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# **Transitioning to the Every Student Succeeds Act (ESSA)**

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## **Frequently Asked Questions**



Updated May 4, 2016

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## INTRODUCTION

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On December 10, 2015, President Obama signed the bipartisan Every Student Succeeds Act (ESSA), which reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA). The ESSA builds upon the critical work States and local educational agencies (LEAs) have implemented over the last few years. The reauthorized law sets high standards and contains policies that will help prepare all students for success in college and future careers. It prioritizes excellence and equity and recognizes the importance of supporting great educators in our nation's schools.

The Secretary is offering guidance on transitioning from the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB) to the ESEA, as amended by the ESSA. This guidance includes actions the U.S. Department of Education (ED) has taken or will take consistent with its authority under section 4(b) of NCLB to the ESSA to support States, LEAs, and schools in this transition. ED has prepared these frequently asked questions (FAQs) to support States and LEAs in understanding expectations during the transition to full implementation of the ESSA.

If you are interested in commenting on this guidance, or if you have further questions that are not answered here, please e-mail [essa.questions@ed.gov](mailto:essa.questions@ed.gov) using the subject “ESSA transition question” or write to us at the following address: U.S. Department of Education, Office of Elementary and Secondary Education, Student Achievement and School Accountability Programs, 400 Maryland Avenue, S.W., Washington, DC 20202.

Please note that this guidance is available in electronic form on ED's website at <http://www2.ed.gov/policy/elsec/leg/essa/faq/index.html>. ED will update this document on a rolling basis.

## A. GENERAL GUIDANCE ON ESSA TRANSITION

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### A-1. Where can the public access the text of the ESSA?

The full text of the ESSA is available at <https://www.gpo.gov/fdsys/pkg/BILLS-114s1177enr/pdf/BILLS-114s1177enr.pdf>. In addition, the full text of the ESEA, as amended by the ESSA, is available at <http://legcounsel.house.gov/Comps/Elementary%20And%20Secondary%20Education%20Act%20Of%201965.pdf>

### A-2. How will ED award and administer the fiscal year (FY) 2016 appropriations for State and district formula grant programs under ESEA that do not have competitive subawards?

As stated in ED's [January 28, 2016, Dear Colleague letter \(DCL\)](#), under the ESSA transition provisions, as clarified by the Consolidated Appropriations Act, 2016, ED will award and administer FY 2016 formula grant funds in accordance with the ESEA as in effect on the day before the date of enactment of the ESSA (*i.e.*, the requirements promulgated under NCLB). Specifically, ED will make FY 2016 formula grant awards for the 2016–2017 school year to States and districts receiving funds under the ESEA non-competitive formula grant programs in the same manner and using the same allocation formulas it did with FY 2015 formula grant funds for the 2015-2016 school year.

### A-3. How must a State make formula grant allocations to LEAs for FY 2016 for the 2016-2017 school year?

Each State must make formula subgrant allocations to LEAs in the same manner and using the same allocation formulas as it used for the 2015-2016 school year.

### A-4. Must a State and its LEAs continue to implement ESEA State formula grant programs in accordance with NCLB in the 2016-2017 school year?

In general, each State and its LEAs that receives FY 2016 funds under a State formula grant program under the ESEA must continue to implement that program in the 2016-2017 school year in accordance with NCLB requirements as they existed in the 2015-2016 school year. There are some specific exceptions to this general rule as discussed in questions A-4a, A-4b, and B-11.

#### **A-4a. What accountability requirements must a State and its LEAs meet in the 2016-2017 school year?**

Section 5(e)(1)(A) of the ESSA provides that ESEA section 1111(b)(2), as authorized by NCLB, is effective only through August 1, 2016. Section 1111(b)(2) contains the requirement that each State that receives Title I, Part A funds must develop and implement a single, statewide accountability system, including establishing annual measurable objectives (AMOs), defining adequate yearly progress (AYP), and holding Title I schools and LEAs accountable under ESEA section 1116. Accordingly, sections 1111(b)(2) and 1116 are no longer in effect after August 1, 2016. Instead, under section 5(e)(2) of the ESSA, a school or LEA that is identified in the 2015-2016 school year as a priority or focus school under ESEA flexibility (see B-3) or as a school or LEA in improvement, corrective action, or restructuring, as applicable, under NCLB (see C-4) must continue to implement interventions applicable to the school or LEA through the 2016-2017 school year. A State that is not implementing ESEA flexibility may, but is no longer required to, ensure that its LEAs offer public school choice, supplemental educational services (SES), or the related notice to parents during the 2016-2017 school year (see C-4 and C-5).

#### **A-4b. Are there any NCLB requirements with which a State or LEA need not comply during the 2016-2017 school year?**

Yes. In order to ensure an orderly transition from ESEA requirements under the NCLB to those under the ESSA, the Department has identified the following provisions with which a State or LEA need not comply during the 2016-2017 school year because those provisions are not continued under ESSA:

1. Section 1111(h)(1)(C)(ii) and (h)(2) of the ESEA, as amended by NCLB, which require each State and LEA to report performance against AMOs (see C-9);
2. Section 1111(h)(6)(B)(ii) of the ESEA, as amended by NCLB, which requires a school to notify parents when their child has been assigned to, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified (see D-3);
3. Section 1117 of the ESEA, as amended by NCLB, which requires a State to provide certain types of school supports and recognition (see C-6);
4. Section 1119 of the ESEA, as amended by NCLB, which requires that each LEA hire highly qualified teachers; that each State and LEA report on progress toward all teachers being highly qualified (see C-7);
5. Section 2141 of the ESEA, as amended by NCLB, which requires an LEA not making progress toward all teachers being highly qualified to create and implement an improvement plan and requires the State to provide technical assistance to such LEA (see D-2);
6. Section 3122(a) of the ESEA, as amended by NCLB, which requires each State to establish annual measurable achievement objectives (AMAOs) (see E-1); and,
7. Section 3302(b) of the ESEA, as amended by NCLB, which requires each LEA receiving Title III funds that fails to meet one or more of the AMAOs to provide notice to parents of such failure (see E-3).



As ED continues to analyze the ESSA, it may update this list as necessary. Please note, however, that any requirements not explicitly excluded through this document, or forthcoming guidance, remain required through the 2016-2017 school year. **See B-11 for specific provisions that ED will not require a State or LEA to comply with so that a priority or focus school is able to continue to implement appropriate interventions in the 2016-2017 school year.** (Updated May 4, 2016)

**A-5. Through the 2016-2017 school year, must a State and its LEAs continue to collect data for the Consolidated State Performance Report (CSPR) to submit to ED in accordance with the ESEA, as amended by NCLB?**

In general, through the 2016-2017 school year, each State and its LEAs that receives funds under a State formula grant program under the ESEA must continue to collect data for submission to ED in accordance with NCLB requirements. There are some specific exceptions to this general rule as discussed in questions A-4a, A-4b, A-5a, and B-12.

**A-5a. Are there any NCLB reporting requirements with which a State or LEA need not comply?**

In order to ensure an orderly transition from ESEA requirements under the NCLB to those under the ESSA, the Department has identified the following data elements that a State or LEA need not report to ED in accordance with the ESSA based on data from the specified years because those elements are not required under ESSA:

1. AMO and AYP files (file specification numbers N109 and N111) based on data from the 2014-2015, 2015-2016, and 2016-2017 school years. (See C-11)
2. Data on supplemental educational services and public school choice based on data from the 2016-2017 school year (file specifications C010, C128, and C164. (See C-12)
3. AMAO data (data groups 569, 518, and 688 in file specification number N103) based on data from the 2014-2015, 2015-2016, and 2016-2017 school years. (See E-4)
4. Highly qualified teacher data files (file specification numbers N063 and N064) based on data from the 2016-2017 school year. (See D-4)

**A-6. Must a State submit a consolidated State application in July 2016 to receive FY 2016 funds?**

No, a State is not required to submit a consolidated State application for funding to ED in July 2016 to receive FY 2016 formula funds. The Consolidated Appropriations Act, 2016, clarifies that FY 2016 formula grant funds will be administered in accordance with the ESEA, as amended by NCLB. ED will provide additional information about consolidated State applications for future funding under the ESSA.

## B. GUIDANCE REGARDING ESEA FLEXIBILITY

This section provides guidance related to changes to support the transition to the ESSA for States operating with approved ESEA flexibility requests in the 2015-2016 school year.

### IMPLEMENTING INTERVENTIONS IN IDENTIFIED SCHOOLS

#### B-1. Must a State continue to implement its ESEA flexibility request?

Each State with an approved ESEA flexibility request must continue to implement that request through the 2015-2016 school year. All ESEA flexibility requests are null and void as of August 1, 2016.

#### B-2. For a State with an approved ESEA flexibility request, what are the general requirements regarding priority and focus school interventions for the 2016-2017 school year?

In accordance with section 5(e)(2)(B)(ii) of the ESSA, a State with priority and focus schools as identified under an approved ESEA flexibility request must continue to implement interventions applicable to such schools through the 2016-2017 school year.

#### B-3. What are the general requirements regarding priority and focus school lists for the 2016-2017 school year?

As stated in the [December 18, 2015, DCL](#), a State implementing ESEA flexibility must select one of the following options with regard to their priority and focus school lists:

Option A: Do not exit schools and maintain current identification. A State may “freeze” its current lists of priority and focus schools as of December 9, 2015 (the day before the date of enactment of the ESSA). The State may not exit schools from the current lists. These are the schools that will continue to implement their approved interventions through the remaining months of the 2015-2016 school year and in the 2016-2017 school years.

Option B: Exit schools and identify new priority and focus schools. A State may exit priority and focus schools that meet the State’s approved exit criteria and identify new priority (at least 5 percent of Title I schools) and focus (at least 10 percent of Title I schools) schools based on more recent data. These schools would implement their approved interventions through the 2016-2017 school year. As stated in the [December 18, 2015, DCL](#), a State selecting this option must provide updated lists of priority and focus schools to ED by **Monday, March 1, 2016.**

#### B-4. During renewal of ESEA flexibility requests in 2015, some States provided an assurance that they would submit updated priority and focus school lists no later than January 31, 2016. What are these States now required to do?

States that provided an assurance to submit updated priority and focus school lists no later than January 31, 2016, are no longer required to meet this assurance. Instead, all States with approved

ESEA flexibility requests must “freeze” their lists or, by March 1, 2016, exit schools and identify new priority and focus schools, as outlined in B-3.

**B-5. If a State chooses Option A and freezes its current lists of priority and focus schools, what must it submit to ED?**

A State choosing Option A does not need to submit anything to ED regarding its lists of priority and focus schools. However, all schools on these lists must continue to implement their approved interventions through the 2016-2017 school year.

**B-6. If a State chooses Option A, can it exit schools at the end of the 2015-2016 school year?**

No. As stated in the December 18, 2015 DCL, a State choosing Option A may not exit schools at the end of the 2015–2016 school year.

**B-7. If a State chooses Option A, can it add schools to its priority and focus school lists in order to ensure that 5 percent and 10 percent, respectively, of all Title I schools implement interventions through the 2016-2017 school year?**

Yes. A State choosing Option A may add priority and focus schools to its lists to ensure that 5 percent and 10 percent of all Title I schools are implementing interventions. However, a State is not required to add schools to these lists if it chooses Option A. Additionally, as described in B-3, a State that chooses Option A does not need to submit updated lists of schools to ED, even after adding schools to its lists. Please note that, under Option A, a State may add schools to its lists of priority and focus schools but must not exit schools from these lists.

**B-8. If a State chooses Option B and exits priority and focus schools that meet its approved exit criteria and identifies new schools based on more recent data, what must it submit to ED?**

A State choosing Option B must provide its updated lists of priority and focus schools to ED by **Monday, March 1, 2016**. These lists must demonstrate that the State has identified the requisite number of priority and focus schools (at least 5 percent and 10 percent, respectively, of Title I schools).

**B-9. If a State chooses Option B and exits priority and focus schools that meet its approved exit criteria but still has a sufficient number of schools on its lists, must it identify new schools?**

No. If, after a State exits priority and focus schools based on its approved exit criteria, the State has still identified 5 percent and 10 percent of its Title I schools as, respectively, priority and focus schools, then it need not identify additional schools. However, as described in B-3, a State that chooses Option B must still submit its updated lists of priority and focus school to ED no later than March 1, 2016.

**B-10. Must an LEA in a State implementing ESEA flexibility include on its LEA report card the names of schools it serves as focus and priority schools for the 2016-2017 school year?**

Yes. An LEA in a State implementing ESEA flexibility must report on its LEA report card following the 2016–2017 school year the names of schools served by the LEA as priority and focus schools for the 2016-2017 school year.

**B-11. All ESEA flexibility waivers are null and void on August 1, 2016, but priority and focus schools must continue to implement interventions beyond August 1, 2016. Is ED providing these States with any allowances to permit States to support these schools?**

Yes. In order to ensure that an LEA in a State that was implementing ESEA flexibility on the day before enactment of the ESSA is able to comply with the ESSA transition requirement to continue to implement interventions applicable to priority and focus schools during the 2016-2017 school year, ED will not require a State or LEA to comply with the following requirements of the ESEA, as amended by NCLB, so that a priority or focus school is able to continue to implement appropriate interventions in the 2016-2017 school year:

1. Section 1003(a), which requires a State to distribute at least 95 percent of the funds it reserves to allocate to LEAs for use in Title I schools in improvement, corrective action, or restructuring;
2. Section 1114(a)(1), which requires that a school have at least a 40 percent poverty rate to be eligible to operate a schoolwide program;
3. Section 6123(b), which limits the amount of certain federal funds an LEA may transfer between programs;
4. Sections 6213(b) and 6224(e), which require a State to permit an LEA that fails to make AYP to continue to participate in the Small, Rural School Achievement program and to receive a grant under the Rural and Low-Income School program only if the LEA uses funds to carry out ESEA section 1116; and
5. Sections 1113(a)(3)-(4) and (c)(1), which require an LEA to rank and serve eligible schools according to poverty and allocate Title I funds to schools in rank order of poverty.

## C. TRANSITION GUIDANCE REGARDING TITLE I PROGRAMS AND REQUIREMENTS

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This section provides guidance on ED’s expectations during the transition to the ESSA regarding certain Title I requirements.

### TITLE I, PART A REQUIREMENTS

**C-1. How must a State and its LEAs administer FY 2016 Title I formula funds in the 2016-2017 school year?**

As described in A-3, a State and its LEAs must administer FY 2016 Title I formula funds in accordance with NCLB requirements as they existed in the 2015-2016 school year, except for specific provisions of NCLB that ED has communicated to States are no longer required, as listed in A-4b and B-11.

**C-2. Must a State develop and submit to ED for review and approval AMOs for performance in the 2014-2015, 2015-2016, or 2016-2017 school years?**

No. As explained in ED’s [December 18, 2015, DCL](#), ED is not requiring a State to develop, or to submit for ED’s review and approval, AMOs for school years 2014-2015, 2015-2016, or 2016-2017.

**C-3. If a State is required to calculate AYP either under NCLB or its approved ESEA flexibility request, must that State continue to calculate AYP based on 2014-2015, 2015-2016, or 2016-2017 assessment results?**

No. AYP calculations are not required for schools and LEAs based on 2014-2015, 2015-2016, or 2016-2017 school year assessment results. However, a State may choose to calculate AYP for schools and LEAs.

**C-4. What are the general requirements for schools and LEAs identified as in need of improvement, corrective action, or restructuring in the 2016-2017 school years?**

Section 5(e)(2)(i) of the ESEA, as amended by the ESSA, requires a school or LEA that was identified in 2015-2016 by the State as in need of improvement, corrective action, or restructuring under the ESEA as it existed prior to the enactment of the ESSA (i.e., under NCLB) to continue to implement the same interventions in the 2016-2017 school year. A State is no longer required to ensure LEAs provide supplemental educational services, public school choice, or the attendant parental notice requirements (see C-5). In addition, for the reasons described in A-4a, LEAs are no longer required to provide a parent of a student in a school identified as in improvement, corrective action, or restructuring with the notice described in section 1116(b)(6) of the ESEA, as amended by NCLB.

*Please note that questions C-5 through C-5e apply to a State that is not implementing ESEA flexibility in the 2015-2016 school year and, therefore, whose LEAs are required to provide public school choice and supplemental educational services.*

**C-5. Is a State required to ensure that LEAs provide students in schools identified for improvement, corrective action, or restructuring with supplemental educational services and public school choice in the 2016-2017 school year?**

No. A State is not required to ensure that LEAs with schools identified as in need of improvement, corrective action, or restructuring provide supplemental educational services, public school choice, and the related notice to parents in the 2016-2017 school year, but a State may choose to do so. A State that elects not to require LEAs to provide students with supplemental educational services, public school choice, and the related parental notice must develop and implement a one-year transition plan to support the orderly transition to the ESSA in their State.

**C-5a. What must a State include in its one-year transition plan if it does not require that an LEA provide students in schools identified for improvement, corrective action, or restructuring with supplemental educational services and public school choice in the 2016-2017 school year?**

A State that chooses not to require its LEAs to provide supplemental educational services and public school choice in the 2016-2017 school year must, in order to ensure an orderly transition to the ESSA, develop and implement a one-year transition plan for ensuring that an LEA provides alternative supports for the students eligible for supplemental educational services in the schools with the greatest need (*e.g.*, schools with large numbers or percentages of students eligible for supplemental educational services, or as defined in the State’s transition plan). A State must publicly post this transition plan no later than Friday, May 6, 2016. A State may specify in its plan whether it expects an LEA to spend a specific amount of its Title I, Part A funds to provide alternative supports during the 2016-2017 school year; this amount may be less than an amount equal to 20 percent of the LEA’s Title I, Part A allocation. (Added May 4, 2016)

**C-5b. Must the one-year transition plan described in C-5a address supports for all students who were eligible for supplemental educational services in the 2015-2016 school year?**

No. A State’s transition plan does not need to address additional supports for all students who were eligible for supplemental educational services in the 2015-2016 school year. Such a plan may cover all students eligible for supplemental educational services because they attend a school identified for improvement, corrective action, or restructuring. Or, for example, a State may permit LEAs to differentiate by prioritizing required supports for eligible students with the greatest need. As another example, a State may permit an LEA to prioritize supports in schools with large numbers or percentages of students eligible for supplemental educational services. (Added May 4, 2016)

**C-5c. What did a State that chose not to require its LEAs to provide supplemental educational services and public school choice in the 2016-2017 school year have to submit to ED with respect to its one-year transition plan?**

A State that chooses not require its LEAs to provide supplemental educational services and public school choice in the 2016-2017 school year had to submit to ED certain assurances concerning its transition plan by March 1, 2016. Each State had to assure that:

1. It will engage in timely and meaningful consultation with relevant stakeholders, including parents, LEAs, teachers, and principals, when developing the transition plan;

2. It will publicly post its transition plan no later than Friday, May 6, 2016, in the manner in which the State customarily provides such information to the public (*e.g.*, by posting its transition plan on its website);
3. It will explain in the transition plan how it will provide or ensure that LEAs provide students eligible for SES in schools with the greatest need (*e.g.*, schools with large numbers or percentages of students eligible for SES, or as defined in the State’s transition plan) with alternative supports and improvement activities intended to improve student outcomes, consistent with allowable uses of Title I funds and all applicable fiscal requirements; and
4. Consistent with ESEA section 1116(b)(13), as amended by NCLB, it will require LEAs to permit a student who previously transferred to another public school under No Child Left Behind Act of 2001 (NCLB) to remain in that school until the child has completed the highest grade in that school.

A State that develops a one-year transition plan is not required to submit the plan to ED, but it must publicly post the plan as described above. (Added May 4, 2016)

**C-5d. Are the Title I, Part A funds that an LEA would otherwise spend for choice-related transportation and supplemental educational services subject to the requirement to provide equitable services to eligible private school children, their teachers, and their families?**

Yes, in the same manner and to the same extent as other Title I funds. As stated in ED’s [January 28, 2016, DCL](#), and in C-5 and C-5a, a State need not require an LEA with schools identified as in need of improvement, corrective action, or restructuring in the 2015-2016 school year to provide supplemental educational services, public school choice, and the related notice to parents in the 2016-2017 school year. A State that chooses not to require these services must implement a one-year transition plan as described above. Assuming a State does not require an LEA to continue to provide public school choice or supplemental educational services, the Title I, Part A funds that the LEA would otherwise spend on those services are subject to the requirements under ESEA section 1120, as authorized by NCLB, to provide equitable services to eligible private school children, their teachers, and their families to the same extent and under the same conditions as other Title I, Part A funds (see A-4).

In general, an LEA allocates its Title I, Part A funds in two ways: it allocates the majority of those funds to its Title I schools consistent with ESEA section 1113(c); and it reserves some funds off the top of its allocation under 34 C.F.R. § 200.77 for both required and permissible activities. Equitable services requirements apply to funds allocated to Title I schools and LEA reservations for districtwide services to Title I schools. However, equitable services requirements do not apply to reservations from which an LEA provides services to a subgroup of students—*e.g.*, homeless students, neglected and delinquent students—or if an LEA focuses the reserved funds on a specific subset of low-performing schools—*e.g.*, schools in restructuring—because public Title I school students as a whole do not benefit from those services either.

With respect to Title I, Part A funds that are freed up from not needing to meet the 20 percent obligation under an ESSA transition plan, the responsibility to provide equitable services depends on how an LEA uses those funds. If, for example, the LEA allocates the funds under section 1113(c) of the ESEA to all its Title I schools, it must also provide equitable services with the funds. Similarly, if the LEA uses the freed-up funds for an off-the-top reservation to provide summer school or

professional development to all its Title I schools, or all its Title I schools at a particular grade level, the requirement to provide equitable services would apply. On the other hand, if the State requires an LEA to spend a specific amount, or the LEA on its own uses funds from an off-the-top reservation, to implement interventions in the 2016-2017 school year in schools with the greatest need (see C-5b), the equitable services requirement would not apply. (Added May 4, 2016)

**C-5e. Must an LEA in a State with a one-year transition plan consult with private school officials prior to deciding how to use Title I, Part A funds that may be freed up if the LEA is no longer required to meet the requirements in ESEA section 1116, as amended by NCLB?**

Yes. Under section 1120(b) of the ESEA, as amended by NCLB, an LEA must consult with private school officials during the design and development of the LEA's Title I, Part A programs. For the reasons described in A-4, this requirement continues through the 2016-2017 school year. That consultation must include meetings of LEA and private school officials and must occur before the LEA makes any decision that affects the opportunity of eligible private school children to participate in Title I, Part A programs, including decisions regarding the use of funds freed up under section 1116 of the ESEA, as amended by NCLB, based on a State's one-year ESSA transition plan. (Added May 4, 2016)

**C-6. Must a State continue to provide recognition and supports to schools as required under section 1117 of the ESEA, as amended by NCLB?**

A State must continue to comply with section 1117 of the ESEA, as amended by NCLB, through the 2015-2016 school year. For the reasons described in A-4b, ED is not requiring States to comply with the requirements in section 1117 of the ESEA, as amended by NCLB, beginning in the 2016-2017 school year, which requires a State to provide support for LEAs and schools receiving Title I, Part A funds and recognition of schools that close achievement gaps and exceed AYP targets.

**C-7. Must a State and its LEAs continue to comply with the requirements in section 1119 of the ESEA, as amended by NCLB, which describe certain requirements for teachers?**

A State and its LEAs must continue to comply with section 1119 of the ESEA, as amended by NCLB, through the 2015-2016 school year, including the requirement that a State and LEA report information related to highly qualified teachers based on the 2014–2015 and 2015–2016 school years. For the reasons described in A-4b, ED is not requiring States to comply with the requirements in section 1119 of the ESEA, as amended by NCLB, beginning in the 2016-2017 school year, which set forth requirements for highly qualified teachers and use of funds to support compliance with the highly qualified teacher requirements. (Updated May 4, 2016)

**C-8. Must a State continue to implement its State Plan to Ensure Equitable Access to Excellent Educators through the 2016-2017 school year?**

Yes. State Plans to Ensure Equitable Access to Excellent Educators, which each State developed to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, remain in effect for the 2015-2016 and 2016-2017 school years for all States. Section 1111(g)(1)(B) of the ESSA contains a similar requirement



that low-income and minority children not be served at disproportionate rates by ineffective, inexperienced, and out-of-field teachers. ED will provide additional information on this new requirement in the future.

**C-8a. Must a State amend its State Plan to Ensure Equitable Access to Excellent Educators for the 2015-2016 or 2016-2017 school year to match the language changes to the requirement in the ESEA, as amended by the ESSA?**

No. A State is not required to amend its State Plan to Ensure Equitable Access to Excellent Educators for the 2015-2016 or 2016-2017 school years. All States should continue implementing their approved State Plans to Ensure Equitable Access to Excellent Educators. In the course of implementing its State Plan to Ensure Equitable Access to Excellent Educators in the 2015-2016 and 2016-2017 school years, a State may seek to amend its plan based on new strategies or to meet changed circumstances, but it need not do so based on changes in the ESEA, as amended by ESSA. A State that seeks to amend its State Plan to Ensure Equitable Access to Excellent Educators should discuss any planned amendments with its program officers in the Office of State Support at OSS.[State]@ed.gov (e.g., OSS.Alabama@ed.gov). (Added May 4, 2016)

## **TITLE I, PART A REPORTING REQUIREMENTS**

**C-9. What must a State and its LEAs continue to publish in State and local report cards for the 2014-2015, 2015-2016, and 2016-2017 school years?**

Each State must continue to implement the report card requirements under Title I, Part A of the ESEA, as amended by NCLB, based on data from the 2014-2015 (if they have not yet been published), 2015-2016, and 2016-2017 school years, except for specific provisions that ED has communicated to States are no longer required in order to ensure an orderly transition to the ESSA (see A-4). For example, State report cards must continue to include each LEA's student achievement on the State assessments compared to students and subgroups of students in the State as a whole. At the school level, the LEA must include a school's student achievement on the State assessments compared to students and subgroups of students in the LEA and in the State as a whole.

For the reasons described in A-4b, ED is not requiring States to comply with the requirements in sections 1111(h)(1)(C)(ii) and (h)(2). States and LEAs are, therefore, no longer required to include the following elements in State and local report cards based on data from the 2014-2015 (if they have not yet been published), 2015-2016, and 2016-2017 school years: AYP (see C-3) and AMOs (see C-2). Additionally, as discussed in C-7 and D-5, States and LEAs are not required to include teacher quality information in report cards based on data from the 2016–2017 school year.

**C-10. What must a State and its LEAs include in State and local report cards with respect to AYP, since a State is no longer required to submit AMOs to ED for review and approval?**

A State and its LEAs are not required to report on State and local report cards whether an LEA or school made AYP based on the 2014-2015 (if not already published), 2015-2016, or 2016-2017 assessment results. However, a State and its LEAs must continue to report on State and local report cards the most recent LEA and school improvement statuses, including priority and focus school

statuses, as indicated in the 2013 Report Card Non-Regulatory Guidance available at [http://www2.ed.gov/programs/titleiparta/state\\_local\\_report\\_card\\_guidance\\_2-08-2013.pdf](http://www2.ed.gov/programs/titleiparta/state_local_report_card_guidance_2-08-2013.pdf).

**C-11. What must a State report to ED as part of the 2014-2015, 2015-2016, and 2016-2017 school year CSPR submissions with respect to AMOs and AYP, since a State is no longer required to submit AMOs to ED for review and approval?**

A State is no longer required to submit AMO files (file specification numbers N109 and N111) to EDFacts for the 2014-2015, 2015-2016, and 2016-2017 submissions. A State is no longer required to respond to accountability questions in section 1.4 of the CSPR (specifically, 1.4.1 Number and percentage of schools and districts that made AYP; 1.4.1 Number and percentage of schools and districts that met all AMOs, 95 percent participation rate, and other academic indicator; 1.4.2, Number and percentage of Title I schools that made AYP; 1.4.2, Number and percentage of Title I schools that met all AMOs, 95 percent participation rate, and other academic indicator; 1.4.3 Number and percentage of districts that received Title I funds that made AYP; and 1.4.3 Number and percentage of districts that received Title I funds that met all AMOs, 95 percent participation rate, and other academic indicator).

Please note that each State is still required to report the other component parts of AYP, including performance against the participation targets in reading and math (file specification numbers N108 and N110), and performance against the other academic indicators (file specification numbers N106 and N107). Each State is also still required to submit all related numeric data, including assessment results for each grade level, subgroup, and subject; participation rates for each grade level, subgroup, and subject; and graduation rates for each subgroup. For further clarification about which EDFacts files are still required, please contact the EDFacts Partner Support Center toll free at 877-457-3336; e-mail at [EDEN\\_SS@ed.gov](mailto:EDEN_SS@ed.gov); or visit <http://www2.ed.gov/about/inits/ed/edfacts/eden/contacts.html>.

For a State that has already submitted this information for the 2014-2015 school year, there is no additional action required.

**C-11a. What must a State report to the Office of Special Education Programs as part of the FY 2014 and FY 2015 Part B State Performance Plan/Annual Performance Report (SPP/APR) submission under Indicator 3, since a State is no longer required to submit AMOs to ED for review and approval?**

As explained in ED's [December 18, 2015, DCL](#), ED is not requiring a State to develop, or to submit for ED's review and approval, AMOs for school years 2014-2015 or 2015-2016, or to report performance against AMOs for those years. As a result, States are not required to report on Indicator B3A for purposes of the FY 2014 Part B SPP/APR (due in February 2016) and the FY 2015 Part B SPP/APR (due in February 2017). States are required to continue to report on the participation rate for children with Individualized Education Programs (IEPs) under Indicator B3B, and the proficiency rate of children with IEPs on statewide assessments under Indicator B3C in the FY 2014 and FY 2015 Part B SPPs/APRs. (Added May 4, 2016)

**C-12. What must a State report to ED as part of the 2016-2017 school year CSPR submissions with respect to supplemental educational services and public school choice, since a State is no longer required to ensure that its LEAs provide those options?**

States are no longer required to submit data on supplemental educational services and public school choice to EDFacts for the 2016-2017 submissions (file specifications C010, C128, and C164). States are no longer required to respond to supplemental educational services questions and public school choice questions in section 1.4 of the CSPR (1.4.9.1.2, Public School Choice – Students, 1.4.9.1.3, Funds Spent on Public School Choice, 1.4.9.1.4, Availability of Public School Choice Options, 1.4.9.2.2, Supplemental Educational Services – Students, and 1.4.9.2.3 Funds Spent on Supplemental Educational Services), when reporting on the 2015-2016 and 2016-2017 school years.

## D. GUIDANCE REGARDING TITLE II, PART A PROGRAMS AND REQUIREMENTS

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This section provides guidance regarding Title II programs and requirements during the transition to the ESSA.

### TITLE II, PART A REQUIREMENTS

**D-1a. Must a State ensure that special education teachers are “highly qualified,” as defined in section 9101 of the ESEA, as amended by NCLB, in the 2016-2017 school year?**

No. The ESSA amended the Individuals with Disabilities Education Act (IDEA) by removing the definition of “highly qualified” in section 602(10) and the requirement in section 612(a)(14)(C) that special education teachers be “highly qualified” by the deadline established in section 1119(a)(2) of the ESEA, as amended by NCLB. Accordingly, a State is not required to ensure that special education teachers are “highly qualified” as defined in the ESEA beginning with the 2016-2017 school year but must ensure that they meet the requirements described in D-1b.

**D-1b. If the definition of “highly qualified” is no longer applicable to special education teachers, what are the federal requirements related to the professional qualifications of those teachers?**

Section 9214(d)(2) of the ESSA amended section 612(a)(14)(C) of the IDEA by incorporating the requirement previously in section 602(10)(B) that a person employed as a special education teacher in elementary school, middle school, or secondary school must: 1) have obtained full certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination and hold a license to teach in the State as a special education teacher, except that a special education teacher teaching in a public charter school must meet the requirements set forth in the State’s public charter school law; 2) not have had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and 3) hold at least a bachelor’s degree. Each State must continue to comply with these certification requirements during the 2016-2017 school year. (Updated May 4, 2016)

**D-2. Must a State continue to comply with the requirements in section 2141 of the ESEA, as amended by NCLB, under which the State must ensure that LEAs take certain actions if they do not make progress toward all teachers being highly qualified and do not make AYP?**

Each State must continue to comply with section 2141 through the 2015-2016 school year. For the reasons described in A-4b, ED is not requiring States to comply with the requirements in section 2141 of the ESEA, as amended by NCLB, in the 2016-2017 school year. Specifically, section 2141 of the ESEA, as amended by NCLB, requires an LEA to take certain actions if it does not make progress toward all teachers being highly qualified and does not make AYP, including developing an improvement plan. Thus, beginning in the 2016-2017 school year, an LEA is not required to develop an improvement plan or restrict the use of Federal education funds pursuant to such a plan, and a State is not required to provide the LEA the technical assistance that would be required to develop such a plan. Additionally, the State is not required to enter into the agreement required by section 2141(c) of the ESEA, as amended by NCLB, with an LEA. In addition, an LEA is no longer restricted in its use of Title I, Part A funds for hiring paraprofessionals.

**D-3. Must a school continue to comply with section 1111(h)(6)(B)(ii) of the ESEA, as amended by NCLB, which requires a school to notify parents when their child has been assigned to, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified?**

No. For the reasons described in A-4b, ED is not requiring States to comply with the requirements in section 1111(h)(6)(B)(ii) of the ESEA, as amended by NCLB, beginning with the 2016-2017 school year. Schools will no longer be required to provide notice to parents related to the highly qualified status of their child's teacher. Please note that LEAs are required to continue with section 1111(h)(6)(A) of the ESEA, as amended by NCLB, which requires an LEA to notify parents that they may request and the LEA will provide certain information regarding the professional qualifications of the student's teachers and paraprofessionals, as appropriate.

## **TITLE II, PART A REPORTING REQUIREMENTS**

**D-4. What must a State report to ED as part of the 2014-2015, 2015-2016, and 2016-2017 school year CSPR submissions as it relates to reporting on highly qualified teachers?**

A State must continue to report highly qualified teacher information to ED through the CSPR based on data from the 2014-2015 and 2015-2016 school years. States will not be expected to submit highly qualified teacher data files (file specification numbers N063 and N064) to ED Facts based on data from the 2016-2017 school year. States are no longer required to respond to teacher quality questions in section 1.5 of the CSPR.

**D-5. What must a State and its LEAs continue to publish in State and local report cards for the 2014-2015, 2015-2016, and 2016-2017 school years related to teacher quality?**

State and local report cards for the 2014-2015 and 2015-2016 school years must continue to include information on teacher quality, as indicated in the 2013 Report Card Non-Regulatory Guidance available at [http://www2.ed.gov/programs/titleiparta/state\\_local\\_report\\_card\\_guidance\\_2-08-2013.pdf](http://www2.ed.gov/programs/titleiparta/state_local_report_card_guidance_2-08-2013.pdf). States are no longer required to report information on teacher quality beginning with State and local report cards based on 2016-2017 school year information.

## STATE AGENCIES FOR HIGHER EDUCATION GRANT PROGRAM

### **D-6. How will ED award and administer the State Agency for Higher Education (SAHE) formula grant program for FY 2016?**

ED will award and administer FY 2016 formula grant funds for Title II, Part A grants to SAHEs in the same manner and using the same allocation formulas it did with FY 2015 Title II, Part A funds awarded to SAHEs for the 2015-2016 school year, *i.e.*, in accordance with the ESEA as amended by NCLB. Please see D-8 for applicability of the 27-month period of obligation under the “Tydings Amendment” to funds awarded to the SAHE. (Added May 4, 2016)

### **D-7. After FY 2016, does the ESSA continue to provide for a portion of a State’s Title II, Part A funds to be awarded to a SAHE, or otherwise require a State to award a portion of its Title II, Part A funds to a SAHE, for competitive grants that support teachers, principals, and other school leaders?**

No. Under the ESEA, as amended by ESSA, ED will award each State all Title II, Part A funds available for the State; ESSA does not provide for any Title II, Part A grant awards or set-aside for SAHEs. Therefore, beginning in FY 2017, ED will no longer award SAHEs any Title II, Part A funding. However, beginning in FY 2017, under section 2101(c)(4)(A) of the ESEA, as amended by ESSA, States may implement Title II, Part A allowable State-level activities in conjunction with a SAHE and carried out through a grant or contract with a for-profit or nonprofit entity, including an institution of higher education. In addition, Title II, Part A funds that a State reserves for its administrative costs may support the costs of involving the SAHE in these activities. SAHEs may want to discuss with SEAs how they may help their States to carry out these activities. (Added May 4, 2016)

### **D-8. How may SAHEs make awards of FY 2016 funds?**

Formula grant recipients, including SAHEs, will continue to operate in the 2016-2017 school year under the plans, procedures, and requirements that are in place for the 2015-2016 school year. A SAHE may use its FY 2016 Title II, Part A funds for continuation awards or for new awards. Consistent with the Tydings Amendment in section 421(b) of the General Education Provisions Act (20 U.S.C. § 1225(b)), grantees have a total of 27 months to obligate and expend funds that ED awarded on July 1 of the Federal fiscal year for which the funds were appropriated. Therefore, since all FY 2016 funds awarded to a SAHE must be obligated and expended by September 30, 2018, after making any needed continuation awards, the SAHE may use the remainder of its FY 2016 funds to make one- or two-year subgrants under provisions of the ESEA, as amended by NCLB. For additional questions about the administration of the SAHE program during the transition to ESSA, please contact your State’s program officers in the Office of State Support at OSS.[State]@ed.gov (e.g., OSS.Alabama@ed.gov). (Added May 4, 2016)

## E. GUIDANCE REGARDING TITLE III, PART A PROGRAMS AND REQUIREMENTS

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This section provides guidance regarding Title III programs and requirements during the transition to the ESSA.

### TITLE III, PART A REQUIREMENTS

**E-1. Must a State make new AMAO determinations based on 2014-2015 or 2015-2016 assessment results?**

No. For the reasons described in A-4b, ED is not requiring States to comply with the requirements in section 3122(a) of the ESEA, as amended by NCLB. As such, a State is not required to make new accountability determinations based on 2014-2015 or 2015-2016 assessment data (as appropriate). A State that chooses not to make new AMAO accountability determinations may freeze district accountability determinations under Title III based on the most recent AMAO calculations, and must continue to implement corresponding supports and interventions in those LEAs for the remaining months of the 2015-2016 school year and the 2016-2017 school year (see E-2).

**E-2. If a State chooses not to make new AMAO accountability determinations, what are the general requirements for LEAs in the 2016-2017 school year that did not meet AMAOs for at least two or four years based on the most recent AMAO determinations that the State made?**

An LEA that was implementing an improvement plan in the 2015-2016 school year or other interventions or reforms pursuant to section 3122(b)(4) of the ESEA, as amended by NCLB, must continue to implement the improvement plan or other interventions and reforms in the 2016-2017 school year and the State must continue to provide technical assistance and support to each such LEA.

**E-3. Must an LEA that fails to meet one or more of its AMAOs based on assessment result from the 2014-2015, 2015-2016, or 2016-2017 school year (or would not meet its AMAOs if the State made AMAO determinations) provide notice to parents of such failure in accordance with section 3302(b) of the ESEA, as amended by NCLB?**

No. For the reasons described in A-4b, ED is not requiring States to comply with the requirements in section 3302(b). Because ED is not requiring the calculation of AMAOs based on assessment results from the 2014-2015, 2015-2016, or 2016-2017 school years, States and LEAs are not required to comply with the parental notification requirements in section 3302(b) of the ESEA, as amended by NCLB, which requires each LEA that fails to meet one or more of the AMAOs to provide notice to parents of such failure.

Please note, however, that each State and LEA must continue to comply with the parental notification requirements in section 3302(a) of the ESEA, as amended by NCLB through the 2016-2017 school year, which requires that an LEA provide notice to the parent or parents of a student identified as an English learner within 30 days of the start of the school year (or for students

identified later in the school year, within two weeks) that includes, for example, the reason for identification, parents' rights, and other important information.

### **TITLE III, PART A REPORTING REQUIREMENTS**

#### **E-4. What must a State report to ED as part of the 2014-2015, 2015-2016, and 2016-2017 school year CSPR submissions as it relates to AMAOs?**

A State is no longer required to submit AMAO data collected through EDFacts (data groups 569, 518, and 688 in file specification number N103) for the 2014-2015, 2015-2016, and 2016-2017 submissions. This means a State is no longer required to provide information in section 1.6.4.1 of the CSPR (specifically, Title III subgrantee performance). For a State that has already submitted this information for the 2014-2015 school year, there is no additional action required. For a State that has not yet submitted this information, there is no need to submit it in the future. ED does not expect a State to report this information for the 2015-2016 school year CSPR collection that will begin in fall 2016 or for the 2016-2017 CSPR collection that will begin in fall 2017.

Please note, however, that there are no changes to other components of the Title III CSPR reporting requirements. Each State is still required to report, for example, the number and target number of English learners making progress and English learners attaining proficiency on the State's annual English language proficiency assessment.



## F. TRANSITION GUIDANCE ON MATHEMATICS AND SCIENCE PARTNERSHIP GRANTS

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**F-1. How will ED award and administer FY 2016 Mathematics and Science Partnerships (MSP) formula grant program funds?**

ED will award and administer FY 2016 MSP formula grant funds, for the 2016–2017 school year, in the same manner and using the same allocation formulas as it did for FY 2015 MSP funds awarded for the 2015-2016 school year, *i.e.*, in accordance with the ESEA as amended by NCLB. Please see F-6 and F-7 for applicability of the 27-month period of obligation under the “Tydings amendment” to funds awarded to the SAHE. (Added May 4, 2016)

**F-2. Must a State and its subgrantees continue to implement the MSP program in accordance with the ESEA, as amended by NCLB, in the 2016-2017 school year?**

Yes. Each State and subgrantee that receives FY 2016 funds under the MSP program must continue to use those funds to implement the MSP in accordance with NCLB requirements. (Added May 4, 2016)

**F-3. How must a State award new subgrants under the MSP program in FY 2016 for the 2016-2017 school year?**

Each State must award subgrants on a competitive basis to eligible partnerships consistent with the requirements of Title II, Part B, section 2202(a)(2)(ii) of the ESEA, as amended by NCLB. All FY 2016 MSP funds must be obligated and expended no later than September 30, 2018. Please see F-6 and F-7 for additional information on how a State may make these subgrants. (Added May 4, 2016)

**F-4. Does the ESEA, as amended by ESSA, authorize continued funding for the MSP program in FY 2017 and future years?**

No. The ESSA eliminates the MSP program authority; however, the ESSA provides for new support for activities in science, technology, engineering, and mathematics (STEM) education through other authorized programs. For example, the new Student Support and Academic Enrichment Grants program (which is authorized under Title IV, Part A, Subpart 1, section 4107 of the ESEA, as amended by ESSA), if funded, provides formula grants to States (which then make subgrants to LEAs) to improve academic achievement by increasing State and local capacity to provide students with access to a well-rounded education and to improve school conditions and use of technology. Under this program, recipients may use funds for programming and activities at the State and LEA levels to improve instruction and student engagement in STEM subjects, including computer science. Additionally, Title II, Part B, subpart 4, section 2245 of the ESEA, as amended by ESSA, authorizes the STEM Master Teacher Corps. If funded, this competitive grant program would award funds to States to develop statewide a STEM master teacher corps; or to States, or nonprofit organizations in partnership with States, to support the implementation, replication, or expansion of effective STEM professional development programs in schools. Additionally, Title IV, Section 4102 supports the creation of STEM-focused specialty schools, which allows for schools, or dedicated programs within a school, that ensure students get engaged in rigorous, relevant, and integrated STEM and computer science learning, including authentic research. Finally, Section 4205 authorizes the 21<sup>st</sup> Century Community Learning Centers program, which allows for expanded learning program activities that build skills in STEM, including computer science, and support non-traditional STEM education teaching methods. (Added May 4, 2016)

**F-5. May a State use FY 2016 MSP funds to continue subgrants with a multi-year project performance period that began with an initial FY 2015 or prior-year award?**

Yes. A State may use FY 2016 MSP funds to continue subgrants with multiple project performance periods that were initially awarded from FY 2015, or prior year, MSP funds. Consistent with the Tydings Amendment in section 421(b) of the General Education Provisions Act (20 U.S.C. § 1225(b)), for formula grant programs, a State and its subgrantees have a total of 27 months to obligate and expend funds awarded on July 1 of the Federal fiscal year in which the funds were appropriated. Therefore, MSP funds that were awarded to a State on July 1, 2015 must be obligated and expended by September 30, 2017; FY 2016 MSP funds that will be awarded to a State on July 1, 2016, must be obligated and expended by September 30, 2018. Please also see F-7. (Added May 4, 2016)

**F-6. How long should the project performance period be for any subgrants awarded from an FY 2016 competition?**

The ESEA, as amended by NCLB, permits a State to determine the length of the project performance period for subgrants under the MSP. Because the ESSA eliminates the MSP program authority, a State that plans to use FY 2016 funds to award new subgrants with project performance periods covering two years should consider frontloading those subgrants by using FY 2016 funds to cover both performance periods. Doing so will ensure that funding for these subgrants is available for the entire project performance period. Multiyear awards would be limited to two years because all FY 2016 funds must be obligated and expended by September 30, 2018. Specific issues about funding at the subgrantee level will likely need to be treated on a case-by-case basis. For additional questions about the administration of the MSP program during the transition to ESSA, please contact Ivonne Jaime, Education Program Specialist, U.S. Department of Education, at [Ivonne.Jaime@ed.gov](mailto:Ivonne.Jaime@ed.gov). (Added May 4, 2016)

## **G. TRANSITION GUIDANCE FOR INDIAN EDUCATION FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES UNDER TITLE VI, PART A**

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### **G-1. When do the ESSA changes take effect for Indian education formula grants?**

ED makes Indian education formula grants directly to LEAs, Bureau of Indian Education (BIE)-funded schools, and certain tribes in lieu of LEAs. The new statutory provisions for these grants under Title VI, Part A, subpart 1 of the ESEA, as amended by ESSA (formerly, Title VII), will take effect for FY 2017 grants for the 2017-2018 school year. Specifically, ED will make FY 2016 awards for the 2016–2017 school year to LEAs, BIE-funded schools, and tribes under the ESEA in the same manner and using the same allocation formulas it did with FY 2015 formula grant funds for the 2015-2016 school year. The ESSA changes will affect the FY 2017 Indian education formula grant applications that will be due in winter/spring 2017. (Added May 4, 2016)

### **G-2. When are new entities eligible to apply for Indian education formula grants?**

Beginning in FY 2017, Indian organizations and Indian community-based organizations are newly eligible entities for Title VI Indian education formula grants under certain conditions. ED will provide additional information on this new eligibility in the future. (Added May 4, 2016)