



# ***POLICY UPDATES***

**COMBINED FEDERAL PROGRAMS MEETING**

DECEMBER 6 – 7, 2018 | WASHINGTON, DC

# CFPM MATERIALS

## Attendee Folders

1. CFPM Agenda
2. Hotel floorplans
3. Wi-fi log-in information
4. List of area restaurants
5. List of Report Card Gallery Walk presenters
6. Conference Evaluation Form



## CFPM Website (<https://apps1.seiservices.com/cfpm2018/>)

1. CFPM Agenda
2. Attendee contact information
3. Session presentations and handouts



# AGENDA & PRESENTERS

## 1. State Plan Amendments

*Melissa Siry, Office of State Support*

## 2. Educational Flexibility Program

*Shauna Knox, Office of State Support*

*Melissa Siry, Office of State Support*

## 3. Allocations Update

*Todd Stephenson, Office of State Support*

*Elizabeth Witt, Office of State Support*

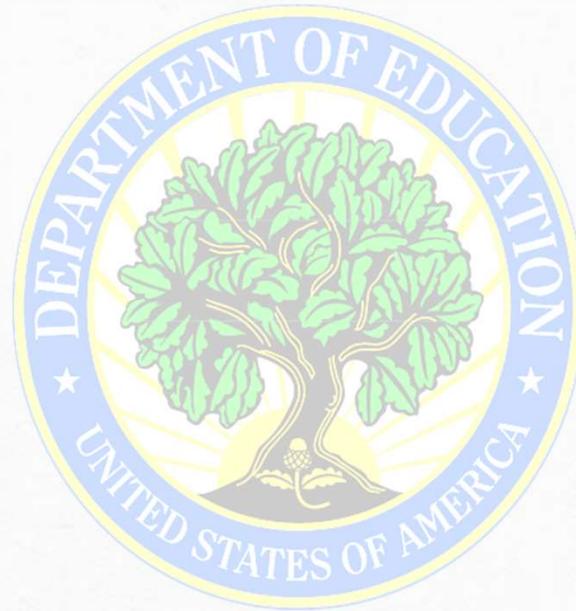
## 4. Title I, Part A Supplement Not Supplant

*Todd Stephenson, Office of State Support*

*Michael Anderson, Office of the General Counsel*

*Kay Rigling, Office of the General Counsel*





# State Plan Amendments



# STATE PLAN AMENDMENTS

## REQUIREMENTS

- A State must submit its proposed amendments to the Department for review and approval *prior* to implementing any revisions to its approved consolidated State plan.
- Consistent with the consolidated assurances each State submitted in June 2017 under ESEA section 8304, prior to submitting any amendment to the Department, a State must:
  - Consult with the Governor on the amendment;
  - Afford a reasonable opportunity for public comment on the amendment; and
  - Consider such comments.



# STATE PLAN AMENDMENTS

## PROCESS

- When submitting an amendment to the Department for approval, please submit:
  - A redlined version of the approved consolidated State plan that reflects all proposed changes;
  - A cover letter describing the proposed changes;
  - The signature of the chief State school officer or authorized representative; and
  - A description of how the State provided the public a reasonable opportunity to comment on the plan.
- Submit all amendments to [OSS.\[State\]@ed.gov](mailto:OSS.[State]@ed.gov)



# STATE PLAN AMENDMENTS

## TIMELINE

- Please submit any amendments related to accountability determinations for the 2019-2020 school year no later than **March 1, 2019**.
- This will allow review in time for your State to implement changes to its accountability determinations for the 2019-2020 school year based on data from the 2018-2019 school year (e.g., identification of schools for comprehensive or targeted support and improvement for the 2019–2020 school year).





# Educational Flexibility Program



# OBJECTIVES

As a result of this session, Participants will be able to:

- Understand the purpose of the Educational Flexibility Program (Ed-Flex), including the regulations and requirements that are eligible to be waived, and
- Identify the requirements for applying for Ed-Flex.



# AGENDA

- Educational Flexibility Partnership Act
  - Overview
  - Authority
  - Eligibility
  - Requirements
  - Prohibitions
- Application Process
- Questions





# The Educational Flexibility Partnership Act



# ED- FLEX PROGRAM

## OVERVIEW

- Through Ed-Flex, the Secretary delegates to eligible State educational agencies (SEAs) the authority to waive certain statutory or regulatory education requirements that may impede local efforts to reform and improve education.
- It is designed to help local educational agencies (LEAs), educational service agencies (ESAs), and schools carry out educational reforms and raise the achievement levels of all children.



# ED- FLEX PROGRAM

## REAUTHORIZATION

- The Every Student Succeeds Act was signed into law on December 10, 2015 and reauthorized the Ed-Flex program.
- Ten Ed-Flex States are currently operating under the prior Ed Flex authority through SY 2018-19.
  - These States will need to reapply if they are interested in continuing to have this authority.
- All States that meet the eligibility criteria may apply for Ed Flex authority for SY 2019-20.
- SEAs may be granted Ed-Flex authority for up to five years.



# EDUCATIONAL FLEXIBILITY PROGRAM

## ELIGIBILITY CRITERIA

A State is eligible if:

- The State meets the applicable standards, assessments, and report card requirements.
- The State holds LEAs and schools accountable for:
  - Meeting the educational goals described in the local applications for educational flexibility;
  - Engaging in technical assistance; and
  - As applicable and appropriate, implementing comprehensive support and improvement activities and targeted support and improvement activities under ESEA section 1111(d).
- The State has the authority to waive State statutory or regulatory requirements relating to education



# ED-FLEX PROGRAM

## REQUIREMENTS

The Ed-Flex waiver authority applies to the following sections of the ESEA—

1. Title I, Part A (Basic Programs Operated by LEAs, other than section 1111)
2. Title I, Part C (Migrant Education);
3. Title I, Part D (Neglected and Delinquent) Title II, Part A (Supporting Effective Instruction); and
4. Title IV, Part A (Student Support and Academic Enrichment Grants)

The Ed-Flex authority may also be used to waive requirements under the Perkins Career and Technical Education Program.



# ED- FLEX PROGRAM

## PROHIBITIONS

The Ed-Flex program does NOT authorize an SEA to waive any statutory or regulatory requirements relating to:

1. Standards, Assessments, and Accountability requirements under section 1111 of the ESEA
2. Maintenance of effort
3. Comparability of services
4. Equitable participation of students and professional staff in private schools
5. Parental participation and involvement
6. Distribution of funds to LEAs
7. Serving eligible school attendance areas in rank order in accordance with section 1113(a)(3) of the ESEA



# ED- FLEX PROGRAM

## PROHIBITIONS

The Ed-Flex program does NOT authorize an SEA to waive any statutory or regulatory requirements relating to:

8. The selection of a school attendance area or school under ESEA section 1113(a) and (B), except that a SEA may grant a waiver to allow a school attendance area or school to participate in activities under Title I, [Part A if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections
9. Use of Federal funds to supplement, not supplant, non-Federal funds
10. Applicable civil rights requirements
11. Any requirements that apply to the SEA



# ED- FLEX PROGRAM

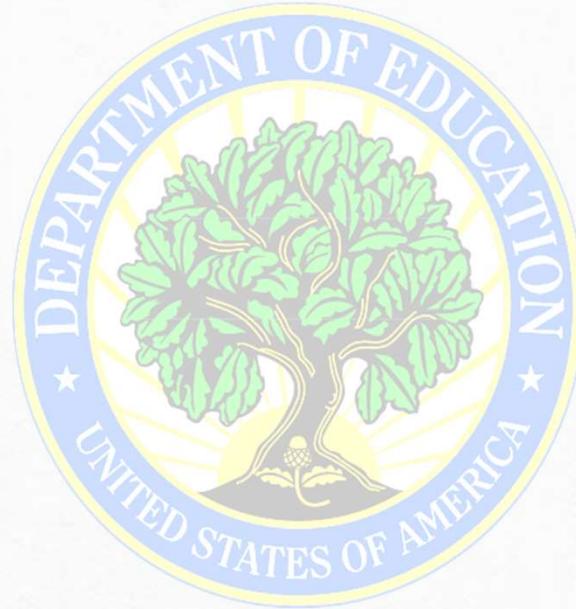
## APPLICATION INFORMATION

- The new Ed-Flex application is forthcoming this winter.
- The draft application was available for public comment at:  
<https://www.regulations.gov/docket?D=ED-2018-ICCD-0037>





Questions?



# Allocations Update



# ALLOCATIONS UPDATE

## FISCAL YEAR 2018 (SCHOOL YEAR 2018-2019) ALLOCATIONS

- Fiscal year (FY) 2018 allocations for Elementary & Secondary Education Act (ESEA) formula programs, including Titles I-A, I-B, II-A, III-A, and IV-A are final.
- Unlike the previous four years, ED does not expect there to be additional revisions to FY 2018 Title I-A or Title II-A allocations during the school year.
- On to allocations for FY 2019 (school year 2019-2020)!



# ALLOCATIONS UPDATE

## FISCAL YEAR 2019 (SCHOOL YEAR 2019-2020) ALLOCATIONS

- There is an FY 2019 appropriation!
- This means that total funding levels for ESEA programs are set for school year 2019-2020.
- Funding levels for selected ESEA programs:

Program	FY 2018 (school year 2018-2019)	FY 2019 (school year 2019-2020)	Dollar Change	Percentage Change
Title I-A	\$15,759,802,000	\$15,859,802,000	\$100,000,000	0.6%
Title I-B	\$378,000,000	\$378,000,000	\$0	0.0%
Title II-A	\$2,055,830,000	\$2,055,830,000	\$0	0.0%
Title III-A	\$737,400,000	\$737,400,000	\$0	0.0%
Title IV-A	\$1,100,000,000	\$1,170,000,000	\$70,000,000	6.4%



# ALLOCATIONS UPDATE

## FISCAL YEAR 2019 (SCHOOL YEAR 2019-2020) ALLOCATIONS

Upcoming milestones:

- December 2018: Census plans to release updated poverty estimates for FY 2019 Title I-A and Title II-A allocations and 90-day challenge period begins.
- January 15, 2019: Local and State agency neglected and delinquent counts for FY 2019 Title I-A and Title I-D allocations are due from SEAs to ED. Thank you for working to provide these counts!
- Early in calendar year 2019: ED expects to release preliminary FY 2019 allocations.



# ALLOCATIONS UPDATE

## FISCAL YEAR 2019 (SCHOOL YEAR 2019-2020) ALLOCATIONS

- The ESEA, as amended by ESSA, requires ED to use annually-updated Census data.
- ED will use the most recent Census data released on December 3, 2018 (Census estimates for 2017) to calculate FY 2019 Title I-A allocations.
- ED will shortly send States a notification about the Census release that will provide details.
- Note: Census challenge period ends March 4, 2019.



# FUNDING AND ALLOCATIONS

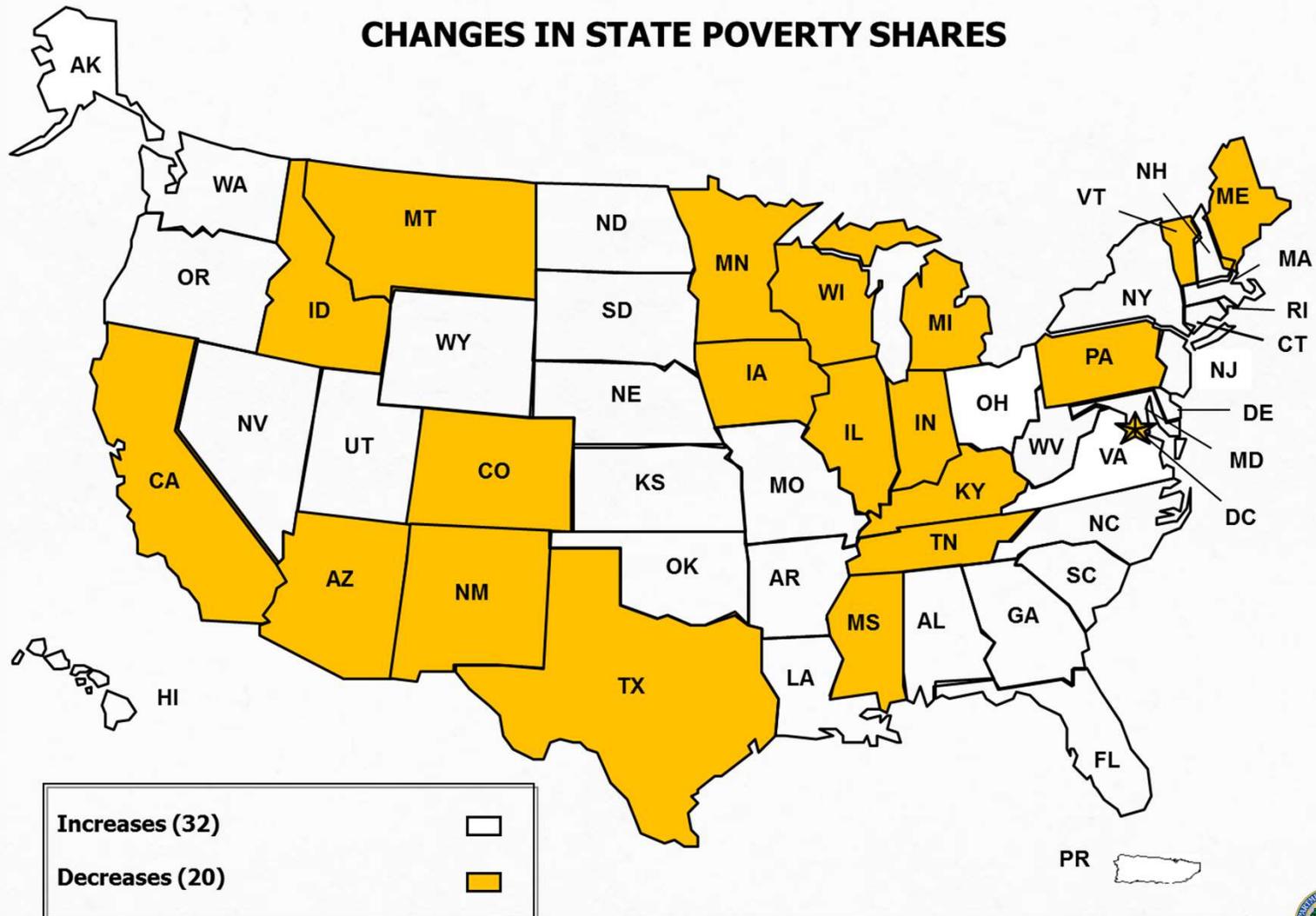
## 2017 CENSUS POVERTY DATA VS. 2016 CENSUS POVERTY DATA: CHANGES IN STATE POVERTY SHARES

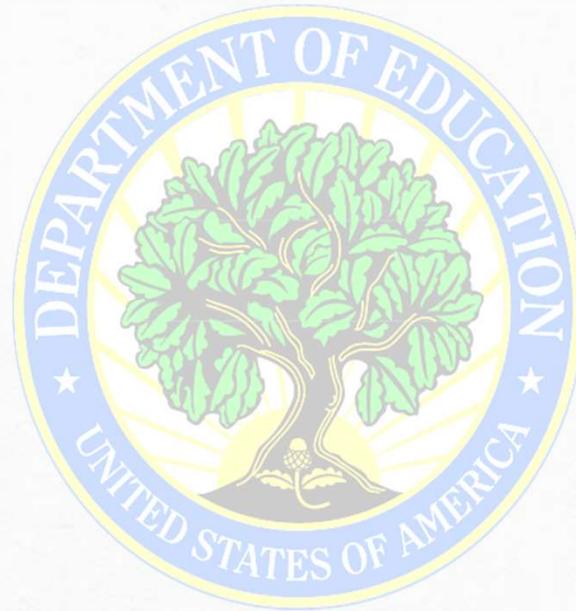
- An important factor to examine is each State's relative share of the total number of poverty children nationally.
- An increase or decrease in a State's relative share provides an early indication of the extent to which a State may experience a gain or loss of Title I-A funds for FY 2019.



# FUNDING AND ALLOCATIONS

2017 CENSUS POVERTY DATA VS. 2016 CENSUS POVERTY DATA





# Title I, Part A (Title I) Supplement Not Supplant



# TITLE I SUPPLEMENT NOT SUPPLANT

## AGENDA

- Overview
- Demonstrating compliance: State and local funds allocated to schools
- Requirements applicable to LEA-level activities (i.e., funds not allocated to schools)
- Exclusion
- Other exceptions



# TITLE I SUPPLEMENT NOT SUPPLANT

## OVERVIEW

The ESEA requires an SEA or LEA to use Title I funds only to **supplement** the funds that would, in the absence of those Title I funds, be made available from State and local sources for the education of students participating in Title I programs, and not to supplant such funds. (ESEA section 1118(b)(1))



# TITLE I SUPPLEMENT NOT SUPPLANT

## SPECIAL RULE

No LEA shall be required to:

- Identify that an individual cost or service supported with Title I funds is supplemental; or
- Provide Title I services through a particular instructional method or in a particular instructional setting in order to demonstrate compliance.

(ESEA section 1118(b)(3))



# TITLE I SUPPLEMENT NOT SUPPLANT

## OVERVIEW

- To demonstrate compliance with the Title I supplement not supplant requirement, the ESEA now requires an LEA to demonstrate that the methodology used to allocate State and local funds to its schools ensures that each Title I school receives all of the State and local funds it would otherwise receive if it were not receiving Title I funds. (ESEA section 1118(b)(2))
  
- Represents a substantial change in determining whether Title I funds are supplemental:
  - Focus is on allocation of State and local funds rather than on an activity funded by Title I; and
  - Differs from supplement not supplant requirements of other ESEA programs in which the focus remains on whether an activity is supplemental.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE

An LEA has significant flexibility in adopting a methodology or using its existing methodology to meet the new supplement not supplant requirement. The methodology must:

- Allocate State and local funds to schools in the LEA;
- Provide each Title I school the State and local funds it would receive were it not a Title I school—i.e., treat Title I schools neutrally.

An LEA may have a single methodology or multiple methodologies (e.g., a different methodology for each grade span).



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE

Examples of methodologies for allocating State and local funds based on:

- Student characteristics (weighted student funding).
- Staff salaries and supplies.
- Staff positions.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STUDENT CHARACTERISTICS

An LEA allocates State and local funds:

- Through a standard formula to allocate dollars based on objective student characteristics.
- Without regard for whether a school receives Title I funds.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STUDENT CHARACTERISTICS

Assume:

- Base allocation per student = \$7,000.
- Additional allocation per student from a low-income family = \$250.
- Additional allocation per English learner = \$500.
- Additional allocation per student with a disability = \$1,500.
- Additional allocation per preschool student = \$8,500.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STUDENT CHARACTERISTICS

Category	Calculation	Result
Allocation per student	400 students x \$7,000	\$2,800,000
Allocation per student from low- income family	200 students from low- income families x \$250	\$50,000
Allocation per English learner	100 English learners x \$500	\$50,000
Allocation per student with a disability	50 children with a disability x \$1,500	\$75,000
Allocation per preschool student	20 preschool students x \$8,500	\$170,000
<b>Total State and local funds allocated to school</b>		<b>\$3,145,000</b>



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STAFFING AND SUPPLIES

An LEA allocates State and local funds:

- Based on average costs of staffing and supplies.
- Without regard for whether a school receives Title I funds.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STAFFING AND SUPPLIES

Assume:

- 1 principal/school (\$120,000).
- 1 librarian/school (\$65,000).
- 2 guidance counselors/school (\$65,000/guidance counselor).
- 1 teacher per 20 students (\$65,000/teacher).
- \$825/student for instructional equipment and supplies (including technology).



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STAFFING AND SUPPLIES

Category	Calculation	Result
1 principal	1 principal x \$120,000	\$120,000
1 librarian	1 librarian x \$65,000	\$65,000
2 guidance counselors	2 guidance counselors x \$65,000	\$130,000
20 teachers	20 teachers x \$65,000	\$1,300,000
Equipment and supplies	400 students x \$825	\$330,000
<b>Total State and local funds allocated to school</b>		<b>\$1,945,000</b>



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STAFF POSITIONS

An LEA allocates State and local funds:

- Based on the uniform allocation of positions.
- Without regard for whether a school receives Title I funds.

Separately, the LEA makes non-personnel resources (e.g., equipment and supplies) available to Title I schools without regard to their Title I status.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STAFF POSITIONS

Assume:

- 1 principal per school.
- 1 librarian per school.
- 1 guidance counselor per 200 students.
- 1 classroom teacher per 25 students.



# TITLE I SUPPLEMENT NOT SUPPLANT

## DEMONSTRATING COMPLIANCE EXAMPLE: STAFF POSITIONS

Category	Calculation	Result
Principal	1 principal per school	1 principal position
Librarian	1 librarian per school	1 librarian position
Guidance Counselor	1 guidance counselor per 200 students	2 guidance counselors
Classroom Teacher	1 teacher per 25 students	16 classroom teachers
<b>Total*</b>		<b>20 total positions</b>

\*The LEA also makes non-personnel resources (e.g., equipment and supplies) available to Title I schools without regard to their Title I status.



# TITLE I SUPPLEMENT NOT SUPPLANT

## LEA-LEVEL ACTIVITIES

- An LEA will likely retain some State and local funds at the district level for use on personnel and non-personnel services that benefit multiple schools or all schools.
- The general supplement not supplant requirement in the ESEA requires an LEA to use Title I funds to supplement all State and local funds. (ESEA Section 1118(b)(1))
- Therefore, an LEA must use State or local funds that it does not allocate through its methodology in a manner that does not take into account a school's Title I status.



# TITLE I SUPPLEMENT NOT SUPPLANT

## LEA-LEVEL ACTIVITIES

Example:

- Instead of allocating State and local funds to schools to support a social worker, an LEA assigns a social worker to different schools throughout the school year based on needs.
- To meet the supplement not supplant requirement the LEA does not take into account a school's Title I status (i.e., acts in a Title I neutral manner) in determining to which schools it deploys the social worker.



# TITLE I SUPPLEMENT NOT SUPPLANT

## EXCLUSION PROVISION

- The ESEA permits an LEA to exclude from a supplanting determination supplemental State and local funds used for programs that meet the intent and purposes of Title I.  
(ESEA section 1118(d))
- A program meets the intent and purposes of Title I if it would be an allowable use of Title I funds were it implemented in a Title I schoolwide program or targeted assistance school.  
(34 C.F.R. § 200.79(b))
- As a result, an LEA may allocate supplemental State or local funds that meet the intent and purposes of Title I in a manner that is not Title I neutral.



# TITLE I SUPPLEMENT NOT SUPPLANT

## EXCLUSION PROVISION

### Example:

- Through its methodology, an LEA allocates to only non-Title I schools supplemental State and local funds to support after-school tutoring for any student who scores below proficient on the State's mathematics assessment.
- In its Title I schools, the LEA uses Title I funds to support after-school tutoring for any student who scores below proficient on the State's mathematics assessment.



# TITLE I SUPPLEMENT NOT SUPPLANT

## EXCLUSION PROVISION

Analysis of example:

- Although the LEA considers Title I status when allocating supplemental State and local funds through its methodology by only allocating to its non-Title I schools the State and local funds for the tutoring program, tutoring is a supplemental program and it benefits students who, by virtue of being non-proficient in mathematics, are failing to meet the State's mathematics standards.
- Therefore, the State and local funds supporting tutoring qualify for the exclusion because the program is supplemental and meets the intent and purposes of Title I.



# TITLE I SUPPLEMENT NOT SUPPLANT

## OTHER EXCEPTIONS

An LEA does not have to demonstrate compliance under ESEA section 1118(b)(2) if it has:

- Only one school.
- All Title I schools.
- A grade span with a single school or all Title schools (i.e., no methodology is required for this grade span).



# TITLE I SUPPLEMENT NOT SUPPLANT

## ALLOWABLE USE OF FUNDS

The ESEA requires an LEA to use Title I funds only for allowable costs, even if the LEA complies with the supplement not supplant requirement. The type of Title I program (schoolwide or targeted assistance) determines whether a cost is allowable.



# TITLE I SUPPLEMENT NOT SUPPLANT

## ALLOWABLE USE OF FUNDS

- Schoolwide programs: Title I funds may be used to upgrade the entire educational program in the school and benefit all students, provided the cost is consistent with the school's comprehensive needs assessment and included in the school's comprehensive schoolwide plan. (ESEA section 1114(a)(1))
- Targeted assistance program and funds for district-level activities: the ESEA requires Title I, Part A funds to be used only to serve students who are failing, or most at risk of failing, to meet the State's challenging academic standards. (ESEA section 1115(a))





# Questions?

# WHAT'S NEXT?

## ROLE-ALIKE SESSIONS

Session	Room
Title I, Part A	Renaissance Ballroom
Title II, Part A	Mount Vernon Square A
Title III, Part A	Mount Vernon Square B
Foster Care	Meeting Room 8/9
Assessment	Meeting Room 10/11
IDEA	Meeting Room 12/13/14



