

FLEXIBILITY IN USING FEDERAL FUNDS TO MEET LOCAL NEEDS

Federal laws and regulations allow states, districts, and schools certain flexibility in using federal funds to meet local needs. Which opportunities make sense to use will vary based on local context. In this document, we have highlighted some of the current flexibility contained in the *Elementary and Secondary Education Act* (ESEA) to allow state and local policymakers, working in collaboration with teachers, principals, and other stakeholders, to evaluate which options make the most sense for their particular needs. More information on the provisions described below is available on the Department’s Web site (<http://www.ed.gov>).

Transferring ESEA Funds among Programs to Meet State and Local Needs

The ESEA allows state and local educational agencies (SEAs and LEAs) to transfer a portion of the funds that they receive under certain ESEA programs to other programs and into Part A of Title I of the ESEA in order to more effectively address their students’ needs, including the needs of English Learners and students with disabilities. This is allowed through the “transferability” provision in section 6123 of the ESEA. For more information on transferability, please see the Department’s final guidance on the transferability authority at <http://www2.ed.gov/programs/transferability/legislation.html>.

State Transfers

An SEA may transfer up to 50 percent of the nonadministrative funds allotted to it to carry out state-level activities under each of the following ESEA provisions to one or more of its allotments under any of the other provisions listed below:

- Section 2113(a)(3) (Teacher and Principal Training and Recruitment)
- Section 2412(a)(1) (Enhancing Education Through Technology)
- Section 4112(a)(1) (Safe and Drug-Free Schools and Communities Governors’ funds, with the agreement of the Governor) and Section 4112(c)(1) (Safe and Drug-Free Schools and Communities SEA funds)
- Section 4202(c)(3) (21st Century Community Learning Centers)

State Transferability Basic Facts	
Overview	Allows SEAs to transfer 50% of funds to certain other programs to meet unique state needs
Eligibility	All SEAs
Application	None
Requirements	Conduct consultation in order to provide for the equitable participation of private school students and staff; notify the Department of the intent to transfer at least 30 days before the date of the transfer; modify state plans if necessary and submit modified plans to the Department.
Reporting	Report information on transfers on the Consolidated State Performance Report.

Although no 2010 funds were appropriated for the Safe and Drug-Free Schools and Communities formula grant programs (Section 4112(a)(1) Governors' funds and Section 4112(c)(1) SEA funds) at the state level, carryover funds from 2009 may be available for obligation. Accordingly, funds may be transferred into or out of these programs through September 30, 2011.

An SEA may also transfer up to 50 percent of the funds allotted to it under the provisions listed above to its allotment under Part A of Title I to carry out state-level activities. An SEA may not transfer funds out of Part A of Title I to any other program.

LEA Transfers

There are separate transferability provisions applicable to LEAs generally, to LEAs identified for improvement, and to LEAs identified for corrective action.

Most LEAs

An LEA (except an LEA identified for improvement or corrective action under Title I) may transfer up to 50 percent of the funds allocated to it by formula under each of the following provisions to its allocation under any of the other provisions:

- Section 2121 (Teacher and Principal Training and Recruitment)
- Section 2412(a)(2)(A) (Enhancing Education Through Technology)
- Section 4112(b)(1) (Safe and Drug-Free Schools and Communities)

An LEA may also transfer up to 50 percent of the funds allocated to it by formula under the provisions noted above to its allocation under Part A of Title I. An LEA may not transfer funds allocated under Part A of Title I to any other program.

LEAs identified for improvement

An LEA identified for improvement under Part A of Title I may transfer not more than 30 percent of the funds allocated to it by formula under any of the provisions listed above to its allocation for school improvement under section 1003 of the ESEA or to any other allocation listed above if the transferred funds are used only for LEA improvement activities consistent with section 1116(c) of Title I. The LEA may not transfer funds allocated under Part A of Title I to any other program.

LEA Transferability Basic Facts	
Overview	Allows certain LEAs to transfer 30-50% of funds to certain other programs to meet unique local needs
Eligibility	Most LEAs may transfer 50%; LEAs identified for improvement may transfer 30% for specified activities; LEAs identified for corrective action may not transfer funds
Application	None
Requirements	Modify local plans, notify the SEA, and consult with private school officials (as appropriate)
Reporting	Submit a copy of the modification to the SEA within 30 days

LEAs identified for corrective action

An LEA identified for corrective action may not transfer funds under this authority.

Additional Flexibility for Rural Districts

Because small rural districts frequently receive small allocations from federal formula grants and often have higher costs per pupil, the ESEA offers flexibility to districts eligible for the Small, Rural School Achievement (SRSA) program. This provision, known as “REAP-Flex,” allows these districts to make more effective use of their small federal formula allocations. An eligible LEA may use its formula allocations under certain programs to carry out authorized activities or for activities authorized under a broader range of programs.

To be eligible for the SRSA program, and thereby eligible for REAP-Flex, an LEA must:

- Have fewer than 600 students in average daily attendance in the LEA, or serve only schools that are located in counties that have a population density of fewer than 10 persons per square mile; and
- Serve only schools that have a National Center for Education Statistics (NCES) locale code of 7 (rural) or 8 (rural near an urban area); or are located in an area of the state defined as rural by a governmental agency of the state. (The locale codes of schools are listed on the Department’s NCES Web site at <http://www.nces.ed.gov/ccd/ccdLocaleCode.asp>.)

REAP-Flex Basic Facts	
Overview	Allows eligible LEAs to combine certain funds and use them to carry out activities under a broader range of programs
Eligibility	LEAs eligible for the Small, Rural School Achievement program
Application	None
Requirements	Notify the SEA of its intention to use this flexibility
Accountability	After 3 years in the program, LEAs that have not made adequate yearly progress must use the funds for school improvement activities

Specifically, this authority allows eligible LEAs to combine certain funds provided under the ESEA – specifically, funds provided under subpart 2 of Part A of Title II, section 2412(a)(2)(A), section 4114, and Part A of Title V – and use that funding to carry out local activities under one or more of the following ESEA programs:

- Part A of Title I (Improving the Academic Achievement of Disadvantaged Children)
- Part A of Title II (Teacher and Principal Training and Recruiting)
- Part D of Title II (Enhancing Education Through Technology)
- Title III (Language Instruction for Limited English Proficient and Immigrant Students)
- Part A of Title IV (Safe and Drug-Free Schools and Communities)
- Part B of Title IV (21st Century Community Learning Centers)

- Part A of Title V (Innovative Programs)

After the third year that an LEA participates in the SRSA program, the SEA must determine whether the LEA has made adequate yearly progress (AYP) as defined under Title I of the ESEA. Only those LEAs that have made AYP may continue to participate. LEAs that fail to make AYP may continue to participate in the program and use the REAP-Flex authority only if they use the flexible funds to carry out the Title I school improvement requirements.

Consolidation of State and District Administrative Funds to Build State and Local Capacity

SEAs and LEAs are currently allowed to consolidate ESEA administrative funds in order to utilize such funds to strengthen their own capacity to more effectively meet local needs, including to best support students with the greatest needs such as students from low-income families, English Learners, and students with disabilities.

State Consolidation

An SEA may consolidate funds specifically made available to it for state administration under any ESEA program, as well as other programs that the Secretary may designate. An SEA may consolidate state administrative funds only if it can demonstrate that the majority of its resources are derived from non-federal sources.

State Consolidation Basic Facts	
Overview	Allows SEAs to consolidate ESEA administrative funds to administer all programs in the consolidation
Eligibility	Any SEA that can demonstrate the majority of its resources are from non-federal sources
Application	None
Reporting	None

An SEA may use consolidated state administrative funds to administer the programs included in the consolidation, and for administrative activities designed to enhance the effective and coordinated use of funds under those programs. In addition, an SEA may use the funds to develop the standards and assessments required under Part A of Title I.

District Consolidation

With the approval of its SEA, an LEA may also consolidate funds available for program administration under ESEA programs so long as the amount consolidated does not exceed the cap, if any, established in the ESEA for each program.

District Consolidation Basic Facts	
Overview	Allows LEAs to consolidate ESEA administrative funds to administer all programs in the consolidation
Eligibility	LEAs with the approval of their SEAs
Application	None
Reporting	None

An LEA may use consolidated administrative funds to administer the programs included in the consolidation and for uses, at the district and school levels, designed to enhance the effective and coordinated use of funds under those programs.

An LEA that consolidates administrative funds for any fiscal year may not use any other funds under the programs included in the consolidation for administration for that fiscal year.

Consolidating Federal, State, and Local Education Funds to Promote Comprehensive Reforms at the Schoolwide Level

Schools that run a Title I schoolwide program (those with 40 percent or more students from low-income families) have the flexibility to combine federal education funds, including ESEA, IDEA, and Perkins funds (consistent with certain limitations in IDEA) along with state and local funds in order to redesign their entire educational program to improve educational achievement for all students, including English Learners and students with disabilities. This allows a school to use resources effectively and efficiently to undertake comprehensive reform.

The minimum poverty threshold required for implementing a schoolwide program is 40 percent. Eligible schools are allowed to consolidate and use funds under Part A of Title I, together with other federal education funds (to the extent applicable) and state and local funds, in order to upgrade the entire educational program at the school. This means that all funds are treated as if they are a single pool of funds – individual program funds can be used flexibly to support any activity of the schoolwide program that is identified in its schoolwide plan. Schools that fully consolidate all funds are subject to less burdensome federal reporting requirements.

In consultation with its LEA, an eligible school that desires to operate a schoolwide program must:

- Conduct a comprehensive needs assessment of the entire school;
- Develop (or amend, as applicable) a comprehensive plan, based on the needs assessment, for reforming the total instructional program in the school; and
- Annually evaluate the academic achievement results and revise the plan, as necessary, to improve achievement.

Schoolwide Consolidation Basic Facts	
Overview	Consolidate federal, state, and local funds into a flexible pool to be used for improving the whole school
Eligibility	Title I schools operating a schoolwide program where 40% or more of students are from low-income families
Application	None
Requirements	Conduct a needs analysis and design a comprehensive plan
Reporting	Schoolwide schools that consolidate federal funds with state and local funds are not required to maintain separate fiscal accounting requirements or employee time and effort requirements

A school that consolidates and uses funds from different federal programs along with state and local funds to support a schoolwide program is not required to meet most of the statutory and regulatory requirements of the consolidated federal programs, provided the school meets the intent and purposes of those programs. The school is also not required to maintain separate fiscal accounting records that identify how the consolidated federal funds were spent, so long as the school can demonstrate that the schoolwide program as a whole addresses the intent and purposes of each program whose funds were consolidated. Furthermore, the school is not required to maintain “time and effort” records for employees. Finally, an LEA with a schoolwide school is allowed to comply with the Title I supplement, not supplant requirement by demonstrating that it distributes state and local funds fairly and equitably to the schoolwide school without regard to whether the school is receiving federal funds.