to meet SSAE grant requirements about how much funding was used for each purpose. If a participating LEA consolidates funds from an eligible federal program that provides competitive grants to LEAs into its weighted student funding system, it is still required to carry out the scope and objectives, at a minimum, as described in the LEA's approved application.[26] The majority of federal funds available for LEAs to use under the Title I-E authority are provided through formula grants.

LEAs applying for funding flexibility under Title I-E are not required to include funds from every eligible federal program in their weighted student funding systems. If a participating LEA opts not to include some of the eligible federal funds in its system, all current statutory and regulatory requirements will continue to apply to those funds. It should be noted that no non-ESEA funds, such as those available under the Individuals with Disabilities Education Act (IDEA) or Perkins Career and Technical Education (CTE) Act, are considered eligible federal funds for the purposes of the Title I-E authority.

Secretarial Authority

Under the authority granted under Title I-E, the Secretary may enter into a local flexibility demonstration agreement for up to three years with an LEA that is selected to participate and meets the required terms of the agreement (hereinafter referred to as a participating LEA). A participating LEA may consolidate and use funds as stated in the agreement to develop and implement a school funding system based on weighted student funding allocations for low-income and otherwise disadvantaged students.

Except as discussed below, the Secretary is authorized in entering into these agreements to waive any ESEA provision that would prevent a participating LEA from using eligible federal funds in its weighted student funding system, including Title I-A requirements regarding the allocation of Title I-A funds to public schools (Section 1113(c)).[27] Thus, the waiver authority granted to the Secretary for the purposes of Title I-E is broader than the general waiver authority available under Section 8401. Under the latter, the Secretary is prohibited from waiving provisions such as the allocation or distribution of funds to grantees.

However, there are several statutory requirements that participating LEAs must agree to continue to meet. For example, each participating LEA must agree to meet the three Title I-A fiscal

[26] U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, May 31, 2018, Item A-11, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[27] For information about how Title I-A funds are allocated to schools, see CRS Report R44461, *Allocation of Funds Under Title I-A of the Elementary and Secondary Education Act*.

accountability requirements in Section 1118, which include maintenance of effort (Section 1118(a)),[28] supplement, not supplant (Section 1118(b)), and comparability (Section 1118(c)).[29]

The maintenance of effort provision requires LEA expenditures of state and local funds to be at least 90% of what they were for the second preceding fiscal year for public elementary and secondary education. The use of either a weighted student funding system or a traditional funding system should not directly affect the amount of state and local funds spent on public education, so the use of a weighted student funding system does not present any problems with meeting this requirement.

The supplement, not supplant provision requires that Title I-A funds be used so as to supplement and not supplant state and local funds that would otherwise be provided to Title I-A schools. According to ED, an LEA may presume that this requirement has been met if the LEA "implements its system so that the State and local funds that are included in the system include the funds that Title I, Part A schools would have received if they were not Title I, Part A schools."[30]

Comparability requires that a comparable level of services be provided with state and local funds in Title I-A schools compared with non-Title I-A schools prior to the receipt of Title I-A funds. Many LEAs currently meet this provision using a pupil-teacher ratio to compare Title I-A and non-Title I-A schools. It is possible that they may not be able to continue to use this method under a weighted student funding system.[31] According to ED, if an LEA demonstrates comparability based on the state and local funds received by each Title I-A school compared to non-Title I-A schools through an equitable funding system, the LEA's weighted student funding system would "constitute per se comparability."[32] Therefore, according to ED, an LEA might find it "advantageous to demonstrate comparability based on funds rather than a staff-student ratio."[33]

The identification of public schools for purposes of the supplement, not supplant and comparability fiscal accountability provisions requires the identification of public schools as Title I-A schools and their Title I-A funding levels under the current structure of the program. Thus, Title I-A provisions that require LEAs to determine which public schools would receive Title I-A funds and the amount that each school would receive[34] cannot be waived by the Secretary, even though funds would not be distributed based on these determinations if an LEA chose to include Title I-A funds in its weighted student funding system. However, as previously mentioned, an

[28] As Section 1118 references Section 8521, by default, an LEA must also agree to meet the requirements of Section 8521.

[29] Additional information about the Title I-A fiscal accountability requirements is available in CRS In Focus IF10405, *Fiscal Accountability Requirements That Apply to Title I-A of the Elementary and Secondary Education Act (ESEA)*.

[30] U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item A-3, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[31] These ratios are often based on average teacher salaries as opposed to actual personnel expenditures, including staff salary differentials for years of employment. The latter are required to be used in weighted student funding systems under the Title I-E authority.

[32] U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item A-3, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[33] Ibid.

[34] Section 1113(a) and (b).

LEA does not have to distribute Title I-A funds based on the current distribution requirements[35] if the LEA includes Title I-A funds in its weighted student funding system.

In addition to meeting Title I-A fiscal accountability requirements and provisions related to the identification of Title I-A schools and their Title I-A funding levels, participating LEAs must continue to meet Title I-A program requirements related to the participation of eligible children enrolled in private schools as well as the Section 8501 requirements related to the participation of children enrolled in private schools in other ESEA programs.[36] Prior to allocating funds through its weighted student funding system, each participating LEA must determine the amount of funds from each eligible federal program whose funds have been consolidated that must be reserved to provide equitable services under that program. For example, under Title I-A a participating LEA must still determine the amount of funding that would have been provided to a public school attendance area if the LEA was allocating Title I-A funds in accordance with Section 1113(c). Based on this funding level, the LEA must determine how much Title I-A funding needs to be reserved for serving eligible private school students. The participating LEA must then follow current procedures with respect to consulting with private school officials and providing needed services under each program to eligible private school students.[37] Remaining Title I-A funds not reserved at the LEA level would be distributed through the LEA's weighted student funding formula.

Participating LEAs are also required to meet all applicable federal civil rights laws (e.g., Title VI of the Civil Rights Act) and all IDEA requirements. These requirements may not be waived by the Secretary.

In addition to the requirements in statutory language, there are several other requirements that the Secretary has determined cannot be waived.[38] For example, participating LEAs must continue to meet state-level requirements, such as implementing state academic standards, administering annual state assessments, meeting educational accountability requirements, and issuing an annual local report card, including reporting per-pupil expenditures by school. In addition, state-level requirements delegated by a state to an LEA as part of a subgrant agreement cannot be waived. For example, if a participating LEA is delegated state responsibilities for identifying migratory children and transferring student records, these responsibilities must be met. The Secretary has also determined that a participating LEA that has schools identified for comprehensive or targeted support and improvement under Section 1111 must ensure that such schools develop and implement improvement plans. If a participating LEA chooses to offer public school choice as an intervention in schools identified for comprehensive support and improvement, however, the LEA would no longer be subject to the limitation on funding for transportation.[39] A participating LEA

[35] Section 1113(c).

[36] Section 8501 provisions apply to Migrant Education (Title I-C), Supporting Effective Instruction (Title II-A), English Language Acquisition (Title III-A), Student Support and Academic Enrichment (Title IV-A), 21st Century Community Learning Centers (Title IV-B), and Section 4631 with respect to the Project School Emergency Response to Violence (Project SERV) program.

[37] For more information, see U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item A-4, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[38] For more information, see U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item A-2, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[39] Section 1111(d)(1)(D)(v) limits the amount of funding an LEA may use for transportation to support public school choice as an intervention strategy for schools identified for comprehensive support and improvement to 5% of the LEA's Title I-A allocation. Under an LEA's weighted student funding system, the school would no longer be receiving

is also required to continue addressing the disparities that result in low-income and minority students in Title I-A schools being taught at higher rates than other students by inexperienced, ineffective, or out-of-field teachers.[40] The Secretary has also noted that a participating LEA may have to meet additional ESEA requirements to ensure that it is meeting the purpose of each eligible federal program included in its weighted student funding system.[41]

Selection of LEAs

The Secretary is permitted to enter into local flexibility demonstration agreements with up to 50 LEAs having approved applications through the 2018-2019 school year. Each interested LEA must do three things to be selected:

1. submit a proposed local flexibility demonstration agreement in accordance with the requirements of Section 1501,
2. demonstrate that the submitted agreement meets all statutory requirements, and
3. agree to meet the continued demonstration requirements included in Section 1501.

Beginning with the 2019-2020 school year, the Secretary is permitted to extend the funding flexibility to any LEA that submits and has approved an application that meets the required terms that apply to local flexibility demonstration agreements provided that a "substantial majority" of LEAs that entered into agreements meet two sets of requirements as of the end of the 2018-2019 school year. First, they must meet the requirements for the weighted student funding system included in Section 1501 (discussed below). Second, they must demonstrate annually to the Secretary that compared to the previous fiscal year, no high-poverty school served by the LEA received less per-pupil funding for low-income students or less per-pupil funding for English learners. A high-poverty school is defined as a school in the highest two quartiles of schools served by the LEA based on the enrollment of students from low-income families. As will be discussed in subsequent sections, six LEAs applied for Title I-E authority, and one LEA, Puerto Rico, was approved to implement a local flexibility demonstration agreement for the 2018-2019 school year,[42] but it will not implement the funding flexibility until the 2019-2020 school year.[43] Thus, no LEAs will have implemented weighted student funding systems under Title I-E prior to the 2019-2020 school year.

Local Flexibility Demonstration Agreement Application

LEAs interested in entering into a local flexibility demonstration agreement to consolidate eligible federal funds with state and local funds in a weighted student funding system must

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Title I-A specific funding, as funds would be consolidated. U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item A-2, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[40] The provision related to teacher disparities is included in Section 1112(b)(2).

[41] For more information, see U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item A-2, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[42] U.S. Department of Education, *Student-Centered Funding Pilot Submissions*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/submissions.html.

[43] Letter from Frank Brogan, U.S. Department of Education, Assistant Secretary for Elementary and Secondary Education, to The Honorable Julia Keleher, Secretary of Education, Puerto Rico, January 3, 2019, https://www2.ed.gov/admins/lead/account/stateplan17/primplementationtimingltr.html.

submit an application to the Secretary. To assist in the review of applications, the Secretary may establish a peer review process.[44]

The application must include a description of the LEA's weighted student funding system, including the weights that will be used to allocate funds. It must also include information about the LEA's legal authority to use state and local funds in the system.[45] The application must address the specific system requirements included in Section 1501 (discussed below) and discuss how the system will support the academic achievement of students, including low-income students, the lowest-achieving students, ELs, and students with disabilities.

The application must detail the funding sources, including eligible federal funds and state and local funds, that will be included in the weighted student funding system. The LEA must provide a description of the amount and percentage of total LEA funding (eligible federal funds, state funds, and local funds) that will be allocated through the system.[46] The application must also state the per-pupil expenditures of state and local education funds for each school served by the LEA for the previous fiscal year.[47] In making this determination, the LEA is required to base the per-pupil expenditures calculation on actual personnel expenditures, including staff salary differentials for years of employment, and actual nonpersonnel expenditures. The LEA must also provide the per-pupil amount of eligible federal funds that each school served by the agency received in the preceding fiscal year, disaggregated by the programs supported by the eligible federal funds.[48] The application must include a description of how the system will ensure that for any eligible federal funds allocated through it, the purposes of the federal programs will be met, including serving students from low-income families, ELs, migratory children, and children who are neglected, delinquent, or at risk, as applicable.

An LEA is required to provide several assurances in its application. First, it must provide an assurance that it has developed and will implement the local flexibility demonstration agreement in consultation with various stakeholders including teachers, principals, other school leaders, administrators of federal programs affected by the agreement, and community leaders. Second, it must provide an assurance that it will use fiscal controls and sound accounting procedures to ensure that the eligible federal funds included in the weighted student funding system are properly disbursed and accounted for. Third, as previously discussed, it must agree to continue to meet the requirements of ESEA Sections 1117, 1118, and 8501. Finally, it must provide an

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[44] The Secretary has used a peer review process to evaluate submitted applications. For more information, see U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item A-13, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[45] LEAs do not have to provide documentation of such authority in their applications but should have evidence to support their claim. U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item C-2, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[46] For purposes of the application, this information must be provided for the first year of the program and updated for years two and three. (U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item C-3, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.)

[47] ED has provided LEAs with two options for meeting this requirement. One is based on providing data from the fiscal year immediately preceding the year for which the LEA is applying to implement its weighted student funding system under Section 1501. The other is based on providing data from two years prior to the year for which the LEA is applying to implement its system under Section 1501. For more information, see U.S. Department of Education, *Student-Centered Funding Webinar*, February 2018, pp. 43-44, https://www2.ed.gov/policy/elsec/leg/essa/scfp/scf.pdf.

[48] U.S. Department of Education, *Student-Centered Funding Webinar*, February 2018, pp. 43-44, https://www2.ed.gov/policy/elsec/leg/essa/scfp/scf.pdf.

assurance that it will meet the requirements of all applicable federal civil rights laws (e.g., Title VI of the Civil Rights Act) when implementing its agreement and consolidating and using funds under that agreement.

Requirements for the Weighted Student Funding System

In order to enter into a local flexibility demonstration agreement, each LEA must have a weighted student funding system that meets specific requirements. The system must allocate a "significant portion of funds," including eligible federal funds and state and local funds, to the school level based on the number of students in a school and an LEA-developed formula that determines per-pupil weighted amounts. The system must also allocate to schools a "significant percentage" of all of the LEA's eligible federal funds and state and local funds.[49] The percentage must be agreed upon during the application process, and must be sufficient to carry out the purpose of the agreement and meet its terms. In addition, the LEA must demonstrate that the percentage of eligible federal funds and state and local funds that are not allocated through the LEA's system does not undermine or conflict with the requirements of the agreement.

The LEA's weighted student funding system must use weights or allocation amounts that provide "substantially more funding" than is allocated to other students to ELs, students from low-income families, and students with any other characteristic related to educational disadvantage that is selected by the LEA. The system must also ensure that each high-poverty school receives in the first year of the agreement more per-pupil funding from federal, state, and local sources for low-income students than was received for low-income students from in the year prior to entering into an agreement and at least as much per-pupil funding from federal, state, and local sources for ELs as was received for ELs in the year prior to entering into an agreement.[50] The system must include all school-level actual personnel expenditures for instructional staff, including staff salary differentials for years of employment, and actual nonpersonnel expenditures in the LEA's calculation of eligible federal funds and state and local funds to be allocated to the school level.

After funds are allocated to schools through the weighted student funding formula, the LEA is required to determine or "charge" each school for the per-pupil expenditures of eligible federal funds and state and local funds. This determination must include actual personnel expenditures, including staff salary differentials for years of employment, for instructional staff and actual nonpersonnel expenditures. By charging schools based on actual costs, an LEA can ensure that schools do not receive less funding than the weighted student funding system would indicate the

[49] Neither statutory language nor non-regulatory guidance offers further clarification of the difference between a "significant portion" of funds and a "significant percentage" of funds. As discussed in this report, however, the requirements related to the significant portion of funds are different than those related to the significant percentage of funds.

[50] In its FAQ document, ED notes that the comparison between the amount received in the first year of the demonstration agreement should be compared to the amount received in the "year immediately preceding the first year of the demonstration agreement." This clarification addresses a situation in which an LEA applies for a demonstration agreement but is unable to implement it in the school year immediately following the year in which the application was approved; U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item C-4, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

school should receive, even if it has lower actual expenditures in some categories compared to the LEA average.[51, 52]

Finally, as discussed by ED, LEAs entering into a local flexibility demonstration agreement must agree to cooperate with ED in monitoring and technical assistance activities.[53] They must also collect and report information that the "Secretary may reasonably require" in order to conduct the program evaluation discussed below.[54]

Continued Demonstration Requirements

Each participating LEA must demonstrate to the Secretary on an annual basis that, as compared to the previous year, no high-poverty school served by the LEA received (1) less per-pupil funding for low-income students or (2) less per-pupil funding for ELs from eligible federal funds and state and local funds. On an annual basis, each participating LEA is also required to make public and report to the Secretary for the preceding fiscal year the per-pupil expenditures of eligible federal funds and state and local funds for each school served by the LEA, disaggregated by each quartile of students attending the school based on student level of poverty and by each major racial/ethnic group. Per-pupil expenditure data must include actual personnel expenditures, including staff salary differentials for years of employment, and actual nonpersonnel expenditures. Each year, the participating LEA must also make public the total number of students enrolled in each school served by the agency and the number of students enrolled in each school disaggregated by economically disadvantaged students, students from major racial/ethnic groups, children with disabilities, and ELs. Any information reported or made public by the participating LEA to comply with these requirements shall only be reported or made public if it does not reveal personally identifiable information.

Renewal of Local Flexibility Demonstration Agreement

The Secretary is authorized to renew local flexibility demonstration agreements for additional three-year terms if the participating LEA (1) has met the requirements for weighted student funding systems and the continued demonstration requirements and (2) has a "high likelihood" of continuing to meet these requirements. The Secretary must also determine that renewing the agreement is in the interest of students served by programs authorized under Title I and Title III of the ESEA.

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[51] This is in contrast to conventional intra-LEA budgeting policies where determinations of expenditures per pupil are calculated after the fact, based on whatever staff and other resources have been assigned to the school based on staff-student ratios, for example.

[52] ED recognizes that using actual personnel expenditures is not common practice in many LEAs and allows an LEA to rely on salary bands for school-level budgeting in its application. In addition, ED notes that an LEA may need to propose a method to ensure that each individual school receives the full amount of funding that it generates through the formula by making adjustments to school-level budgets once actual expenditures are known. In determining whether the appropriate level of funding is being provided to high-poverty schools, this evaluation can be made following any adjustments to school-level budgets. For more information, see U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item C-10, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[53] U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item C-7, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[54] U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item D-1, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

Noncompliance

After providing notice and opportunity for a hearing, the Secretary may terminate a local flexibility demonstration agreement if there is evidence that the LEA has failed to comply with the terms of the agreement, the requirements of the system, and continued demonstration requirements. If the LEA believes the Secretary has erred in making this determination for statistical or other substantive reasons, it may provide additional evidence that the Secretary shall consider before making a final determination.

Program Evaluation

From the amount reserved for evaluation under Section 8601, the Secretary, acting through the Director of the Institute of Education Sciences, shall consult with the relevant program office at ED to evaluate the implementation of local flexibility demonstration agreements and their effect on improving the equitable distribution of state and local funding and increasing student achievement. The statutory language does not require an evaluation of the distribution of eligible federal funds.

Administrative Expenditures

Each participating LEA may use for administrative purposes an amount of eligible federal funds that is not more than the percentage of funds allowed for such purposes under each eligible federal program.

Program Implementation

On February 2, 2018, the Secretary announced that she was using the authority made available under Title I-E to launch a Student-Centered Funding Pilot.[55] LEAs interested in using the flexibility for the 2018-2019 school year were required to submit an application by March 12, 2018. LEAs interested in using the flexibility for the 2019-2020 school year had to apply by July 15, 2018.[56]

First Application Round

Five LEAs submitted applications for the local flexibility demonstration agreement by March 12, 2018: Wilsona School District (CA), Indianapolis Public Schools (IN), Salem-Keizer School District 24J (OR), Upper Adams School District (PA), and the Puerto Rico Department of Education.[57] Puerto Rico's application was approved on June 28, 2018.[58] While Puerto Rico

[55] U.S. Department of Education, "Secretary DeVos Announces New Student-Centered Funding Pilot Program," press release, February 2, 2018, https://www.ed.gov/news/press-releases/secretary-devos-announces-new-student-centered-funding-pilot-program.

[56] For more information about the application deadlines, see U.S. Department of Education, Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions, Item B-9, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[57] U.S. Department of Education, *Student-Centered Funding Pilot Submissions*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/submissions.html.

[58] Letter from Frank Brogan, U.S. Department of Education, Assistant Secretary for Elementary and Secondary Education, to The Honorable Julia Keleher, Secretary of Education, Puerto Rico, June 28, 2018, https://www2.ed.gov/admins/lead/account/stateplan17/prapprovalstateplanltr.html; and U.S. Department of Education, *Terms of Local Flexibility, Demonstration Agreement for Student-Centered Funding Authorized by Section 1501 of the ESEA: Puerto*

initially intended to implement a weighted student funding system that consolidated eligible federal funds with state and local funds during the 2018-2019 school year, its implementation has been delayed until the 2019-2020 school year.[59] As of July 2019, none of the other applicants have had their applications approved.

Second Application Round

Only the Roosevelt School District in Arizona applied by the July deadline to use the flexibility for the 2019-2020 school year.[60] As of July 2019, its application had not yet been approved.[61]

Recent Budget Requests

This section provides an overview of ED's budget requests for FY2018 through FY2020[62] as they relate to the Title I-E authority.

FY2018 Budget Request

In its FY2018 budget request, ED requested that it be permitted to use up to $1 billion of Title I-A funding to support weighted student funding systems and public school choice.[63] The funds would have been used to make Furthering Options for Children to Unlock Success (FOCUS) grants. One use of the FOCUS grant funds would have been to support LEAs in establishing or expanding weighted student funding systems if they agreed to combine their funding flexibility with an open enrollment policy for public school choice. ED proposed that it would establish the requirements for such open enrollment systems with a focus on "maximizing opportunities for all students, particularly those from low-income families, to select, attend, and succeed in a high-quality public school."[64] The proposal suggested that the requirements could include, for example, making school information available to parents in a timely way, supporting school integration efforts, arranging or paying for transportation to schools of choice, and giving priority to low-income students or students in schools identified for improvement under Title I-A. ED also proposed allowing participating LEAs to use the funds to provide temporary payments to individual schools affected by the transition to a weighted funding system. In addition, the proposal included an option for ED to establish "tiers based on LEA student enrollments"[65] and give special consideration to LEAs proposing to serve at least one rural school or to consortia of

Rico Department of Education, https://www2.ed.gov/policy/elsec/leg/essa/scfp/prdeagreement.pdf.

[59] Letter from Frank Brogan, U.S. Department of Education, Assistant Secretary for Elementary and Secondary Education, to The Honorable Julia Keleher, Secretary of Education, Puerto Rico, January 3, 2019, https://www2.ed.gov/admins/lead/account/stateplan17/primplementationtimingltr.html.

[60] U.S. Department of Education, *Student-Centered Funding Pilot Submissions*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/submissions.html.

[61] ED anticipated notifying any successful applicants that applied by the July deadline of their application acceptance by fall 2018. U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item B-12, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf.

[62] ED's FY2018 budget request was its first that included a proposal related to the Title I-E authority.

[63] U.S. Department of Education, *Education for the Disadvantaged: Fiscal Year 2018 Budget Request*, pp. A19-A21, https://www2.ed.gov/about/overview/budget/budget18/justifications/a-ed.pdf.

[64] U.S. Department of Education, *Education for the Disadvantaged: Fiscal Year 2018 Budget Request*, p. A-20, https://www2.ed.gov/about/overview/budget/budget18/justifications/a-ed.pdf.

[65] Ibid.

LEAs that agreed to provide interdistrict choice for all students. Implementing this proposal would have required congressional authorization, and Congress did not act on ED's request.

FY2019 Budget Request

In its FY2019 budget request, ED requested funding to make Open Enrollment Grants (OEGs) to LEAs approved to operate Flexibility for Equitable Per-Pupil Funding pilots authorized under Title I-E that agreed to combine their funding flexibility with an open enrollment policy for public school choice.[66] Similar to its FY2018 budget request, ED proposed that it would establish the requirements for such open enrollment systems with a focus on "maximizing opportunities for all students, particularly those from low-income families, to select, attend, and succeed in a high-quality public school."[67] The proposal again suggested that the requirements could include, for example, making school information available to parents in a timely way, supporting school integration efforts, arranging or paying for transportation to schools of choice, and giving priority to low-income students or students in schools identified for improvement under Title I-A. ED also proposed allowing participating LEAs to use the funds to provide temporary payments to individual schools affected by the transition to a weighted funding system, providing information on public school options to parents, and supporting needed administrative systems.

ED did not request a specific amount of funding for only the OEGs. Rather, it requested $500 million for Scholarships for Private Schools[68] and OEGs to be divided between the programs based on the demand for grants. Implementing either program would have required congressional authorization, and Congress did not act on ED's proposal.

FY2020 Budget Request

In its FY2020 budget request, ED requested $50 million to create Student-Centered Funding Incentive Grants to help increase LEA participation in the agreements[69] authorized under ESEA Section 1501.[70] These grants are not authorized in the ESEA and congressional action would be required to implement the proposal. In its proposal, ED argues that the new grants "would help demonstrate the viability"[71] of moving to weighted student funding systems and the potential for these new systems to improve student outcomes while reducing "LEA red tape."[72] ED believes that the proposed grants could help increase participation by providing resources to LEAs to develop procedures to charge schools based on actual (as opposed to average) personnel

[66] U.S. Department of Education, *Innovation and Improvement: Fiscal Year 2019 Budget Request*, pp. F15-F19, https://www2.ed.gov/about/overview/budget/budget19/justifications/f-ii.pdf.

[67] Ibid, p. F-16.

[68] For more information about the Scholarships for Private Schools program, see U.S. Department of Education, *Innovation and Improvement: Fiscal Year 2019 Budget Request*, pp. F15-F19, https://www2.ed.gov/about/overview/budget/budget19/justifications/f-ii.pdf.

[69] ED uses the term "agreements" rather than "local flexibility demonstration agreements." The statutory language in Section 1501 indicates that through the 2018-2019 school year, the use of the Section 1501 flexibility was considered a demonstration program. For subsequent school years, the statutory language references ED extending the funding flexibility authorized under Section 1501 to LEAs with approved applications; ESEA, Section 1501(c)(3).

[70] U.S. Department of Education, *Education for the Disadvantaged: Fiscal Year 2020 Budget Request*, pp. A25-A27, https://www2.ed.gov/about/overview/budget/budget20/justifications/a-ed.pdf.

[71] Ibid, p. A-25.

[72] Ibid.

expenditures and could reduce the potential negative effects on some individual schools of transitioning to a weighted student funding system under Title I-E.

The grants would only be available to LEAs that have already been approved for an agreement.[73] ED estimates that up to 10 LEAs could be supported through the grants and suggests that it could give "special consideration" to LEAs with the highest concentration of poverty.[74]

The funds could be used by participating LEAs for activities related to implementing weighted student funding systems. According to ED, this could include using funds to make temporary payments to individual schools to offset reductions in funding resulting from the transition to the system, allowing a "smooth transition to these new systems."[75] Grant funds could also be used by ED to provide technical assistance to LEAs in developing and preparing for the implementation of weighted student funding systems that meet the requirements of Section 1501.[76] In its proposal, ED also mentions that it may consider using existing authority to extend the initial local flexibility demonstration agreement period from three years to six years to help increase LEA participation.

Regardless of whether Congress acts on ED's proposal to provide Student-Centered Funding Incentive Grants, LEAs that enter into an agreement are currently permitted to use administrative funds consolidated under Section 8203[77] to support the implementation of their weighted student funding system.

Possible Interactions Between Title I-E Authority and Other ESEA Programs

This section discusses some of the ways in which the Title I-E authority might interact with other ESEA programs. As Title I-A is the only ESEA program that includes specific requirements for the allocation of funds to schools within LEAs, it is the primary focus of the discussion.

ESEA Programs to Which Title I-E Provisions Apply

Under Title I-E, participating LEAs may consolidate and allocate eligible federal funds to public schools through their weighted student funding formulas. **Table 1** details the amount of funding appropriated under each eligible federal program for FY2019.[78]

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[73] Ibid. ED also proposes that grants could be made available prior to an LEA being approved for a local flexibility demonstration agreement if the LEA can demonstrate a commitment to seeking an agreement.

[74] Ibid.

[75] Ibid.

[76] ED already offered technical assistance to LEAs interested in applying for a local flexibility demonstration agreement. The period in which technical assistance could be requested ended on September 28, 2018. For more information, see https://www2.ed.gov/policy/elsec/leg/essa/scfp/studentcentered.html.

[77] Section 8203 permits an LEA, with the approval of its SEA, to consolidate and use to administer one or more ESEA programs (or other programs designated by the Secretary) not more than the percentage established in each program of the total available for the LEA under those programs. For more information, see U.S. Department of Education, *Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA: Frequently Asked Questions*, Item A-6, May 31, 2018, https://www2.ed.gov/policy/elsec/leg/essa/scfp/faqs.pdf

[78] Statutory language states that Title II-B programs are eligible programs. CRS examined each of the programs included in Title II-B to identify those programs providing funds to LEAs. Title II-B programs that do not appear to provide funding to LEAs include Presidential and Congressional Academies for American History and Civics (Title II-B-3, Section 2232), National Activities for American History and Civics Education (Title II-B-3, Section 2233), Supporting Effective Educator Development (Title II-B-4, Section 2242), and STEM Master Teacher Corps (Title II-B-4, Section 2245).

Table 1. FY2019 Appropriations for Programs Authorized by the ESEA that Could Potentially Be Affected by the Weighted Student Funding Authority Included in ESEA Title I-E

(Dollars in thousands)

Program	FY2019 Appropriation	Share of Funding for Potentially Affected Programs
Title I-A*	$15,859,802	76.27%
Migrant Education (Title I-C)[a]	$374,751	1.80%
Neglected and Delinquent (Title I-D-2)[b]*	(included as part of Title I-A appropriation)	—
Supporting Effective Instruction (Title II-A)*	$2,055,830	9.89%
Teacher and School Leader Incentive Program (Title II-B-1)[a]	$200,000	0.96%
Comprehensive Literacy State Development Grants (Title II-B-2)[a]	$190,000	0.91%
Innovative Approaches to Literacy (Title II-B-2)[a]	$27,000	0.13%
School Leader Recruitment and Support (Title II, Section 2243)[a]	$0	0.00%
English Language Acquisition (Title III)*	$737,400	3.55%
Student Support and Academic Enrichment (Title IV-A)*	$1,170,000	5.63%
Small, Rural School Achievement Program (Title V-B-1)*	$90,420	0.43%
Rural and Low-Income School Program (Title V-B-2)[c]*	$90,420	0.43%
Total[d]	$20,795,623	100.00%

Source: Table prepared by CRS based on data available from the U.S. Department of Education, Budget Service.

Notes: Statutory language states that Title II-B programs are eligible programs. CRS examined each of the programs included in Title II-B to identify those providing funds to LEAs. Title II-B programs that do not appear to provide funding to LEAs include Presidential and Congressional Academies for American History and Civics (Title II-B-3, Section 2232), National Activities for American History and Civics Education (Title II-B-3, Section 2233), Supporting Effective Educator Development (Title II-B-4, Section 2242), and STEM Master Teacher Corps (Title II-B-4, Section 2245). Details may not add to totals due to rounding.

*: ESEA formula grant program for LEAs.

a. LEAs are one of several eligible entities that could receive funds under this program. Thus, LEAs may or may not be receiving program funds. This could mean that the total included in the table is an overestimate of the amount of eligible federal funding available for consolidation under the Title I-E authority.

b. Funding for LEAs under the Neglected and Delinquent program is included in Title I-A. The amount of funding available to LEAs for Title I-D-2 purposes is determined under each of the Title I-A formulas. As final data needed to determine these amounts for FY2019 are not yet available, no appropriations information has been provided in the table. Based on CRS estimates, in FY2018 about $107 million was available for these grants, subject to adjustments by the state educational agency. When awarding subgrants to eligible LEAs, SEAs have the option of awarding funds by formula or through a discretionary grant process.

c. Funds provided under the Rural and Low-Income School Program may be provided to LEAs by formula or competition at the state educational agency's discretion.

d. This is the maximum amount of funding available, assuming LEAs received all of the formula and competitive grant funding available from eligible ESEA programs.

The majority of the funding available for consolidation and allocation under the Title I-E authority is provided through formula grants. These grants are either provided directly to LEAs or, in most cases, to LEAs via the state.

Most of the attention regarding the possible impact of the weighted student funding authority has been focused on the ESEA Title I-A program. In addition to constituting about 76% of the total FY2019 appropriations for all programs potentially affected by the Title I-E authority (**Table 1**), it is the only one of the potentially affected federal programs under which most funds are allocated to individual schools under statutory school allocation policies, and therefore the only program where current policies for the allocation of funds to schools can be compared to how funds might be allocated to schools under the weighted student funding authority. The other potentially affected federal programs are either much less focused on individual schools (as opposed to being centrally managed by LEAs), are much less widespread in their distribution of funds among LEAs, and/or are focused largely on SEAs rather than LEAs or schools. Thus, in most cases, ESEA Title I-A funds are likely to be the primary federal program funds directly affected by the ESEA Title I-E authority in most participating LEAs. It is possible, however, depending on which eligible federal funds and the percentage of such funds an LEA decides to include in its weighting student funding system, that the distribution of funds under other ESEA programs that have funds eligible for consolidation could change substantially.

Current Policies for Allocating Title I-A Funds to Schools Within LEAs

As is explained below, the allocation of Title I-A funds within LEAs is focused on providing grants to schools with comparatively high concentrations of students from low-income families, not individual students. Thus, the authority under ESEA Title I-E to combine Title I-A funds with state and local funds under weighted student funding formulas and to have the Title I-A funds follow students to any public school in the LEA, not just those with concentrations of students from low-income families, is a significant shift from the way the program is generally implemented.

Under almost all federal education assistance programs, grants are made to states or to LEAs (or subgranted to LEAs by SEAs) with services or resources provided in a manner that is managed by the SEA or LEA. In sharp contrast to this general pattern, most ESEA Title I-A funds are allocated to individual schools, under statutory allocation provisions, although LEAs retain substantial discretion to control the use of a share of Title I-A grants at a central district level.[79] While there are several rules related to school selection, LEAs must generally rank public schools by their percentage of pupils from low-income families, and serve them in rank order. LEAs may choose to consider only schools serving selected grade levels (e.g., only elementary schools or only middle schools) in determining eligibility for grants, so long as all public schools where more than 75% of the pupils from low-income families receive grants (if sufficient funds are available to serve all such schools).[80] LEAs also have the option of serving all high schools where

[79] For detailed guidance regarding the selection of schools to receive Title I-A grants and the allocation of funds among them, see U.S. Department of Education, *Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools*, August 2003, https://www2.ed.gov/programs/titleiparta/wdag.doc.

[80] Some LEAs run out of Title I-A funds before serving all schools where the percentage of students from low-income families is 75% or above. This usually occurs in a relatively small number of LEAs with very high percentages of students from low-income families in a large proportion of their schools. These LEAs are to serve schools in rank order, based on

more than 50% of the pupils are from low-income families before choosing to serve schools at selected grade levels.

All participating schools must generally have a percentage of children from low-income families that is higher than the LEA's average, or 35%, whichever of these two figures is lower.[81] The percentage of students from low-income families for each public school is usually measured directly, although LEAs may choose to measure it indirectly for middle or high schools based on the measured percentages for the elementary or middle schools that students attended previously (sometimes called "feeder schools"). LEAs have the option of setting school eligibility thresholds higher than the minimum in order to concentrate available funds on a smaller number of schools,[82] and this is especially the practice in some large urban LEAs. For example, according to data available from ED, in the 2015-16 school year all public schools reported as participating in Title I-A in Chicago had a free and reduced-price lunch child percentage of 55% or higher, whereas the minimum eligibility threshold would generally be 35%.[83]

In almost all cases, the data used to determine which pupils are from low-income families for the distribution of Title I-A funds to schools are not the same as those used to estimate the number of school-age children in low-income families for purposes of calculating Title I-A allocations to states and LEAs. This is because Census or other data are generally not available on the number of school-age children enrolled in a school, or living in a residential school attendance zone, with income below the standard federal poverty threshold. Thus, LEAs must use available proxies for low-income status. The Title I-A statute allows LEAs to use the following low-income measures for school selection and allocations: (1) eligibility for free and reduced-price school lunches under the federal child nutrition programs, (2) eligibility for Temporary Assistance for Needy Families (TANF), (3) eligibility for Medicaid, or (4) Census poverty estimates (in the rare instances where such estimates may be available for individual schools or school attendance areas).[84] According to the most recent relevant data, approximately 90% of LEAs receiving Title I-A funds use free/reduced-price school lunch (FRPL) data—sometimes alone, sometimes in combination with other authorized criteria—to select Title I-A schools and allocate funds among them.[85] The income eligibility thresholds for free and reduced-price lunches—130% of the

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their percentage of students from low-income families, until they run out of funds.

[81] This minimum percentage is reduced from 35% to 25% for schools participating in certain desegregation plans.

[82] There is an exemption from all of the Title I-A school selection requirements for small LEAs—defined in this case as those with enrollments of 1,000 or fewer pupils. Such small LEAs do not have to meet any of the school ranking requirements discussed here.

[83] Schools below the 55% threshold but at or above the 35% threshold were generally listed as not eligible to participate in the Title I-A program. U.S. Department of Education, *Common Core of Data*, 2015-2016 school year, https://nces.ed.gov/ccd/.

[84] LEAs may also develop and use a composite of two or more of these measures—for example, school-age children in families receiving either TANF *or* Medicaid benefits.

[85] U.S. Department of Education, *Study of Education Resources and Federal Funding: Final Report*, August 2000, http://eric.ed.gov/?id=ED445178.While not current, this is the most recently published information on the topic. In particular, it should be noted that in recent years implementation of the Community Eligibility Program (CEP), authorized by the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296), has reduced the availability of FRPL data for many high-poverty schools. Under CEP, free breakfasts and lunches must be provided to all students at participating public and private schools meeting certain criteria regarding enrollment of students from low-income households. CEP was initially implemented in a few states at a time but became available in all states beginning with the 2014-15 school year. For additional information, see Wayne Riddle, *Implications of Community Eligibility for the Education of Disadvantaged Students Under Title I*, Center on Budget and Policy Priorities, July 20, 2015, https://www.cbpp.org/research/food-assistance/implications-of-community-eligibility-for-the-education-of-disadvantaged; and CRS Report R44568, *Overview of ESEA Title I-A and the School Meals' Community Eligibility Provision*.

poverty income threshold for free lunches, and 185% of poverty for reduced-price lunches—are higher than the poverty levels used in the Title I-A allocation formulas to states and LEAs. For example, for a family of four people during the 2018-2019 school year, the income threshold for eligibility was $32,630 for free lunches and $46,435 for reduced price lunches.[86] By contrast, the poverty threshold for a family of four people in 2018 was $25,100.[87]

While Title I-A funds are to be focused on the schools within a recipient LEA with percentages of students from low-income families that are relatively high in the context of their locality, many Title I-A schools do not have high percentages of low-income students when considered from a national perspective. Largely because of the relatively low poverty rate thresholds for LEA eligibility to receive Title I-A grants,[88] many low-poverty LEAs receive Title I-A funds, and often the highest-poverty schools in those LEAs do not have high percentages of students from low-income families compared to the nation as a whole. For example, according to ED, 23% of the nation's public schools that are in the lowest quartile nationwide in terms of their percentage of students from low-income families (35% or below) receive Title I-A grants.[89]

Title I-A funds are allocated among participating schools in proportion to their number of pupils from low-income families, although grants to eligible schools per pupil from a low-income family need not be equal for all schools. LEAs may choose to provide higher grants per child from a low-income family to schools with higher percentages of such pupils.

A Title I-A school at which 40% or more of the students are from low-income families may provide Title I-A services via a schoolwide program, under which all of the students at the school may be served.[90] This is in contrast to the other mode of providing Title I-A services—via targeted assistance schools—wherein Title I-A may be used only for services directed to the lowest-achieving students at the schools.

The share of funds to be used by each Title I-A LEA to serve educationally disadvantaged pupils attending private schools is determined on the basis of the number of private school students from low-income families living in the residential areas served by public schools selected to receive Title I-A grants.[91] In making this determination, LEAs may use either the same source of data

[86] These income thresholds are somewhat higher for Alaska and Hawaii. For more information, see U.S. Department of Agriculture, "Child Nutrition Programs: Income Eligibility Guidelines," 83 *Federal Register* 20788-20789, May 8, 2018.

[87] U.S. Department of Health and Human Services, "Annual Update of the HHS Poverty Guidelines," 83 *Federal Register* 2643, January 18, 2018.

[88] The eligibility thresholds for LEAs vary by Title I-A formula: it is 10 formula children *and* a school-age child poverty rate of either 2% for Basic Grants, or 5% for the Targeted and Education Finance Incentive Grant (EFIG) formulas. For Concentration Grants, the LEA eligibility threshold is 6,500 formula children *or* a 15% school-age child poverty rate. For more information, see Table 1 in CRS Report R44164, *ESEA Title I-A Formulas: In Brief*.

[89] U.S. Department of Education, *National Assessment of Title I Final Report, Volume I: Implementation*, NCEE 2008-4012, October 2007, https://ies.ed.gov/ncee/pdf/20084012_rev.pdf.

[90] A school at which less than 40% of children are from low-income families may request a waiver from the SEA to operate a schoolwide program (ESEA §1114(a)(1)(B)).

[91] In cases where a state or LEA deems itself to be unable to provide for Title I-A services to eligible private school students, or where the Secretary determines that such services have been inadequate, the Secretary arranges for services to be provided via a "bypass" arrangement, under which the services are provided by a third-party entity. The relevant grant amounts are deducted from funds available for public schools in the state or LEA. Historically, such bypass arrangements have been implemented in the states of Missouri and Virginia, and at times in selected LEAs in other states. See, for example, Virginia Title I Bypass, http://www.virginiatitleibypass.com/index.cfm.

used to select and allocate funds among public schools (i.e., usually FRPL data) or one of a specified range of alternatives.[92]

As noted earlier, the allocation of Title I-A funds within LEAs is focused on providing grants to schools with comparatively high concentrations of students from low-income families, not individual students. One rationale for the strategy of concentrating Title I-A funds on relatively high poverty schools is that the level of funding for each participating student is relatively low and can finance a substantial level of services only if combined with Title I-A funding for numerous eligible students in a school. Title I-A funding per student is usually discussed in terms of grant amounts per student served under the program. Especially with the growth of schoolwide programs in recent years, the amount of funding per student deemed to be participating in the program (which includes all students in schoolwide program sites) would be estimated at $645. Even this amount, which is based on dividing the total FY2019 Title I-A appropriation ($15,859,802,000) by the latest published estimate of the number of students participating in Title I-A programs (24.6 million),[93] would be an overestimate, as it does not take into account the share of Title I-A funds that do not reach individual schools because they are used at the state or LEA level for activities such as administration, school improvement, and districtwide programs (e.g., professional development for Title I-A teachers). However, under weighted student funding the more relevant figure would be the level of funding per student from a low-income family. If the standard of low-income most often applied in the current Title I-A school allocation process were used, the number of public school students from low-income families would be slightly higher (25.8 million)[94] and the national average Title I-A grant per pupil from a low-income family would be $614. For the reasons just discussed (i.e., not accounting for funds retained at the state or LEA level), this would also be an overestimate of the amount of funding per student.

Other ESEA Programs Potentially Affected by the Title I-E Authority

Beyond the primary focus on the ESEA Title I-A program, it is possible that LEAs participating in the weighted student funding authority would include funds from at least some of the other potentially affected programs. For example, the one currently approved applicant for the ESEA Title I-E authority, Puerto Rico, plans to allocate 53% of its Title I-A funds plus 55% of its Title II-A and 92% of its Title III-A funds[95] to schools through its weighted student funding formula.[96]

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[92] "To obtain a count of private school children, an LEA may use: (1) The same poverty data it uses to count public school children. (2) Comparable poverty data from a survey of families of private school students that, to the extent possible, protects the families' identity. The LEA may extrapolate data from the survey based on a representative sample if complete actual data are not available. (3) Comparable data from a different source, such as scholarship applications, so long as the income level for both sources is generally the same. (4) Proportional data based on the poverty percentage of each public school attendance area applied to the total number of private school children who reside in that area. (5) An equated measure of low income correlated with a measure of low income used to count public school children." (U.S. Department of Education , *Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools*, August 2003, https://www2.ed.gov/programs/titleiparta/wdag.doc, p. 16.)

[93] The estimated number of students served by Title I-A is for the 2016-17 school year (U.S. Department of Education, *Education for the Disadvantaged: Fiscal Year 2020 Budget Request*, p. A-22, https://www2.ed.gov/about/overview/budget/budget20/justifications/a-ed.pdf).

[94] The estimated number of public school students eligible for free or reduced-price school lunches is for the 2014-15 school year (U.S. Department of Education, National Center for Education Statistics, *Digest of Education Statistics*, 2016 version, Table 204.10, https://nces.ed.gov/programs/digest/d16/tables/dt16_204.10.asp).

[95] Puerto Rico uses these funds to support Spanish learners rather than English learners as is permitted under ESEA Section 3127.

[96] U.S. Department of Education, Terms of Local Flexibility, Demonstration Agreement for Student-Centered Funding

Thus, in participating LEAs, at least some federal programs that are currently centrally managed by LEAs may be decentralized and managed, at least in part, by individual schools. The extent to which this occurs may depend on the percentage of funds of an eligible federal program that are allocated through the LEA's weighted student funding formula as opposed to being retained at the state or LEA level.

Possible Issues Regarding the Weighted Student Funding Authority Available Under Title I-E

The last section of the report examines issues related to the Title I-E flexibility authority. The first set of issues examines possible reasons why participation by LEAs in the Title I-E authority has been low and some potential issues related to it. It then considers why LEAs might want to participate in the Title I-E authority based on reasons stated by ED. This is followed by an examination of possible issues that may arise if participation in the Title I-E authority increases. This includes consideration of how the allocation of eligible federal funds, particularly Title I-A funds, could be different if the Title I-E flexibility was adopted more broadly, as well as LEA access to other fund consolidation authority, whether the use of the Title I-E authority could increase the extent to which federal programs are focused on individual schools, whether the Title I-E authority could represent a model for a major change in the distribution of ESEA funds, and whether adequate safeguards exist to ensure that the purposes of federal education programs whose funds are consolidated are met.

Why have relatively few LEAs applied for the Title I-E flexibility authority thus far?

As of July 2019, six LEAs have applied for the weighted student funding authority under Title I-E, and one has been approved.[97] The single approved LEA, Puerto Rico, intends to implement the authority beginning in the 2019-2020 school year.[98] One reason for the low rate of participation could be the relatively slow implementation by ED. The authority was provided under the ESSA's amendments to the ESEA, enacted on December 10, 2015. However, ED's initial announcement that the flexibility authority was available was made more than two years later, on February 2, 2018. LEA interest, to the extent that it existed, may have waned over this time period.

Another possible constraint on LEA interest in applying for the Title I-E authority is that the authority is applicable for only a three-year period. While potentially renewable, and while such a time limitation may be typical and appropriate for a pilot authority, LEAs may be hesitant to make major changes to, or new investments in, their school finance system or administration of Title I-A and other federal programs for such a limited time period.

While it is not a requirement that an LEA already be implementing a weighted student funding system in order to participate in Title I-E, the number of LEAs that have already adopted weighted student funding for their state and local funds, and would therefore be interested in

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Authorized by Section 1501 of the ESEA: Puerto Rico Department of Education, https://www2.ed.gov/policy/elsec/leg/essa/scfp/prdeagreement.pdf.

[97] During the 2015-2016 school year, the most recent year for which data are available, there were 13,584 regular LEAs in the United States. For more information, see U.S. Department of Education, National Center for Education Statistics, *Digest of Education Statistics*, Table 214.10, https://nces.ed.gov/programs/digest/d17/tables/dt17_214.10.asp.

[98] U.S. Department of Education, *Student-Centered Funding Pilot Submissions*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/submissions.html.

expanding those systems to include a number of federal programs, may be limited. There is no definitive, comprehensive listing of LEAs currently using weighted student funding formulas. While a number of relatively large urban LEAs are doing so, the total number of such LEAs may still be rather small, limiting the number of likely and eligible applicants for the federal weighted student funding authority.

Potential applicants may be deterred by the limitations to the federal weighted student funding authority. While state- and LEA-level weighted student funding formulas often include state and local funding for students with disabilities and career and technical education programs, the Title I-E authority does not apply to funds under IDEA or the Perkins CTE Act. While it might seem most appropriate for an ESEA flexibility provision to apply only to ESEA programs, and while the IDEA and the Perkins CTE Act involve somewhat different constituencies and interest groups than the ESEA, the Title I-E flexibility authority might be more consistent with many state and local weighted student funding policies, and offer enhanced flexibility to participating LEAs, if it included at least some of the IDEA and Perkins CTE Act funding streams. In addition, as discussed below, schools operating schoolwide programs under Title I-A are already permitted to consolidate federal funds provided through non-ESEA programs (e.g., IDEA and Perkins CTE Act funds) with their state and local funds.

It is also possible that LEAs have been deterred by the Title I-E requirement that weighted student funding systems must use actual personnel expenditures, including staff salary differentials for years of employment, in their systems. Based on the preliminary results of an ongoing study on the use of weighted student funding systems in LEAs, most of the LEAs in the study have continued to use average staff salaries, rather than actual personnel expenditures, in their weighted student funding systems.[99]

In addition, while many requirements under ESEA Title I-A and other ESEA programs are waived in LEAs receiving the weighted student funding flexibility authority, a number of others (e.g., those involving fiscal and academic outcome accountability) remain in effect. This may cause potential-applicant LEAs to determine that the possible reduction in administrative burdens (e.g., from having to track the use of some federal funds, or to allocate them among schools as they have in the past) is not sufficient for them to be motivated to apply.

Could there be changes in individual public school funding levels within LEAs as a result of an LEA entering into a local flexibility demonstration agreement?

If an LEA enters into a local flexibility demonstration agreement, the resulting distribution of state, local, and eligible federal funds under a weighted student funding system that meets the Title I-E requirements could lead to funds shifting among public schools in the LEA. While this may result in public schools serving low-income students, ELs, and other disadvantaged students receiving an increase in funding, it is possible that other public schools may lose funds, possibly a substantial amount or percentage of their current funding. Decreases in funding levels in the course of one school year could potentially be difficult for an individual school to absorb. Without state, local, or federal funds to help ease the transition to a weighted funding system, it is possible that some LEAs may be hesitant to apply to enter into an agreement. Under current law, the Title I-E authority for the Secretary does not include any federal funds to implement local flexibility demonstration agreements or offset the loss of funds in public schools as LEAs

[99] U.S. Department of Education, Institute of Education Sciences, *Weighted Student Funding Is On The Rise, Here's What We Are Learning.*, May 9, 2019, https://ies.ed.gov/blogs/research/post/weighted-student-funding-is-on-the-rise-here-s-what-we-are-learning.

implement weighted student funding systems under an agreement. In its budget requests, ED has proposed providing grants to LEAs implementing a local flexibility demonstration agreement for these purposes (see previous discussion of FY2018, FY2019, and FY2020 budget requests), but no such funds have yet been appropriated.

What might happen with respect to expansion of the local flexibility demonstration agreements beyond the original limit of 50 LEAs?

The delay in implementation of the Title I-E authority by the Secretary complicates the schedule envisioned in the Title I-E legislation regarding expansion of eligibility for weighted student funding flexibility to potentially all LEAs. Eligibility for the weighted student funding authority was limited to no more than 50 LEAs for school years preceding 2019-2020. But the statute provides that eligibility may be expanded to any LEA beginning with the 2019-2020 school year, as long as a "substantial majority" of the LEAs participating in previous years have met program requirements.[100] However, no LEA will actually begin implementing the Title I-E flexibility authority until the 2019-2020 school year. Thus, a key requirement for program expansion cannot be met. It is unclear how this would be resolved moving forward should additional LEAs express interest in applying for the Title I-E authority.

What goals or purposes might be served by the use of the weighted student funding authority in participating LEAs?

Given the relatively low level of LEA interest in the flexibility offered by Title I-E, there are questions about why an LEA would want to enter into a local flexibility demonstration agreement. In a document titled "Why should your school district apply for the Student-centered Funding pilot?",[101] ED outlined several opportunities that, in its opinion, would be advanced for LEAs that implement the ESEA Title I-E authority. ED states that participating LEAs would have greater flexibility in the use of the affected federal education program funds, because those federal funds could be used in the same manner as state and local funds, with no specifically required or prohibited uses. LEAs would be able to set their own priorities for these funds. ED further states that participating LEAs would experience reduced administrative burdens, because federal funds under the affected programs would not have to be tracked separately. By combining state, local, and federal funds, participating LEAs could prioritize funding for groups of students with particular needs by developing or expanding a weighted student funding system. ED also notes that participating in the Title I-E authority would enhance transparency in the allocation of resources within LEAs and facilitate the involvement of school-level leaders in resource allocation. In addition, advocates of weighted student funding policies in general often argue that they enhance options for student mobility and choice among public schools in an LEA, support school-based management practices, and may increase the targeting of total (local, state and federal) funds on schools attended by disadvantaged students.[102]

The ED document specifically compares the weighted student funding authority to the schoolwide program authority provided under ESEA Title I-A. The document states that the

[100] ESEA, Section 1501(c)(3).

[101] U.S. Department of Education, *Why should your school district apply for the Student-centered Funding pilot?*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/scfbenefits.docx.

[102] Edunomics Lab, *An Introduction to Student Based Allocation, a.k.a., WSF or Weighted Student Funding*, November 20, 2018, https://edunomicslab.org/wp-content/uploads/2018/12/SBA-101-Webinar-11.2018.pdf. See also U.S. Department of Education, *Why should your school district apply for the Student-centered Funding pilot?*, https://www2.ed.gov/policy/elsec/leg/essa/scfp/scfbenefits.docx.

weighted student funding authority is more expansive than the schoolwide program authority, as it would be available to all public schools within the LEA. (For more information about differences between the Title I-E authority and schoolwide program authority to consolidate federal funds, see the next "issue" discussion.)

These views of ED and of advocates of weighted student funding may be countered by other views of, or concerns about, the weighted student funding authority, as discussed elsewhere in the "Issues" section of this report.

How does the authority granted under Title I-E differ from authority for Title I-A schools operating schoolwide programs to consolidate federal funds with state and local funds?

Title I-A schools that are operating schoolwide programs already have the authority to consolidate their federal, state, and local funds without having to create a weighted student funding system. However, there are several differences between the funding consolidation authority available to Title I-A schools operating schoolwide programs under Section 1114 and the funding consolidation authority available under Title I-E. The authority to consolidate funds under schoolwide programs is only available to Title I-A schools operating those programs (as opposed to operating targeted assistance programs). Schools operating schoolwide programs have the choice of whether to consolidate their federal, state, and local funds or not. Under the Title I-E authority, all public schools in an LEA that has entered into a local flexibility demonstration agreement would be required to consolidate state, local, and eligible federal funds. An individual public school would not have a choice about participating in the weighted student funding system.

Schools operating schoolwide programs must conduct a comprehensive needs assessment, develop a comprehensive schoolwide plan, annually review the schoolwide plan, and revise the plan as necessary based on student needs. Schools located in an LEA participating in Title I-E are not required to conduct a comprehensive needs assessment or develop and maintain a comprehensive plan.

For any funds consolidated by a school or an LEA, respectively, under either a schoolwide program or a local flexibility demonstration agreement, the school or LEA must ensure that it meets the intent and purposes of each federal program whose funds were consolidated. While federal programs eligible for consolidation under the Title I-E authority are limited to selected ESEA programs, schools operating schoolwide programs have the flexibility to consolidate funds from ESEA programs as well as non-ESEA programs, such as the IDEA and Perkins Act, provided certain requirements are met. Federal funds consolidated under either a schoolwide program or the Title I-E authority are subject to supplement, not supplant requirements.

Could implementation of the weighted student funding authority result in less targeting of Title I-A funds on high-poverty schools?

Title I-A is the only one of the potentially affected federal programs that currently has school-level allocation requirements. It currently is primarily a "school-based" program, with funds targeted on the specific schools in each LEA with relatively high concentrations of students from low-income families. In sharp contrast, under the Title I-E flexibility authority Title I-A funds in a participating LEA would be provided to any public school in the LEA that enrolls even one student from a low-income family. While it is not possible precisely to compare the current allocation of Title I-A funds to schools to how they might be allocated under the weighted student

funding authority, there would be a distinct contrast in general strategy between the two sets of allocation policies.

The Title I-A program structure is based implicitly on the assumption, and the findings of past studies, that the relationship between poverty and low achievement is not especially strong for individual pupils, but the correlation between concentrations of poverty and concentrations of low-achieving pupils is quite high.[103] According to proponents of the current structure of Title I-A, this implies that limited Title I-A funds should be concentrated on the highest-poverty schools if they are to address the greatest pupil needs. In addition, the level of Title I-A funding per pupil (a maximum of an estimated $645 per pupil served or $614 per pupil from a low-income family, as discussed above) might be sufficient to pay the costs of substantial supplementary educational services only if combined for relatively large numbers of students in a school.

Under the Title I-E flexibility authority, while funds would be allocated among these schools in proportion to their number of students from low-income families, the overall distribution of Title I-A funds would almost undoubtedly be more dispersed among more public schools than under current policies. Concerns regarding economies of scale would argue against the dispersal of Title I-A grants among potentially all schools in a locality. As noted, it is possible that the current level of aid per student can provide a significant amount of resources or services only if combined for a substantial number of pupils in a school. While this would not be a concern at public schools that numerous pupils from low-income families choose to attend, it would be an issue at schools that only a few such children choose to attend.

However, this concern might be countered by the fact that under a weighted student funding process, not only Title I-A funds but also state and local funds and potentially other eligible federal program funds would be combined and allocated under a formula giving additional weight to students from low-income families. It is also specifically required that the high-poverty schools in a participating LEA receive in the first year of implementation more total funding per pupil from a low-income family (and at least as much per EL) as in the year preceding initial implementation of the flexibility authority, and at least as much in succeeding years. Thus, while Title I-A funds alone would likely be substantially more widely dispersed among schools than they currently are, it is possible that total federal, state, and local funding to relatively high-poverty schools would increase, especially in LEAs that had not previously adopted weighted student funding policies with respect to their state and local funds.

Would the Title I-E flexibility authority increase the extent to which federal programs other than Title I-A are focused on individual schools?

It is possible that as a result of the Title I-E flexibility, some eligible federal programs may become more focused on the use of funds at the school level as opposed to the state or LEA level. There is currently limited data on how funds under eligible federal programs are distributed to the school level, if at all. It may be helpful from a data analysis perspective to have comprehensive data on the specific federal education funds provided to each public school to examine whether

[103] See, for example, Selcuk R. Sirin, "Socioeconomic Status and Academic Achievement: A Meta-Analysis of Research," *Review of Educational Research*, vol. 75, no. 3 (Fall 2005), pp. 417-453, https://steinhardt.nyu.edu/scmsAdmin/media/users/lec321/Sirin_Articles/Sirin_2005.pdf. Also see U.S. Department of Education, *National Assessment of the Chapter 1 Program: The Interim Report*, June 1992, http://eric.ed.gov/?id=ED350105; U.S. Department of Education, *Prospects: The Congressionally Mandated Study of Educational Growth and Opportunity. The Interim Report*, July 1993, p. 78, http://eric.ed.gov/?id=ED361466; and Reyn Van Ewijk and Peter Sleegers, "The effect of peer socioeconomic status on student achievement: A meta-analysis," *Educational Research Review*, vol. 5 (January 2010), pp. 134-150, https://www.researchgate.net/publication/46466142.

switching to a weighted student funding system that meets the requirements of Title I-E alters this distribution of funds.

Under the ESEA as amended by the ESSA, Title I-A requires participating states to include in school report cards data on expenditures at each public school.[104] The state report card must provide data on LEA- and school-level per-pupil expenditures of federal, state, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures, disaggregated by the source of funds. The data must be reported for every LEA and public school in the state. These data have not been reported for LEAs and public schools in the past.[105] Based on draft guidance issued by ED, SEAs and LEAs may delay reporting per-pupil expenditures until they issue report cards for the 2018-2019 school year. However, if an LEA decides to delay the reporting of per-pupil expenditures, the SEA and its LEAs are required to provide information on their report cards for the 2017-2018 school year about the steps they are taking to provide such information on the 2018-2019 school year report card.

While this new reporting requirement does not require schools to disaggregate the receipt of funds under Title I-E eligible federal programs, it will, for the first time, detail the per-pupil expenditure of aggregate federal funds that are allocated or used at the school level. If LEAs participating in the Title I-E authority include Title I-A funds in their agreement, it may be possible to get a sense of whether the allocation of federal funds at individual schools is changing under weighted student funding systems that meet the requirements of Title I-E.

Might the weighted student funding authority represent a model for a major change in strategy for Title I-A and other potentially affected ESEA programs?

In participating LEAs that include Title I-A funds in their weighted student funding systems, Title I-A would be transformed from a "school-based" program to an "individualized grant." The Title I-E flexibility authority arguably represents a substantial change in the basic strategy of Title I-A, and to a lesser extent other potentially affected federal education programs. As discussed earlier, from its beginning in 1965 Title I-A has been primarily a school-based program. Funds are to be allocated only to the relatively high-poverty schools in each participating LEA. Within those recipient schools, Title I-A funds are to be used only to serve the lowest-achieving students unless the school meets the 40% low-income threshold, in which case they can be used to serve all students.[106] The level of Title I-A funding per student served is relatively modest, and it is implicitly assumed that such amounts are sufficient to provide substantial services only if combined for relatively large numbers of students from low-income families in a school. Further, there are a number of requirements regarding the authorized uses of Title I-A funds to meet the special educational needs of educationally disadvantaged students in participating schools.

The weighted student funding pilot represents a very different approach. First, while academic outcome accountability and civil rights requirements will continue to apply to all public schools in states receiving Title I-A funds, and fiscal accountability requirements will continue to apply to certain "high-poverty" schools within LEAs, other requirements for targeting schools or uses of funds will be waived. Administrative burdens would be reduced, but so would a number of

[104] Section 1111(h)(1)(C)(x).

[105] U.S. Department of Education, Opportunities and Responsibilities for State and Local Report Cards Under the Elementary and Secondary Education Act of 1965, As Amended by the Every Student Succeeds Act, March 2019, pp. Item H-14, https://www2.ed.gov/policy/elsec/leg/essa/rptcardpubliccomment3282019.pdf.

[106] A school that is below the 40% low-income threshold may request to have this requirement waived by the state educational agency (ESEA, Section 1114(a)(1)(B)).

potentially important requirements for targeting services on students with the greatest educational needs.

Title I-A and other federal program funds would be combined with state and local funds into weighted grant amounts that would be dispersed among all public schools in the LEA, and that would follow students if they transfer among schools in the LEA (though possibly with a time lag).[107] This is a very different approach from traditional Title I-A programs. The "individualized grant" approach embodied in the Title I-E authority might serve as a model that could, in the future, be expanded if desired through congressional action to include students attending public schools in other LEAs of the same state, or possibly even eligible students enrolled in private schools.[108]

Do the provisions of Title I-E provide adequate assurance that the purposes of the eligible ESEA programs will be met by participating LEAs?

The Title I-E flexibility authority provides for the waiver of a wide range of requirements regarding the allocation of Title I-A funds to schools, and regarding the authorized uses of funds under all of the eligible federal programs. However, participating LEAs must ensure that the purposes of the eligible federal programs included in their weighted student funding systems are met. This may be challenging for participating LEAs, at least initially, as more federal funding from non-Title I-A programs is provided to the school level as opposed to being retained and controlled at the LEA level and as Title I-A funds are potentially used for the first time in schools that had not previously received the funds.

[107] It is inherent in the weighted student funding concept that if a student transfers between schools in the same LEA, their weighted funding level also transfers. However, depending on the specific timing and structure of relevant enrollment counts and school allocation procedures, there might be a time lag for this transfer of funds of up to a school year.

[108] For example, during consideration of ESEA reauthorization, an amendment (SA 2139) to the Every Student Succeeds Act (S. 1177, which became P.L. 114-95) was offered by Senator Alexander to allow federal funds to be consolidated to provide low-income students with a scholarship (also known as a voucher) for use at a public or private school of their choice. Senator Scott offered an amendment (SA 2133) to S. 1177 that would have amended the IDEA to allow funds to be distributed to families to select an appropriate school for their child, including a private school. Neither the amendment offered by Senator Alexander nor the amendment offered by Senator Scott was adopted.

Appendix. Glossary of Acronyms

CTE: Career and Technical Education

ED: U.S. Department of Education

EFIG: Education Finance Incentive Grant

EL: English Learner

ESEA: Elementary and Secondary Education Act

ESSA: Every Student Succeeds Act (P.L. 114-95)

IDEA: Individuals with Disabilities Education Act

LEA: Local educational agency

OEG: Open Enrollment Grant

SEA: State educational agency

SSAE: Student Support and Academic Enrichment grants

TANF: Temporary Assistance for Needy Families

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