



UNITED STATES DEPARTMENT OF EDUCATION

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TO: State Title I Directors
State Title II Directors
State Title III Directors
State School Improvement Grant Directors

FROM: Patrick Rooney
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Office of Elementary and Secondary Education

DATE: October 25, 2017

SUBJECT: Process for Transferring State-Level Funds (Section 5103(a) of the ESEA)

This memorandum provides information to States about the implementation of section 5103(a) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA)^[1], regarding the transferability of State-level funds.

Process for Transferring State-Level Funds (Section 5103(a) of the ESEA)

Under the Elementary and Secondary Education Act of 1965, as amended by Every Student Succeeds Act (ESEA), a State educational agency (SEA) may transfer funds it receives by formula under certain programs to other programs to better address State and local needs. SEAs may make such transfers without prior approval from the U.S. Department of Education (the Department), but SEAs must notify the Department 30 days prior to transfer and must modify each State plan or application to which such funds relate and submit a copy of the modified plan or application within 30 days of the transfer.

Section 5103(a)(1) of the ESEA permits SEAs to transfer funds allocated for State-level activities from the following programs:

- Title II, Part A – Supporting effective instruction state grants,
- Title IV, Part A – Student support and academic enrichment grants, and
- Title IV, Part B – 21st Century Community Learning Centers.

Section 5103(a)(2) allows SEAs to transfer State-level funds from the programs listed above to any of the following programs:

- Title I, Part A – Improving basic programs operated by LEAs;
- Title I, Part C – Education of migratory children;

^[1] See www2.ed.gov/documents/essa-act-of-1965.pdf

- Title I, Part D – Prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk;
- Title II, Part A – Supporting effective instruction state grants;
- Title III, Part A – State grants for English language acquisition and language enhancement;
- Title IV, Part A – Student support and academic enrichment grants;
- Title IV, Part B – 21st Century Community Learning Centers; and
- Title V, Part B – Rural education.

SEAs may transfer all or a portion of funds allocated for State-level activities under Title II, Part A; Title IV, Part A; or Title IV, Part B. SEAs may not, however, transfer administrative funds from these programs. Under each of these programs, an SEA allocates funds separately for authorized State-level activities and for program administration. An SEA may transfer only the funds it allocates for authorized State-level activities; it may not transfer funds that it separately allocates for administration.

When an SEA decides to transfer some or all of the funds allocated for State-level activities under the three eligible programs, it must take certain steps. The SEA must:

- (1) Engage in timely and meaningful consultation, in accordance with section 8501 of the ESEA, with appropriate private school officials if such transfer transfers funds from a program that provides for the participation of students, teacher, or other educational personnel from private schools (5103(e)(2));
- (2) Determine the program(s) from which funds are to be transferred and to which funds are to be transferred;
- (3) Determine the amount, and Federal fiscal year, of funds to be transferred;
- (4) Establish the effective date for the transfer; and
- (5) Notify the U.S. Department of Education of each transfer at least 30 days *before* the effective date of each transfer (5103(d)(1)(C));
- (6) Submit not later than 30 days after the date of such transfer, a copy of the SEA's modified plan or application to the Secretary.

Letters notifying the Department of a transfer should be mailed to the Director of the Office of State Support, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington D.C. 20202. PDF versions of letters may also be submitted electronically to the State's Office of State Support (OSS) Program Officer at OSS.[State]@ed.gov (e.g., OSS.Utah@ed.gov).

An SEA should include the following information in its letter notifying the Department of a transfer:

- (1) The program(s) from which funds are to be transferred;
- (2) The amount, and Federal fiscal year, of funds to be transferred;
- (3) The program(s) to which the funds will be transferred;
- (4) The effective date for the transfer; and
- (5) A point of contact for the transferability authority.

In addition to notifying the Department of a transfer, the SEA must, as per sections 5103(d)(1)(A) and (B) of the ESEA, modify its individual program applications or plans, or its consolidated State plan, to account for the effects of the transfer and must provide the Department with a copy of its modified plan(s). This modification must occur *not later than 30 days after the effective date of the transfer*.

Copies of modified individual program applications or plans, or, if the State elected to submit a consolidated State plan, a revised copy of the consolidated State plan, must be submitted to the Department *not later than 30 days after the effective date of the transfer*.

Modified plans, including updated signature pages, should be submitted electronically to the State's OSS Program Officer at OSS.[State]@ed.gov (e.g., OSS.Utah@ed.gov). It would be helpful if the State could submit a redlined version of its previously approved plan document showing the changes made as a result of the transfer, in addition to the required clean copy of the revised plan.

If you have questions about the processes for notifying the Department of a transfer or for submitting an updated plan document, please contact your State's OSS program officer.