

# **Local Flexibility Demonstration Agreements for Student-Centered Funding Authorized by Section 1501 of the ESEA**

## Frequently Asked Questions



**U.S. Department of Education  
Office of Elementary and Secondary Education**

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*Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.*

### **Purpose of this Document**

The purpose of this document is to provide general information about local flexibility demonstration agreements for student-centered funding authorized by section 1501 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).<sup>1</sup> This document provides basic information about the application process for the demonstration agreements and does not impose any requirements beyond those included in the ESEA and other applicable laws and regulations. In addition, it does not create or confer any rights for or on any person.

ED will provide additional or updated information as necessary on the Office of State Support Web site at

<https://www2.ed.gov/policy/elsec/leg/essa/scfp/studentcentered.html>. If you have questions that are not answered in this document, please e-mail [WeightedFundingPilot@ed.gov](mailto:WeightedFundingPilot@ed.gov).

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<sup>1</sup>References are to the ESEA as amended by the Every Student Succeeds Act. For the full text of the ESEA, please see <https://www2.ed.gov/documents/essa-act-of-1965.pdf>.

## **A. GENERAL INFORMATION**

### **A-1. What flexibility is available for student-centered funding?**

ESEA section 1501 authorizes local flexibility demonstration agreements providing flexibility for student-centered funding to local educational agencies (LEAs) under which such agencies may consolidate certain Federal funds with State and local funds to create a single school funding system based on weighted per-pupil allocations for students from low-income families and otherwise disadvantaged students. To promote the use of such flexibility, encourage innovation, and reduce administrative burden, section 1501(b)(2) authorizes the Secretary to waive, for an LEA that enters into a local flexibility demonstration agreement, any provision of the ESEA that would otherwise prevent the LEA from using eligible Federal funds as part of the agreement. Accordingly, except as enumerated in FAQ A-2 below, the Secretary will waive all of the fiscal and program requirements that relate to using eligible Federal funds at the school level when an LEA consolidates those eligible Federal funds with State and local funds in its student-centered funding system, provided the LEA meets the purposes of each such Federal education program.

Similar to the requirements for consolidating Federal, State and local funds in a schoolwide program school under ESEA section 1114, an LEA that enters into a local flexibility demonstration agreement may consolidate State, local and eligible Federal funds and then allocate those funds to all its schools, ensuring that its Title I schools receive their fair share of funds through the weighted per-pupil funding system as required under ESEA section 1118(b)(2).<sup>2</sup> The LEA would not need to identify individual services as supplementary or maintain separate fiscal accounting records, by program, that identify the specific activities supported by Federal funds. Instead, the LEA may use its consolidated Federal funds without regard to meeting the specific requirements of each Federal program whose funds are consolidated in the LEA's student-centered funding system, provided the LEA demonstrates that the funds allocated through its student-centered funding system, as a whole, address the purposes of each such Federal program.

### **A-2. Which requirements are not waived for an LEA that enters into a local flexibility demonstration agreement?**

A local flexibility demonstration agreement provides flexibility from school-level requirements for Federal education programs included in the agreement that relate to funds allocated to an LEA by either the Department or the relevant State educational agency (SEA). State-level requirements, including those that require collaboration between a State and its LEAs, are not waived. For example, a State must continue to adopt challenging academic content and achievement standards, administer annual statewide assessments, establish a statewide accountability system, and issue a State report card under ESEA section

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<sup>2</sup> Note that, while funds under the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Career and Technical Education Act (Perkins Act) may be included in the consolidation of funds under a schoolwide program, those programs are not included in the eligible Federal funds for the purposes of a student-centered funding demonstration agreement (see ESEA section 1501(e)(1)).

1111. Other examples of State-level Federal requirements not waived are those requirements delegated by an SEA as part of its subgrant agreement with an LEA, such as identification and recruitment of migratory children, and transfer of student records, including usage of the Migrant Student Information Exchange (MSIX).

At the LEA level, there are two types of ESEA requirements that are not waived for LEAs that enter into a local flexibility demonstration agreement: 1) certain requirements specifically discussed in ESEA Section 1501, and 2) other requirements that the Secretary has determined that an LEA approved under this authority must continue to meet.

First, ESEA section 1501(d)(1)(I) requires an LEA that enters into a local flexibility demonstration agreement to continue to meet certain LEA-level program requirements, including the following fiscal requirements in ESEA section 1118:

- Maintain fiscal effort under section 1118(a) and 8521;
- Use Title I, Part A funds to supplement and not supplant State and local funds consistent with section 1118(b)(2); and
- Ensure that Title I schools receive services comparable to those provided in non-Title I schools under section 1118(c).

Next, because these requirements apply, an LEA must continue to identify participating Title I schools, based on the percentage of low-income students under ESEA section 1113(a)-(b) and the amount of Title I, Part A funds, in the aggregate, that the LEA allocates to schools through its student-centered funding system. However, the LEA need not comply with the allocation requirements under ESEA section 1113(c)(1)-(2), i.e., to allocate Title I, Part A funds to specific schools, if those funds are consolidated in the LEA's student-centered funding system.

ESEA section 1501(d)(1)(I) also requires an LEA that enters into a local demonstration flexibility agreement to continue to meet the requirements of ESEA sections 1117 and 8501, which require an LEA to provide equitable services to eligible private school students, their teachers and families under Title I, Part A and other covered programs, as further described below in FAQ A-4.

Lastly, ESEA section 1501(d)(1)(J) requires an LEA that enters into a local flexibility demonstration agreement to meet the requirements of all applicable Federal civil rights laws. Those laws include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and requirements under the Individuals with Disabilities Education Act.

In addition, there are several requirements that the Secretary has determined an LEA approved under this authority must continue to meet:

- An LEA that has schools identified by the State for comprehensive or targeted support and improvement, including schools identified for additional targeted support and improvement, under ESEA section 1111(c) and (d) must ensure that such schools develop appropriate support and improvement plans and implement

the plans, including appropriate evidence-based interventions. However, an LEA that chooses to offer public school choice as an intervention in schools identified for comprehensive support and improvement is not limited to the specific transportation funding requirements under ESEA section 1111(d)(1)(D)(v).

- An LEA must address disparities that result in low-income students and minority students in Title I schools being taught at higher rates than other students by inexperienced, ineffective or out-of-field teachers pursuant to ESEA section 1112(b)(2).
- An LEA must meet the LEA report card requirements in ESEA section 1111(h)(2), including reporting actual per-pupil expenditures by school, pursuant to ESEA section 1111(h)(1)(C)(x) and (2) (subject to the timeframe established by the June 28, 2017 Dear Colleague letter (see: <https://www2.ed.gov/policy/elsec/leg/essa/perpupilreqltr.pdf>).
- An LEA must collect any data that the Secretary determines are necessary for completing the evaluation of the program required under ESEA section 1501(j).

In order to ensure an LEA continues to meet the purposes of each Federal program included in the LEA's student-centered funding system, the Secretary may determine that additional requirements are necessary.

### **A-3. How does an LEA meet the Title I, Part A fiscal requirements under a local flexibility demonstration agreement?**

ESEA section 1501(d)(1)(I) requires an LEA that enters into a local flexibility demonstration agreement to continue to meet the fiscal requirements in section 1118 of Title I, Part A: maintenance of effort, supplement not supplant, and comparability.

**Maintenance of effort:** Implementing a student-centered funding system should not affect an LEA's ability to maintain effort under ESEA sections 1118(a) and 8521 because maintenance of effort is an LEA-level measure that examines an LEA's expenditures of State and local funds in the preceding fiscal year compared to the second preceding fiscal year. A student-centered funding system, on the other hand, focuses on funds to schools; it does not change the amount of State and local funds an LEA spends. (For example, in an LEA that is implementing a student-centered funding system and contributes \$1,000,000 of State and local funds to the funding system, this \$1,000,000 will count toward the LEA's maintenance of effort calculation in the same way as does another LEA that spends \$1,000,000 but does not use a student-centered funding system.)

**Supplement not supplant:** Implementing with fidelity a student-centered funding system should satisfy the requirement in ESEA section 1118(b)(2) that an LEA demonstrate it has a methodology for allocating State and local funds to each Title I school that ensures the school receives all of the State and local funds it would otherwise receive if it were not receiving Title I, Part A funds. Although an LEA cannot distinguish State and local funds from the Federal funds included in its

student-centered funding system, an LEA may presume it has met ESEA section 1118(b)(2) if it 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.

**Comparability:** Whether implementing a student-centered funding system meets the comparability requirement in ESEA section 1118(c) depends on how an LEA calculates comparability. For example, if an LEA uses a pupil-teacher ratio methodology to calculate comparability, the LEA's student-centered funding system may not demonstrate comparability. However, if an LEA demonstrates comparability on the basis of State and local funds received by each Title I school compared to non-Title I schools through an equitable funding system, the LEA's student-centered funding system would constitute per se comparability. Therefore, an LEA implementing a student-centered funding system may find it advantageous to demonstrate comparability based on funds rather than a staff-student ratio.

**A-4. How does an LEA provide equitable services to private school students under a local flexibility demonstration agreement?**

ESEA section 1501(d)(1)(I) requires an LEA that enters into a local flexibility demonstration agreement to continue to meet the requirements in ESEA sections 1117 and 8501 to provide equitable services to private school students, their teachers, and families. Accordingly, before implementing its student-centered funding system in accordance with its local flexibility demonstration agreement, an LEA must determine the amount of funds from each Federal program whose funds it consolidates in its system that must be reserved in order to provide equitable services under that program (including Title I, Part A; Title I, Part C; Title II, Part A; Title III, Part A; and Title IV, Part A). In consultation with appropriate private school officials, the LEA determines what services to provide under each program per the amount of funding generated for each program and the needs of the eligible private school students, teachers, and families.

**A-5. Must an LEA meet Federal requirements for funds it does not distribute to schools using its student-centered funding system?**

Yes. The flexibility afforded by a local flexibility demonstration agreement applies to the Federal funds allocated to schools through an LEA's student-centered funding system. It does not apply to any use of Federal funds that are not allocated through the system or to district-level uses of Federal funds. With respect to Federal funds not allocated through an LEA's student-centered funding system, the LEA must continue to meet all requirements of each program. To receive the most flexibility, an LEA may allocate all its eligible Federal funds through its student-centered funding system.

**A-6. Is Federal funding available to support the development and implementation of a local flexibility demonstration agreement?**

Not currently. However, a participating LEA may use administrative funds consolidated under ESEA section 8203 to support the implementation of a student-centered funding system developed or expanded under a local flexibility demonstration agreement. In the 2019

budget request, the President requested funds for an LEA that has entered into a local flexibility demonstration agreement for student-centered funding to build on the flexibility provided by the agreement in order to establish or expand an open-enrollment system.

**A-7. Who is eligible to apply for flexibility to implement a student-centered funding system?**

Eligible applicants for flexibility to implement a student-centered funding system are LEAs as defined in ESEA section 8101(30) that have the ability to implement a student-centered funding system consistent with all requirements of section 1501.

**A-8. For how long will flexibility be available?**

An initial local flexibility demonstration agreement will be approved for a period of three years. An agreement may be renewed for additional three-year periods. See FAQ E-1.

**A-9. From which Federal programs may an LEA consolidate funds into a student-centered funding system?**

Consistent with section 1501(l), below are Federal program funds an LEA may consolidate through a student-centered funding system if it receives an allocation from such programs and enters into a local flexibility demonstration agreement:

Title I, Part A	Improving Basic Programs Operated by Local Educational Agencies
Title I, Part C	Education of Migratory Children
Title I, Part D, Subpart 2	Local Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk
Title II	Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders
Title III	Language Instruction for English Learners and Immigrant Students
Title IV, Part A	Student Support and Academic Enrichment Grants
Title V, Part B	Rural Education Initiative

**A-10. May an LEA consolidate funds received under the IDEA or the Perkins Act?**

No. Section 1501 does not include either funds received under the IDEA or the Perkins Act among those funds identified as eligible for an LEA to include in its student-centered funding system.

**A-11. May an LEA consolidate and use funds from a competitive grant under an eligible Federal program?**

Yes. However, if an LEA consolidates funds from a competitive grant under an eligible Federal program, the LEA must continue to carry out the scope and objectives, at a minimum, at the level described in the LEA's approved application under which the funds

were awarded. When possible, in applying for a competitive grant, an LEA should indicate in its application that some or all of the funds would be used to support its local flexibility demonstration agreement. Alternately, an LEA may elect not to consolidate funds awarded under a competitive grant, administering them instead only for the activity or to the school or schools for which they were awarded, consistent with all applicable statutory and regulatory requirements of the competitive grant.

**A-12. Are there any eligibility requirements, absolute priorities, competitive preference priorities, and selection criteria in applying for a local flexibility demonstration agreement?**

Any LEA is eligible, provided it can meet all statutory requirements and may legally make all required assurances. There are no absolute priorities or competitive preference priorities. An LEA will be evaluated based on its response to each item in its application for a local flexibility demonstration agreement.

**A-13. How will an application be reviewed?**

An application will be reviewed by Federal peer reviewers and by Title I, Part E program staff. Peer reviewers will evaluate each response to an element in the application, rating each answer based on points assigned in the application. Program staff will review applications for consistency with statutory requirements. Based on scores from peer review, Department staff will work with up to the 50 highest-rated LEAs to address feedback from peer reviewer and staff review. Department staff will then make recommendations regarding those LEAs with which the Secretary should enter into a local flexibility demonstration agreement.

**A-14. How many LEAs may the Secretary enter into a local flexibility demonstration agreement with?**

The Secretary is initially authorized to enter into a local flexibility demonstration agreement with not more than 50 LEAs. However, the Secretary will only enter into agreements with LEAs that submit high-quality proposals, including proposals updated by an applicant based on discussion with the Department after the initial review.

**B. GENERAL APPLICATION INFORMATION**

**B-1. Where can an LEA obtain an application for a local flexibility demonstration agreement?**

An LEA can obtain an application for a local flexibility demonstration agreement to implement a student-centered funding system via the Internet or from the Education Publications Center (ED Pubs).

To obtain an application via the Internet, use the following address:

<https://www2.ed.gov/policy/elsec/leg/essa/scfp/studentcentered.html>.

To obtain an application from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794-1398. Telephone, toll free: 1-877-



433-7827. Fax: (301) 470-1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1-877-576-7734. LEAs can also contact ED Pubs at its website: [www.ed.gov/pubs/edpubs.html](http://www.ed.gov/pubs/edpubs.html) or at its e-mail address: [edpubs@inet.ed.gov](mailto:edpubs@inet.ed.gov).

If requesting an application from ED Pubs, please be sure to note that there is no CFDA number because this is not a grant.

**B-2. Must an LEA use the application template provided by the Department?**

Yes, an LEA must use the application template the Department has provided. If necessary, an LEA may include supplemental information in the form of an appendix. If supplying an appendix or other supplemental information, an LEA should include a table of contents.

**B-3. Is there a page limit for the application?**

No, there is no page limit.

**B-4. Must an LEA number the pages in its application?**

While there is no requirement to number pages, the Department requests that LEAs do so to facilitate a smooth review.

**B-5. How does an LEA submit its application to the Department?**

An LEA must submit its application by electronic mail (e-mail), sending the completed application to [WeightedFundingPilot@ed.gov](mailto:WeightedFundingPilot@ed.gov). An LEA should include a scanned copy of an original signature on the cover page.

All application content must be included in the electronic file submitted via e-mail; the Department will not review material in external references or links. See FAQ B-7.

**B-6. May an LEA include electronic files in its application?**

Yes. The files may be in any of the following formats:

- .DOC/.DOCX (Microsoft Word Document)
- .PDF (Adobe Portable Document Format)
- .PPT/.PPTX (Microsoft PowerPoint)
- .HTML (Hypertext Markup Language)
- .JPEG (Joint Photographic Experts Group Image)
- .GIF (Graphics Interchange Format)
- .PNG (Portable Network Graphics)
- .TIFF (Tagged Image Format)
- .XLS/.XLSX (Microsoft Excel)
- .XML/.XSD (Extensible Markup Language/XML Schema)
- .CSV (Comma Separated Values)

- .TXT (Text File)
- .ZIP (Compressed Package).

If an LEA submits data files, it should include in its application a description or schema of the data elements within the files. An LEA should not password-protect these files. Each electronic file name should clearly identify the part of the application to which the content is responding. An LEA should try to minimize the number of separate files it submits.

**B-7. May an LEA include hyperlinks in its application?**

No. Hyperlinks to websites or other documents may not be included in an application. Reviewers will be instructed not to follow such hyperlinks if included. We understand that hyperlinks can be a convenient way to provide information; however, because hyperlinks can be updated after the deadline for submitting an application, they cannot be considered as part of the application.

**B-8. Should an LEA format its application in color or in black and white?**

An applicant may format its application either in color or in black and white. However, because reviewers might print copies of an application in black and white, and to ensure full compliance with all accessibility requirements, an LEA should ensure that color is not essential to understanding its application.

**B-9. What is the deadline for submitting an application for a local flexibility demonstration agreement?**

To be considered for flexibility beginning in the 2018-2019 school year, the Department must receive all applications by March 12, 2018 at 11:59 pm in the applicant's time zone. To be considered for flexibility beginning in the 2019-2020 school year, the Department must receive all applications by July 15, 2018 at 11:59 pm in the applicant's time zone. The Department will not accept an application after the applicable due date.

**B-10. May an LEA amend its application after the deadline?**

An LEA may not submit amendments or updates to its application after the application deadline. However, the Department may communicate with the LEA based on the results of the initial application review, which could result in updates to an application. For more information about the review process, see FAQ A-13.

**B-11. Will applications for flexibility for student-centered funding be made public?**

Yes. After redacting any personally identifiable information, the Department will post all applications that result in local flexibility demonstration agreements and may post submitted applications, even if they do not result in an agreement.

**B-12. When will the Department announce those LEAs approved for a local flexibility demonstration agreement?**

The Department anticipates notifying successful LEAs of their demonstration agreements in spring 2018 for those LEAs planning to implement beginning in school year 2018-2019 and in fall 2018 for those planning to implement beginning in school year 2019-2020.

**C. APPLICATION AND IMPLEMENTATION REQUIREMENTS**

**C-1. What requirements must an applicant meet in order to be eligible to enter into a local flexibility demonstration agreement?**

To be eligible for a local flexibility demonstration agreement, an applicant must be an LEA as defined in ESEA section 8101(30) and meet all application requirements, including providing all required assurances. Those assurances include affirmations that the LEA:

- has the legal authority to use State and local education funds consistent with its proposed system of student-centered weighted per-pupil allocations;
- developed and will implement the local flexibility demonstration agreement in consultation with teachers, principals, other school leaders (including charter school leaders in an LEA that has charter schools), administrators of Federal programs impacted by the agreement, parents, community leaders, and other relevant stakeholders;
- if consolidating funds from a competitive grant under an eligible Federal program, will carry out the scope and objectives, at a minimum, at the level described in the application under which the funds were awarded;
- will meet all annual continuation requirements pursuant to ESEA section 1501(e);
- will use fiscal control and sound accounting procedures that ensure proper disbursement of, and accounting for, eligible Federal funds consolidated and used under its student-centered funding system, including by ensuring that costs are reasonable and necessary;
- will continue to meet the requirements of ESEA sections 1117, 1118, and 8501;
- will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using funds under the agreement;
- will use, for administrative purposes, not more than the percentage of funds allowed for such purposes under each eligible Federal program; and
- for Federal funds not allocated through the student-centered weighted student funding system, will continue to meet all applicable program and fiscal requirements.

**C-2. How should an LEA ensure that it has legal authority to use State and local education funds consistent with its proposed student-centered funding system?**

An LEA should consult relevant authorities to ensure that it has legal authority to allocate State and local education funds consistent with its proposed student-centered funding system. While an LEA does not need to provide documentation of such authority to the Department, the LEA should have evidence to support its assurance. While an LEA need not seek permission from an SEA to apply, it may elect to consult the SEA regarding this requirement.

**C-3. In order to be selected to enter into a local flexibility agreement, what must an LEA describe in its application with respect to its proposed student-centered funding system?**

An LEA must indicate in item 1 of the application the school year in which it intends to begin implementing its student-centered funding system. In item 2 of the application, the LEA must specify the weights the LEA proposes to use, including the weights associated with English learners, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the LEA. Subsequent items in the application require an LEA to articulate how the weighting system meets statutory requirements (as further detailed in FAQ C-4 below). The LEA must also describe, in item 12 of the application, how the funding system will support the academic achievement of students, including low-income students, the lowest-achieving students, English learners, and children with disabilities.

The LEA must identify, in item 5 of the application, the sources of funding that will be allocated through its student-centered funding system, including the specific Federal funds that it will include from among the eligible Federal programs. The LEA will then elaborate on this information in item 6 of the application, identifying the amount of funds and the percentage of funds to be allocated through the system in year one of implementation. An LEA with an approved demonstration agreement will update this information for years two and three on the dates identified in item 7.

The LEA must describe how it will ensure that it will meet the purposes of each Federal program whose funds are allocated through its system in item 15 of the application.

**C-4. How will the Secretary evaluate a student-centered funding system?**

Each student-centered funding system will be evaluated for consistency with statutory requirements, including how:

- The weights or allocation amounts allocate *substantially more funding* to English learners, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the LEA than to other students;
- The LEA will ensure that *each high-poverty school* receives, in the first year of the demonstration agreement, *more per-pupil funding* from Federal, State and local sources for low-income students and *at least as much per-pupil* funding for English learners as the school received the year immediately preceding the first year of the demonstration agreement;
- The percentage of funds allocated through the per-pupil funding system is a *significant percentage* that is *sufficient to carry out the purposes* of the demonstration agreement and meet the requirements of ESEA section 1501(d);
- The LEA will include all school-level actual personnel expenditures for instructional staff (including staff salary differentials for years of employment) and actual non-personnel expenditures in the calculation of the LEA's State and local funds and eligible Federal funds when calculating the significant portion of funds to be allocated to the school level; and

- After allocating funds through the system, the LEA will charge schools for the per-pupil expenditures of State and local education funds and eligible Federal funds, including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual non-personnel expenditures.

**C-5. For the purposes of a local flexibility demonstration agreement, what is a “high-poverty school?”**

Consistent with ESEA section 1501(l)(2), a “high-poverty school” means a school that is in the highest two quartiles of schools served by an LEA, based on the percentage of enrolled students from low-income families.

**C-6. How will the Secretary enter into an agreement with an LEA?**

Consistent with FAQ A-13 above, the statute contemplates agreement between an LEA and the Secretary on key issues within the application. Accordingly, based on the peer and staff review, the Department will contact an LEA, as appropriate, to discuss the details of the LEA’s proposed student-centered funding system.

**C-7. What are the requirements for an LEA once it enters into a local flexibility demonstration agreement?**

An LEA must meet all statutory requirements of ESEA section 1501. Specifically, an LEA must:

- Allocate the significant portion of funds through its student-centered funding system to which it committed in its local flexibility demonstration agreement;
- Allocate *substantially more funding* to English learners, students from low-income families, and students with any other characteristics associated with educational disadvantage chosen by the LEA than to other students;
- In the first year of the program, ensure that *each high-poverty school* receives
  - *more per-pupil funding* from Federal, State and local sources for low-income students and
  - *at least as much per-pupil* funding for English learners as the school received the year immediately preceding the first year of the demonstration agreement;
- Meet the purposes of each eligible Federal program for which it consolidates funds;
- Include all school-level actual personnel expenditures for instructional staff (including staff salary differentials for years of employment) and actual non-personnel expenditures in the calculation of the LEA’s State and local funds and eligible Federal funds when calculating the significant portion of funds to be allocated to the school level;
- After allocating funds through the system, charge schools for the per-pupil expenditures of State and local education funds and eligible Federal funds, including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual non-personnel expenditures;
- Cooperate with the Department in monitoring and technical assistance activities, as appropriate;

- Continue to meet all other requirements not waived through the flexibility agreement (see FAQ A-2); and
- Meet the reporting requirements described in FAQ D-1 below.

**C-8. What does it mean to “meet the purposes” of a Federal education program whose funds an LEA allocates through its student-centered funding system?**

ESEA section 1501(d)(1)(F) requires an LEA to describe in its application how the LEA will ensure that it “meet[s] the purposes” of each Federal program whose funds it allocates through its student-centered funding system. The following examples illustrate this requirement.

Title II, Part A: The purposes of this program are to increase student academic achievement; improve the quality and effectiveness of educators; increase the number of educators who are effective in improving student academic achievement; and provide low-income and minority students greater access to effective educators. An LEA that includes Title II, Part A funds in its student-centered funding system meets the purposes of Title II, Part A if it implements activities and strategies to improve student academic achievement by increasing the effectiveness of educators generally and the number of effective educators in the LEA, especially by implementing strategies and activities that increase the availability of effective educators to poor and minority students in the LEA. These activities could include: developing and implementing initiatives to recruit and retain effective educators, providing high-quality, personalized professional development that is evidence-based, and developing and implementing educator induction and mentoring programs that are designed to improve classroom instruction and student achievement.

Title IV, Part A: The purposes of this program are to improve students’ academic achievement by increasing capacity to: 1) provide all students with access to a well-rounded education; 2) improve school conditions for student learning; and 3) improve the use of technology in order to improve the academic achievement and digital literacy for all students. An LEA that includes Title IV, Part A funds in its student-centered funding system meets the purposes of Title IV, Part A if it implements activities collectively in its schools that address each of these purposes. Such activities might include: programming in foreign languages, civics, arts history, STEM, and college and career counseling; increasing the availability of, and enrollment in, accelerated learning courses; drug violence and prevention activities; school-based mental health services; prevention of bullying and harassment activities; or building technological capacity and infrastructure and providing technical assistance to teachers on the use of technology. An LEA need not, for example, meet the percentage requirements in ESEA section 4106(e)(2)(C) and (D) or prioritize funds to certain schools under section 4106(e)(2)(A).

**C-9. *(added May 31, 2018)* What does it mean for an LEA to use actual personnel expenditures (including staff salary differentials for years of employment) for**

**instructional staff and actual non-personnel expenditures in allocations at the school level?**

The statute requires that “[a] local educational agency’s school funding system based on weighted per-pupil allocations shall include all school-level actual personnel expenditures for instructional staff (including staff salary differentials for years of employment) and actual non-personnel expenditures in the calculation of the local educational agency’s State and local education funds and eligible Federal funds to be allocated” through the system (section 1501(d)(2)(A)(v)). In responding to the application question based on this requirement (item 10 in the May 16, 2018, application template), an applicant may state that it will directly apply the student-centered funding formula outlined in the LEA’s plan to meet this requirement. Accordingly, each school must receive, at a minimum, the funds, or resources based on the amount of funds, the school generates through the formula. Therefore, it would not be appropriate for an LEA to allocate personnel based on a number of full-time-equivalent staff members using a student-to-staff ratio. Instead, the LEA must determine the dollars that are available to the school based on the student-centered funding formula for the portion of funds that go through the formula.

**C-10. (added May 31, 2018) How can an LEA meet the requirement to “charge schools for the per-pupil expenditures of State and local education funds and eligible Federal funds, including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual nonpersonnel expenditures”?**

Section 1501(d)(2)(C) specifically requires an LEA participating in the demonstration authority to “charge schools for the per-pupil expenditures of [consolidated funds], including actual personnel expenditures (including staff salary differentials for years of employment) for instructional staff and actual nonpersonnel expenditures.” This provision ensures that each school has access to, and receives the benefit of, the full amount of funds it generates through the weights in the LEA’s formula in terms of the funds available for staff salaries and for non-personnel services. By charging actual costs for actual personnel expenditures and non-personnel expenditures at each school, an LEA can ensure that a school with, for example, lower actual personnel expenditures as compared with the LEA average does not receive less available funding than the formula would indicate the school should receive.

The Department recognizes that this is not currently a common practice and that many LEAs currently charge an average salary for each position after allocating funding to schools. An LEA may need to make future changes to its practice in order to meet these statutory requirements. At the point of budget planning, an LEA might create more precise average salary calculations by using more than one average salary estimate for a given position class, potentially using differentiating factors such as level of experience or education (i.e., “new” versus “master” teacher). In this case, the LEA should provide specific information about the salary bands used for school-level budgeting in the application.

Regardless of the approach to budget preparation, an LEA may also need to propose a method that ensures each school receives the benefit of the full amount of funds it generates through the formula by making adjustments to school-level budgets once actual expenditure

information is known. Below are two example methods an LEA might use for meeting this requirement:

- An LEA might pick a date certain at or near the beginning of the school year and calculate actual personnel and non-personnel costs for the entire year as of that date. The LEA would compare those actual costs to the amount each school was charged during the budget process and make adjustments. Those adjustments would suffice for the remainder of the school year.
- Similarly, an LEA concerned that it might not be able to precisely forecast staff salaries at the school level might propose to review actual school-level expenditures at the close of each fiscal year and compare those actual expenditures to the amount of funds that each school was charged during the budget process, making funding adjustments in the subsequent year to ensure that each school has access to the full amount of funds determined by the formula for each year. Reconciling a prior year's shortfall would result in additional funds in a subsequent year for a school that did not, in retrospect, receive the benefit of all of the funds it was allocated using the formula.

Other methods may also be allowable. An LEA proposing another method should explain its approach in detail in its application for this pilot.

With regard to meeting the requirements in section 1501(d)(2)(A)(iii) that each high-poverty school (as defined in section 1501(l)(2)) must receive, in the first year of the demonstration authority, more per-pupil funding for students from low-income families and at least as much per-pupil funding for English learners compared to the year prior to entering into the demonstration authority and to the requirement in section 1501(e)(1) that an LEA annually demonstrate that each high-poverty school does not receive less per-pupil funding for students from low-income families or English learners compared to the previous year, an LEA could demonstrate compliance based on the funds generated by the approved student-centered funding formula, regardless of when or how adjustments are made. Adjustments made to correct a prior year's shortfall, as described above, must count toward meeting these requirements in the year when the funds should have been received; such funds do not serve to meet the requirements with respect to a subsequent year.

Please note that, regardless of an LEA's participation in the student-centered funding pilot, the LEA must use actual personnel expenditures (including staff salary differentials for years of employment) and actual non-personnel expenditures for purposes of reporting per pupil expenditures on LEA report cards, consistent with ESEA sections 1111(h)(1)(C)(x) and 1111(h)(2).

## **D. REPORTING, ACCOUNTABILITY, AND OTHER OBLIGATIONS**

### **D-1. What reporting requirements apply to an LEA operating under a local flexibility demonstration agreement?**

As described in FAQ C-7 above, an LEA operating under a local flexibility demonstration agreement must report and make public certain information. Annually, while ensuring that any release of information is only reported or made public if such information does not reveal personally identifiable information, the LEA must:



- Demonstrate to the Secretary that, as compared to the previous year, no high-poverty school served by the LEA received--
  - Less per-pupil funding, including from Federal, State, and local sources, for low-income students; or
  - Less per-pupil funding, including from Federal, State, and local sources, for English learners;
- Make public and report to the Secretary the per-pupil expenditures (including actual personnel expenditures that include staff salary differentials for years of employment, and actual non-personnel expenditures) of State and local education funds and eligible Federal 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 or ethnic group in the school for the preceding fiscal year;
- Make public the total number of students enrolled in each school served by the LEA and the number of students enrolled in each such school disaggregated by:
  - Economically disadvantaged students;
  - Students from major racial and ethnic groups;
  - Children with disabilities; and
  - English learners
- Collect and report such information that the Secretary may reasonably request in order to complete the program evaluation required under section 1501(j) and as enumerated in an LEA's approved local flexibility demonstration agreement; and
- Continue to meet the LEA report card requirements, including the per-pupil expenditure requirements, under ESEA section 1111(h).

**D-2. Must an LEA operating under a local flexibility demonstration agreement be included in statewide assessments and the statewide accountability system?**

Yes. The Secretary has determined that an LEA that operates under a local flexibility demonstration agreement must continue to implement the standards, assessment and accountability requirements under ESEA section 1111.

**D-3. How will an LEA determine which schools are Title I schools?**

If an LEA includes funds under Title I, Part A in its student-centered funding system, those funds would lose their identity and would be distributed, along with other Federal, State, and local funds, to all the LEA's schools. However, in order to determine compliance with the Title I supplement not supplant and comparability requirements (as required under ESEA section 1501(d)(1)(I)) as well as identify schools for comprehensive support and improvement, an LEA must continue to identify Title I schools. An LEA could do this by ranking its schools according to the percentage of low-income students under ESEA section 1113(a)-(b) and identifying Title I schools based on the amount of Title I, Part A funds that, in the aggregate, the LEA allocates through its student-centered funding system. The LEA would then determine on this basis which schools would otherwise have been identified as Title I schools were the LEA not implementing a local flexibility demonstration agreement and apply related requirements for, among other things, school accountability.

## **E. RENEWAL, EXPANSION, AND TERMINATION**

### **E-1. What does the Secretary take into consideration in renewing an LEA's local flexibility demonstration agreement?**

The Secretary may renew for additional three-year terms an LEA's local flexibility demonstration agreement if the Secretary determines

- the LEA has met all program requirements during the initial demonstration period (*i.e.*, initial three year agreement), including those described in FAQ C-7 above, and agrees to, and has a high likelihood of, continuing to meet such requirements; and
- that renewing the local flexibility demonstration agreement is in the interest of students from low-income families and English learners. In determining the interest of students, the Secretary may consider high-risk factors affecting the LEA such as financial stability or significant audit findings.

### **E-2. Under what circumstances may the Secretary expand the opportunity to apply for a local flexibility demonstration agreement to additional LEAs?**

The Secretary may extend flexibility to implement a student-centered funding system to any LEA that submits and has approved an application under ESEA section 1501(d) if a significant majority of the pilot LEAs meet the requirements of ESEA section 1501(d)(2) and (e)(1).

### **E-3. May the Secretary terminate an LEA's local flexibility demonstration agreement?**

If the Secretary becomes aware of noncompliance with the terms of its agreement or the requirements under ESEA section 1501(d) and (e), the Secretary may, after providing notice and an opportunity for a hearing, including the opportunity to provide supporting evidence, terminate an LEA's local flexibility demonstration agreement. See ESEA section 1501(h)-(i).