NON-REGULATORY GUIDANCE

TITLE I FISCAL ISSUES:

MAINTENANCE OF EFFORT
COMPARABILITY
SUPPLEMENT, NOT SUPPLANT
CARRYOVER
CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS
GRANTBACK REQUIREMENTS

REVISED
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PURPOSE OF THIS GUIDANCE

This non-regulatory guidance updates section E of the Title I fiscal issues guidance released in May 2006 and addresses consolidating funds in schoolwide programs. In addition to revising the introduction to section E, this guidance adds several new questions that clarify the purpose for consolidating funds in a schoolwide program, provides more detail on what it means to consolidate funds in a schoolwide setting, and describes how an LEA might account for State, local, and Federal funds that are consolidated in a schoolwide program. This guidance does not impose any requirements beyond those that the law specifies. Any requirements referred to in this guidance are taken directly from the statute and the Title I regulations, with citations provided throughout. The examples shown in this revised guidance illustrate possible ways to account for Federal funds in a schoolwide setting and do not constitute endorsement of the processes shown or imply that there is a requirement to use those processes. The guidance in this document supersedes all prior non-regulatory guidance issued by the Department concerning Title I fiscal issues

Summary of New and Revised Items

The following are new questions that were not in the May 2006 guidance: E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8, E-11, E-16, E-19, and E-25. Additionally, E-3 provides three examples of procedures to account for funds that have been consolidated. The remaining questions have not changed but have a new numbers: E-9, E-10, E-12, E13, E-14, E-15, E-17, E-18, E-20, E-21, E-22, E-23, E-24.

MAINTENANCE OF EFFORT; COMPARABILITY; SUPPLEMENT, NOT SUPPLANT; CARRYOVER; CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS; AND GRANTBACK REQUIREMENTS

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ACRONYMS

ESEA	Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act
FY	Fiscal year
GEPA	General Education Provisions Act
IDEA	Individuals with Disabilities Education Act
LEA	Local educational agency
MOE	Maintenance of effort
SEA	State educational agency
SY	School year

MAINTENANCE OF EFFORT; COMPARABILITY; SUPPLEMENT, NOT SUPPLANT; CARRYOVER; CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS; AND GRANTBACK REQUIREMENTS

INTRODUCTION

To ensure that funds made available under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) are used to provide services that are in addition to the regular services normally provided by a local educational agency (LEA) for participating children, three fiscal requirements related to the expenditure of regular State and local funds must be met by the LEA. The LEA must—

1. Maintain fiscal effort with State and local funds;

2. Provide services in its Title I schools with State and local funds that are at least comparable to services provided in its non-Title I schools; and

3. Use Part A funds to supplement, not supplant regular non-Federal funds.

These requirements are critical to the success of Title I, Part A because they ensure that the Federal investment has an impact on at-risk students the program is designed to serve—something that would not occur if Federal dollars replaced State and local resources that would otherwise be made available to these at-risk students. At the school district level, the maintenance-of-effort provision requires that an LEA maintain its expenditures for public education from State and local funds from one year to the next. Thus, an LEA cannot reduce its own spending for public education and replace those funds with Federal funds. At the school building level, comparability requires an LEA to ensure that each Title I school receives its fair share of resources from State and local funds. In other words, an LEA may not "discriminate" (either intentionally or unintentionally) against its Title I schools when distributing resources funded from State and local sources simply because these schools receive Federal funds. At the individual student level, an LEA must, under the supplement, not supplant requirement, ensure that services to students participating in Title I receive from Part A funds are additional to the regular services an LEA would otherwise provide to those students with funds from non-Federal sources. That is, services from Title I resources cannot replace or supplant services that an LEA would ordinarily provide to all its students.[1]

In addition to these three requirements, this guidance addresses fiscal issues concerning the carryover of Title I, Part A funds, consolidating Federal funds in schoolwide programs, and the grantback process.

[1] The supplement, not supplant requirement operates differently in a school that operates a schoolwide program because Title I funds may be combined with other Federal, State and local funds to improve the academic performance of all students in the school. See the discussion of schoolwide programs in the Supplement, not Supplant and Consolidating Funds in Schoolwide Programs sections.

A. MAINTENANCE OF EFFORT

An LEA may receive its full allocation of Title I, Part A funds for any fiscal year only if the State educational agency (SEA) determines that the LEA has maintained its fiscal effort in accordance with section 9521 of ESEA.

Requirement

Section 9521 provides that an LEA may receive funds under Title I, Part A for any fiscal year only if the SEA finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

In addition to Title I, Part A, the maintenance of effort (MOE) requirement of section 9521 apply to the following ESEA programs—

- Title I, Part B, Subpart 3, Even Start;
- Title I, Part D, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk;
- Title I, Part F, Comprehensive School Reform;
- Title II, Part A, Improving Teacher Quality State Grants;
- Title II, Part D, Educational Technology State Grants;
- Title III, Part A, English Acquisition State Grants;
- Title IV, Part A, Safe and Drug-Free Schools and Communities;
- Title IV, Part B, 21st Century Learning Centers; and
- Title VI, Part B, Subpart 2, Rural Education.

Failure to Meet the Requirement

If an LEA fails to meet the MOE requirement, the SEA must reduce the amount of funds allocated under the programs covered by the MOE requirement in any fiscal year in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of either the combined fiscal effort per student or aggregate expenditures. In reducing an LEA's allocation because it failed to meet the MOE requirement, the SEA uses the measure most favorable to the LEA. *[Section 9521(b)(1)]* [2]

For a year in which an LEA failed to maintain effort, the expenditure amount an SEA uses for computing maintenance of effort in subsequent years will be 90 percent of the prior year amount rather than the actual expenditure amount. (See Example 1 on page 13.) *[Section 9521(b)(2)]*

[2] Unless otherwise noted citations with four digits reference the Elementary and Secondary Education Act of 1965, as reauthorized by the No Child Left Behind Act of 2001 (NCLB). Three-digits citations (beginning with 34 CFR) reference applicable regulations located in Title 34, Part 200 of the Code of Federal Regulations (CFR).

Waiver

The Secretary may waive the MOE requirement if it is determined that such a waiver would be equitable due to—

- Exceptional or uncontrollable circumstances such as a natural disaster; or
- A precipitous decline in the financial resources of the LEA. *[Section 9521(c)]*

Expenditures to be included

In determining whether an LEA has maintained fiscal effort, an SEA must consider the LEA's expenditures from State and local funds for free public education. These include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. *[34 CFR 299.5(d)(1)]*

Expenditures to be excluded

Expenditures for community services, capital outlay, debt service, or supplemental expenses made as a result of a Presidentially declared disaster are not to be included in the determination. In addition, any expenditures made from funds provided by the Federal government are excluded from the determination. *[34 CFR 299.5(d)(2)]*

"Preceding fiscal year"

For purposes of determining maintenance of effort, the "preceding fiscal year" is the Federal fiscal year, or the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the Federal fiscal year in which funds are available. *[34 CFR 299.5(c)]*

EXAMPLE:

For funds first made available on July 1, 2005, if a State is using the Federal fiscal year, the current fiscal year is Federal fiscal year 2005 (which began on October 1, 2004), the "preceding fiscal year" is Federal fiscal year 2004 (which began on October 1, 2003), and the "second preceding fiscal year" is Federal fiscal year 2003 (which began on October 1, 2002).

If a State is using a fiscal year that begins on July 1 and fiscal year 2005 Federal funds are first made available on July 1, 2005, the current State fiscal year is the 12-month period that begins on July 1, 2004 and ends on June 30, 2005. The "preceding fiscal year" is the 12-month period that begins on July 1, 2003 and ends on June 30, 2004. The "second preceding fiscal year" is the period that begins on July 1, 2002 and ends on June 30, 2003. The following table illustrates this concept for a State that uses a July 1 – June 30 fiscal year.

Federal Funds First Available	Current State Fiscal Year	Preceding State Fiscal Year	Second Preceding State Fiscal Year
July 1, 2005 (Federal fiscal year 2005 that begins on October 1, 2004)	2005 (begins on July 1, 2004)	2004 (begins on July 1, 2003)	2003 (begins on July 1, 2002)
July 1, 2006 (Federal fiscal year 2006 that begins on October 1, 2005)	2006 (begins on July 1, 2005)	2005 (begins on July 1, 2004)	2004 (begins on July 1, 2003)
July 1, 2007 (Federal fiscal year 2007 that begins on October 1, 2006)	2007 (begins on July 1, 2006)	2006 (begins on July 1, 2005)	2005 (begins on July 1, 2004)
July 1, 2008 (Federal fiscal year 2008 that begins on October 1, 2007)	2008 (begins on July 1, 2007)	2007 (begins on July 1, 2006)	2006 (begins on July 1, 2005)
July 1, 2009 (Federal fiscal year 2009 that begins on October 1, 2008)	2009 (begins on July 1, 2008)	2008 (begins on July 1, 2007)	2007 (begins on July 1, 2006)
July 1, 2010 (Federal fiscal year 20010 that begins on October 1, 2009)	2010 (begins on July 1, 2009)	2009 (begins on July 1, 2008)	2008 (begins on July 1, 2007)

Determining whether an LEA has maintained fiscal effort

The following examples illustrate the calculations used to determine whether an LEA has maintained fiscal effort and how much the SEA should deduct from an LEA's allocation if in the preceding year the LEA failed to spend either in the aggregate or on a per-student basis at least 90 percent of what it spent in the second preceding year.

EXAMPLE 1:

In this example, which uses State fiscal year (FY) 2002 and FY 2003 as the comparison years, the LEA needed to spend $900,000 in the aggregate during the preceding fiscal year (FY 2003) to meet the 90 percent level, but spent only $850,000. As a result, the LEA failed to meet the 90 percent level by $50,000 or 5.6 percent ($50,000 ÷ $900,000). Similarly, on a per student basis, the LEA needed to spend $5,490 per student during the preceding fiscal year, but spent only $5,200 per student. The LEA failed to maintain effort on a per student basis by $290 or 5.3 percent ($290 ÷ $5,490). Therefore, unless the Secretary grants a waiver, the SEA must reduce the LEA's school year (SY) 2004-05 allocation by 5.3 percent (the reduction most favorable to the LEA).

MOE Determination Used for School Year (SY) 2005-06 Allocation Purposes *

		Aggregate Expenditures	Amount Per Student
1	Amount LEA spent in 2nd preceding fiscal year (State FY 2003, which began July 1, 2002)	$1,000,000	$6,100
2	Amount LEA had to spend in the preceding fiscal year (State FY 2004, which began July 1, 2003) in order to maintain effort (90% of 2nd preceding year's expenditure)	900,000	5,490
3	Actual amount LEA spent in the preceding fiscal year (State FY 2004)	850,000	5,200
4	Amount by which the LEA failed to maintain effort (Line 2-Line 3)	-50,000	-290
5	Percent the SEA must reduce the LEA's allocation (Line 4÷Line 2) **	-5.6%	-5.3%
** The SEA uses the percentage that is most advantageous to the LEA			

* These are funds that became available on July 1, 2005 under the Federal FY 2005 appropriation.

EXAMPLE 2:

In determining maintenance of effort for the fiscal year immediately following the fiscal year in which an LEA failed to maintain effort, an SEA must consider an LEA's expenditures in the year the failure occurred to be no less than 90 percent of the expenditures for the third preceding year. The following table illustrates how an SEA determines the base for its MOE calculations in the year after an LEA has failed to maintain effort.

EXAMPLE 2: (This example is based on an LEA with expenditures of $1,000,000 in FY 2001, $850,000 in FY 2002, $810,000 in FY 2003, $800,000 in FY 2004, and $700,000 in FY 2005.)

	1	2	3	4	5
Federal Fiscal Year Appropriation	State and Local Expenditures 1st preceding year	State and Local Expenditure 2nd preceding year	Level required to meet the requirement (90% of column 2)	Amount by which LEA failed to maintain effort	Reduction in LEA allocation (Col. 4÷Col 3)
FY 2003 (Funds become available on July 1, 2003 for use mainly in SY 2003-04)	FY 2002 (SY 2001-02) $850,000	FY 2001 (SY 2000-01) $1,000,000	$900,000	-$50,000	Reduce grant award made available on July 1, 2003 by 5.6%
FY 2004 (Funds become available on July 1, 2004 for use mainly in SY 2004-05)	FY 2003 (SY 2002-03) $810,000	FY 2002 (SY 2001-02) $900,000* *Base for MOE purposes is $900,000, which is 90% of FY 2001 expenditures rather than the actual FY 2002 expenditures of $850,000 because the LEA failed to maintain effort in FY 2002	$810,000	---	No reduction in grant made available on July 1, 2004 (for SY 2004-05) because FY 2003 expenditures of $810,000 were 90% of FY 2002 expenditures
FY 2005 (Funds become available on July 1, 2005 for use mainly in SY 2005-06)	FY 2004 (SY 2003-04) $800,000	FY 2003 (SY 2002-03) $810,000	$729,000	---	No reduction in grant made available on July 1, 2005 (for SY 2005-06) because FY 2004 expenditures of $800,000 were at least 90% of FY 2003 expenditures
FY 2006 (Funds become available on July 1, 2006 for use mainly in SY 2006-07)	FY 2005 (SY 2004-05) $700,000	FY 2004 (SY 2003-04) $800,000	$720,000	-$20,000	Reduce grant award made available on July 1, 2006 by 2.8%

Questions and Answers on Maintenance of Effort

A-1. When an SEA determines maintenance of effort for its LEAs, must the SEA use the same measure for all its LEAs?

No. For example, an SEA must determine maintenance of effort using the measure most favorable to each LEA. An LEA has maintained fiscal effort if it meets either of the two tests—aggregate expenditures or expenditures per pupil.

B. COMPARABILITY

Requirement

Except as noted in Q13, section 1120A(c) of the ESEA provides that an LEA may receive Title I, Part A funds only if it uses State and local funds to provide services in Title I schools that, taken as a whole, are at least comparable to the services provided in schools that are not receiving Title I funds. If the LEA serves all of its schools with Title I funds, the LEA must use State and local funds to provide services that, taken as a whole, are substantially comparable in each Title I school. *[Section 1120A(c)]*

Demonstrating comparability is a prerequisite for receiving Title I, Part A funds. Because Part A allocations are made annually, comparability is an ANNUAL requirement.

Criteria for Meeting Comparability

There are a number of ways that an LEA may meet the comparability requirement. Under the statute, an LEA is considered to have met the comparability requirement if the LEA files with the SEA a written assurance that it has established and implemented a—

- District-wide salary schedule;
- Policy to ensure equivalence among schools in teachers, administrators, and other staff; and
- Policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.
  [Section 1120A(c)(2)(A)]

An LEA may also meet the comparability requirement if it establishes and implements other measures for determining compliance such as—

- Student/instructional staff ratios;
- Student/instructional staff salary ratios;
- Expenditures per pupil; or
- A resource allocation plan based on student characteristics such as poverty, limited English proficiency, or disability, etc.

Because the SEA is ultimately responsible for ensuring that LEAs comply with the comparability requirement, the SEA may establish the method a district uses to determine comparability.

An SEA has flexibility in establishing reasonable variances for LEAs to use in determining whether their Title I and non-Title I schools are comparable. If an LEA is using student/instructional staff ratios to compare the average number of students per instructional staff in each Title I school with the average number of students per instructional staff in non-Title I schools, an SEA may, for example, allow the LEA to consider a Title I school comparable if its average does not exceed 110 percent of the average of non-Title I schools. Similarly, if an LEA is using student/instructional staff salary ratios to compare the average instructional staff salary expenditure per student in each Title I school with the average instructional staff salary

expenditure per student in non-Title I schools, an SEA may allow a variance such that a Title I school would be comparable, for example, if its average is at least 90 percent of the average of non-Title I schools.

Title I further provides that:

- Staff salary differentials for years of employment are not included in comparability determinations.
- An LEA need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services. *[Section 1120A(c)(2)(B) and (C)]*

When demonstrating compliance for comparability, an LEA may exclude State and local funds expended for—

- Language instruction educational programs;
- Excess State and local costs of providing services to children with disabilities as determined by the LEA; and
- State or local supplemental programs in any school attendance area or school that meet the intent and purposes of Title I, Part A. See the discussion on page 39 for determining whether such a program meets the intent and purposes of Title I. *[Section 1120A(c)(5) and (d); 34 CFR 200.79]*

Developing Procedures for Compliance

An LEA must develop procedures for complying with the comparability requirements. *[Section 1120A(c)(3)]* These procedures should be in writing and should, at a minimum, include the LEA's timeline for demonstrating comparability, identification of the office responsible for making comparability calculations, the measure and process used to determine whether schools are comparable, and how and when the LEA makes adjustments in schools that are not comparable. While an LEA is only required to document compliance with the comparability requirement biennially (once every two years), it must perform the calculations necessary every year to demonstrate that all of its Title I schools are in fact comparable and make adjustments if any are not.

An LEA may determine comparability of each of its Title I schools on a district-wide basis or a grade-span basis. *[Section 1120A(c)(1)(C)]* The LEA may exclude schools that have fewer than 100 students. An LEA need not demonstrate comparability if it has only one school at each grade span.

If the LEA files a written assurance with the SEA that it has established and implemented a district-wide salary schedule and policies to ensure equivalence among schools in staffing and in the provision of materials and supplies, it must keep records to document that the salary schedule and policies were, in fact, implemented and that calculations demonstrate that equivalence was achieved among schools in staffing, materials, and supplies. If the LEA establishes and implements other measures for determining compliance with comparability, such as

student/instructional staff ratios, it must maintain source documentation to support the calculations and documentation to demonstrate that any needed adjustments to staff assignments are made. *[Section 1120A(c)(3)(B); Section 443 of the General Education Provisions Act (GEPA); and 34 CFR 76.*730*, and 80.42]*

Examples of Ways to Meet the Comparability Requirement

In addition to the statutory assurance, there are other ways an LEA may meet the comparability requirement. In the first six examples that follow, an LEA uses student/instructional staff ratios to determine whether Title I and non-Title I schools are comparable. In Example 1, the LEA compares each Title I school with the average of its non-Title I schools. Example 2 shows how an LEA could demonstrate comparability based on a comparison of large schools and small schools. Example 3, in which all schools are Title I schools, bases the comparisons on grade spans. In Example 4, all of the schools in the LEA are Title I schools, and the LEA makes separate comparisons for its large schools and small schools. In Example 5, in which all schools are Title I schools, the LEA divides its schools between high- and low-poverty schools and compares schools within each poverty band to each other. In Example 6, all of the schools are Title I schools, and the LEA establishes a limited comparison group consisting of its lowest-poverty schools and compares all of its other schools to the average calculated for the comparison group. These examples would apply similarly to an LEA using student/instructional staff salary ratios.

As an alternative, the LEAs in Examples 7 and 8 demonstrate comparability based on the per-pupil amount of State and local funds that a school uses to purchase instructional staff and materials.

EXAMPLE 1
(Title I and non-Title I elementary schools are compared)

In the following example, an LEA provides Title I services to 7 of its 11 elementary schools. (The district serves only elementary schools.) The LEA demonstrates comparability by annually comparing student/ instructional staff ratios for each of its Title I schools to the average student/instructional staff ratios for its non-Title I schools. In this example, each of the Title I schools is comparable because the student/instructional staff ratio does not exceed 14.1 (the ratio for all non-Title I schools).

School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Comparable?
Title I Elementary Schools					
Beaufort Elementary	KG - 5	528	70.2	7.5	Yes
Broad River Elementary	KG - 5	510	49.4	10.3	Yes
Davis Elementary	KG - 5	417	38.7	10.8	Yes
Shanklin Elementary	KG - 5	726	59	12.3	Yes
Port Royal Elementary	KG - 5	189	16	11.8	Yes
St. Helena Elementary	KG - 5	808	58	13.9	Yes
Shell Point Elementary	KG - 5	673	60	11.2	Yes
Non-Title I Elementary Schools					
Hilton Head	KG - 5	1,764	114.5	15.4	
Lady's Island	KG - 5	757	70.0	10.8	
MC Riley	KG - 5	1,005	88.0	11.4	
Mossy Oaks	KG - 5	484	42.0	11.5	
Total		4,010	314.5	12.8	
110% of Student/FTE ratio for non-Title I schools *				14.1	

* In order to be comparable, the student/instructional staff ratio for each Title I elementary school may not exceed 14.1. (12.8 x 1.1)

EXAMPLE 2
(Large and small Title I and non-Title I elementary schools are compared)

In this example, an LEA serves 12 of its 21 elementary schools. (Only elementary schools are served.) In addition to comparing the student/instructional staff ratios for Title I and non-Title I schools, the LEA further divides its elementary schools between large (with 450 or more students) and small (with fewer than 450 students) in order to demonstrate comparability.

School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Comparable?
Large Title I Elementary Schools					
Barnard-Brown	KG - 6	483	34.4	14.0	Yes
RJ Kinsella Community	KG - 6	456	40.7	11.2	Yes
Thirman Milner	KG - 6	582	43.1	13.5	Yes
Dominick Burns	KG - 6	634	48.5	13.1	Yes
Henry Dwight	KG - 6	564	41.16	13.7	Yes
Maria Sanchez	KG - 6	577	42.7	13.5	Yes
West	KG - 6	691	56.6	12.2	Yes
Parkville Community	KG - 6	620	45.7	13.6	Yes
Large Non-Title I Elementary Schools					
ML King Jr.	KG - 6	775	54.6	14.2	
Moylan	KG - 6	509	41.3	12.3	
TJ McDonnough	KG - 6	544	39.3	13.8	
MD Fox	KG - 6	899	65.4	13.7	
Annie Fischer	KG - 6	608	49.4	12.3	
Total		3,335	250.0	13.3	
110% of Student/FTE ratio for non-Title I schools				14.6	*

* In order to be comparable, the student/instructional staff ratio for each large Title I elementary school may not exceed 14.6. (13.3 x 1.1)

Small Title I Elementary Schools					
Fred Wish	KG - 6	417	36.7	11.4	Yes
John Clark	KG - 6	425	32.6	13.0	Yes
Ramon Betances	KG - 6	436	34.3	12.7	Yes
Mary Hooker	KG - 6	307	27.8	11.0	Yes
Small Non-Title I Elementary Schools					
Sand Everywhere	KG - 6	346	26.4	13.1	
Simpson-Waverly	KG - 6	325	27.7	11.7	
Mark Twain	KG - 6	359	29.8	12.0	
Sarah Rawson	KG - 6	297	27.3	10.9	
Total		1,327	111.2	11.9	
110% of Student/FTE ratio for non-Title I schools				13.1	*

* In order to comparable, the student/instructional staff ratio for each small Title I elementary school may not exceed 13.1. (11.9 x 1.1)

EXAMPLE 3
(All schools in district are Title I schools, and different grade spans are compared)

In the following example, all of the schools in the district are Title I schools. To demonstrate comparability, the LEA computes the average student/instructional staff ratio for all its schools and determines whether the student/instructional staff ratio for each school falls within a range that is between 90 and 110 percent of the average for all schools. In its first comparability calculation, the LEA compares all of its schools. Because two schools are not comparable using this first comparison, the LEA then breaks the schools down by grade span in order to determine comparability. Based on the second method of comparison, the student/instructional staff ratio for each school in the grade span falls within 90 or 110 percent of the average for all schools within the grade span and is, therefore, comparable.

School District as a Whole					
School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Comparable?
Davis School	PK - 5	371	25.6	14.5	Yes
Devers School	PK - 5	483	33.2	14.5	Yes
Edgar Fahs Smith MS	6 - 8	818	50	16.4	Yes
Fergurson School	PK - 5	484	31	15.6	Yes
Goode School	PK - 5	682	42.4	16.1	Yes
Hannah Penn MS	6 - 8	1,174	64	18.3	No
Jackson School	PK - 5	423	30	14.1	No
McKinley School	PK - 5	482	29.8	16.2	Yes
William Penn HS	9 - 12	1,737	110	15.8	Yes
Total		6,654	416	16.0	
90% of Student/Instructional Staff Ratio *				14.4	
110% of Student/Instructional Staff Ratio *				17.6	

* Each school is comparable if the student/instructional staff ratio falls between 14.4 (16.0 x 0.9) and 17.6. (16.0 x 1.1)

Elementary Schools					
Davis School	PK - 5	371	25.6	14.5	Yes
Devers School	PK - 5	483	33.2	14.5	Yes
Fergurson School	PK - 5	484	31	15.6	Yes
Goode School	PK - 5	682	42.4	16.1	Yes
Jackson School	PK - 5	423	30	14.1	Yes
McKinley School	PK - 5	482	29.8	16.2	Yes
Total		2,925	192	15.2	
90% of Student/Instructional Staff Ratio *				13.7	
110% of Student/Instructional Staff Ratio *				16.7	

* Each elementary school is comparable if the student/instructional staff ratio falls between 13.7 (15.2 x 0.9) and 16.7 (15.2 x 1.1).

EXAMPLE 3 (continued)

Middle Schools					
School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Comparable?
Edgar Fahs Smith MS	6 - 8	818	50	16.4	Yes
Hannah Penn MS	6 - 8	1,174	64	18.3	Yes
Total		1,992	114	17.5	
90% of Student/Instructional Staff Ratio *				15.8	
110% of Student/Instructional Staff Ratio *				19.3	

* The middle schools are comparable if the student/instructional staff ratio for each school falls between 15.8 (17.5 x 0.9 and 19.3 (17.5 x 1.1).

Note that, because there is only one high school in the district, the LEA does not need to determine comparability for that school.

EXAMPLE 4
(All elementary schools in the LEA are Title I schools, and large and small schools are compared)

In this example, all of the elementary schools in the LEA are Title I schools and the comparability determination is based on student/instructional staff ratios. Again, because all of the schools are Title I schools, the district demonstrates comparability by determining whether the student/instructional staff ratio for each school falls within a range that is between 90 and 110 percent of the average for all schools. In the first set of calculations, which is based on all schools, two schools are not comparable. When the LEA refines the comparison to compare small schools (those with less than 420 students) with each other and large schools (420 or more students) with each other, the student/instructional staff ratio for each school falls within 90 and 110 percent of the ratio for all the of schools in the category and each school is, therefore, comparable.

All Elementary Schools					
School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Comparable?
Burrowes School	PK - 5	430	29.3	14.7	Yes
Carter MaCrae Elementary	PK - 5	565	40.6	13.9	No
Elizabeth R. Martin Elementary	KG - 5	269	17.6	15.3	Yes
Fulton Elementary	PK - 5	470	29	16.2	Yes
George Washington Elementary	KG - 5	641	45	14.2	Yes
Hamilton Elementary	KG - 5	390	22.5	17.3	No
James Buchanan Elementary	KG - 6	390	26	15.0	Yes
King Elementary	PK - 5	601	36	16.7	Yes
Layfayette Elementary	PK - 5	420	26	16.2	Yes
Price Elementary	PK - 5	477	28.5	16.7	Yes
Ross Elementary	KG - 5	339	20	17.0	Yes
Thomas Wharton Elementary	KG - 5	245	16.3	15.0	Yes
Wickersham Elementary	KG - 5	503	31.5	16.0	Yes
Total		5,740	368.3	15.6	
90% of Student/Instructional Staff Ratio *				14.0	
110% of Student/Instructional Staff Ratio *				17.2	

* The elementary schools would be comparable if the student/instructional staff ratio falls between 14.0 (15.6 x 0.9) and 17.2 (15.6 x 1.1).

EXAMPLE 4 (continued)

Large Elementary Schools					
School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Comparable?
Burrowes School	PK - 5	430	29.3	14.7	Yes
Carter MaCrae Elementary	PK - 5	565	40.6	13.9	Yes
Fulton Elementary	PK - 5	470	29	16.2	Yes
George Washington Elementary	KG - 5	641	45	14.2	Yes
King Elementary	PK - 5	601	36	16.7	Yes
Lafayette Elementary	PK - 5	420	26	16.2	Yes
Price Elementary	PK - 5	477	28.5	16.7	Yes
Wickersham Elementary	KG - 5	503	31.5	16.0	Yes
Total		4,107	266.9	15.4	
90% of Student/Instructional Staff Ratio *				13.9	
110% of Student/Instructional Staff Ratio *				16.9	

* The large elementary schools would be comparable if the student/instructional staff ratio falls between 13.9 (15.4 x 0.9) and 16.9 (15.4 x 1.1).

Small Elementary Schools					
Elizabeth R. Martin Elementary	KG - 5	269	17.6	15.3	Yes
Hamilton Elementary	KG - 5	390	22.5	17.3	Yes
James Buchanan Elementary	KG - 6	390	26	15.0	Yes
Ross Elementary	KG - 5	339	20	17.0	Yes
Thomas Wharton Elementary	KG - 5	245	16.3	15.0	Yes
Total		1,633	102.4	15.9	
90% of Student/Instructional Staff Ratio *				14.4	
110% of Student/Instructional Staff Ratio *				17.5	

* The small elementary schools would be comparable if the student/instructional staff ratio falls between 14.4 (15.9 x 0.9) and 17.5 (15.9 x 1.1).

EXAMPLE 5
(All elementary schools in the LEA are Title I schools; high-poverty schools are compared to high-poverty schools and low-poverty schools are compared to low-poverty schools)

In this example, all of the elementary schools in the LEA are Title I schools and the comparability determination is based on student/instructional staff ratios. The LEA demonstrates comparability by determining whether the student/instructional staff ratio for each school falls within a range that is between 90 and 110 percent of the average for all schools. In the first set of calculations, which is based on all schools, one school is not comparable. The LEA refines the comparison so that it compares (1) the student/instructional staff ratio of each of its high-poverty schools (those with a poverty rate above 60 percent) with the average for all of its high-poverty schools and (2) the student/instructional staff ratio in each of its low-poverty schools (those with poverty rates of 41 and 40 percent) to the average ratio for its low-poverty schools. When the LEA compares the student/instructional staff ratio for each of its high-poverty schools to the average for all of its high-poverty schools, the ratio for each school falls within 90 and 110 percent of the high- poverty schools' average, and each school is, therefore, comparable. Similarly, when the LEA compares the student/instructional staff ratio for each of the LEA's low-poverty schools, the ratio for each of the low poverty school falls within the 90 and 110 percent of the average ratio for its low poverty schools, and each school is, therefore, comparable.

School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Free/Reduced Lunch Children	Percent Poor	Comparable?
Violet Hill	PK - 5	560	36	15.6	542	97%	Yes
Oakdale	PK - 5	470	29	16.2	425	90%	Yes
Elmwood	KG - 5	641	45	14.2	539	84%	Yes
Hobson	PK - 5	477	28.5	16.7	385	81%	Yes
Berlieth	PK - 5	562	40.6	13.8	435	77%	No
Davis	PK - 5	420	26	16.2	322	77%	Yes
Indian Rock	PK - 5	425	29.3	14.5	316	73%	Yes
Roosevelt	KG - 5	339	21	16.1	249	73%	Yes
Park	KG - 5	503	31.5	16.0	354	70%	Yes
Camp Springs	KG - 5	355	22.5	15.8	252	66%	Yes
White Hill	KG - 5	245	16.3	15.0	148	60%	Yes
Bannaker	KG -6	400	26	15.4	161	40%	Yes
Eastern	KG - 5	273	17.6	15.5	112	41%	Yes
Total		5,670	369.3	15.4	4,240	74%	
90% of Student/Instructional Staff Ratio *				13.9			
110% of Student/Instructional Staff Ratio *				16.9			

* Each school is comparable if the student instructional staff ratio falls between 13.9 (15.4 x 0.9) and 16.9 (15.4 x 1.1).

EXAMPLE 5 (continued)

School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Free/Reduced Lunch Children	Percent Poor	Comparable?
High Poverty Title I Schools							
Violet Hill	PK - 5	560	36	15.6	542	97%	Yes
Oakdale	PK - 5	470	29	16.2	425	90%	Yes
Elmwood	KG - 5	641	45	14.2	539	84%	Yes
Hobson	PK - 5	477	28.5	16.7	385	81%	Yes
Berlieth	PK - 5	562	40.6	13.8	435	77%	Yes
Davis	PK - 5	420	26	16.2	322	77%	Yes
Indian Rock	PK - 5	425	29.3	14.5	316	73%	Yes
Roosevelt	KG - 5	339	21	16.1	249	73%	Yes
Park	KG - 5	503	31.5	16.0	354	70%	Yes
Camp Springs	KG - 5	355	22.5	15.8	252	66%	Yes
White Hill	KG - 5	245	16.3	15.0	148	60%	Yes
Total		4,997	325.7	15.3			
90% of Student/Instructional Staff Ratio *				13.8			
110% of Student/Instructional Staff Ratio *				16.8			

* Each high-poverty school is comparable if the student instructional staff ratio falls between 13.8 (15.3 x 0.9) and 16.8 (15.3 x 1.1).

Low Poverty Title I Schools							
Bannaker	KG - 6	400	26	15.4	161	40%	Yes
Eastern	KG - 5	273	17.6	15.5	112	41%	Yes
Total		673	43.6	15.4			
90% of Student/Instructional Staff Ratio				13.9			
110% of Student/Instructional Staff Ratio				16.9			

* Each low-poverty elementary school is comparable if the student/instructional staff ratio falls between 13.9 (15.4 x 0.9) and 16.9 (15.4 x 1.1).

EXAMPLE 6
(All elementary schools in the LEA are Title I schools and each high-poverty school is compared to a limited comparison group consisting of low-poverty schools)

In this example, the LEA bases its comparability determinations on student/instructional staff ratios. All elementary schools in the LEA are Title I schools and the LEA compares its 12 highest-poverty schools to the two schools with the lowest poverty rates. The schools would be considered substantially comparable if the student/instructional staff ratio in each of the LEA's 12 highest-poverty schools does not exceed 110 percent of the student/instructional staff ratio for the low-poverty comparison group.

School	Grade Span	Student Enrollment	FTE Instructional Staff	Student/ Instructional Staff Ratio	Free/Reduced Lunch Children	Percent Poor	Comparable?
High Poverty Title I Schools *							
Sheppard	PK - 5	373	26.5	14.1	356	95%	Yes
Hunter	PK - 5	362	26.4	13.7	326	90%	Yes
Ludlow	KG - 5	313	24.6	12.7	265	85%	Yes
Washington	PK - 5	319	25.0	12.8	261	82%	Yes
Mifflin	PK - 5	254	24.6	10.3	202	80%	Yes
Kinsey	PK - 5	371	24.4	15.2	293	79%	Yes
Dunbar	PK - 5	234	21.2	11.0	167	71%	Yes
Sharswood	KG - 5	360	26.4	13.6	255	71%	Yes
Jackson	KG - 5	330	27.0	12.2	232	70%	Yes
McCloskey	KG - 5	346	25.0	13.8	209	60%	Yes
Lingelbach	KG - 5	328	26.4	12.4	204	62%	Yes
Dobson	KG - 6	266	21.4	12.4	160	60%	Yes

Low Poverty Title I Schools						
Crossan	KG - 5	310	23.6	13.1	148	48%
Penn Alexander	KG - 6	376	25.7	14.6	171	45%
Total		686	49.3	13.9		
110% of Student/Instructional Staff Ratio *				15.3		

* The services to schools in the LEA would be considered substantially comparable if the student/instructional staff ratio in each high-poverty school does not exceed 15.3 (13.9 x 1.1).

EXAMPLE 7
(All schools in the LEA are Title I schools and the LEA uses the per-pupil amount of State and local funds allocated to schools as the basis for comparison)

In the following example, an LEA serves all its schools with Title I funds. The LEA demonstrates comparability by first determining the amount of State and local funds allocated per child enrolled in each school for the purchase of instructional staff and materials. The LEA then examines whether the per-child amount for each school falls within a range that is between 90 and 110 percent of the district-wide average.

For the LEA as a whole, the allocation per student from State and local funds is $4,415.

Schools	Grade Span	Total Enrollment	State and Local Funds Allocated	Per Child Amount	Comparable?
Hawthorne School	PK - 5	308	$1,217,232	$3,952	No
Chase School	PK - 5	405	$1,830,195	$4,519	Yes
Lansdowne HS	9 - 12	1,323	$5,813,262	$4,394	Yes
Dundalk School	PK - 5	279	$1,129,123	$4,047	Yes
Dundalk MS	6 - 8	516	$2,121,276	$4,111	Yes
Owings Mills HS	9 - 12	1,109	$4,971,647	$4,483	Yes
Woodmoor School	PK - 5	622	$2,846,272	$4,576	Yes
Holabird MS	6 - 8	706	$3,106,032	$4,399	Yes
Mars Estates School	PK - 5	543	$2,170,914	$3,998	Yes
Lansdowne MS	6 - 8	721	$3,329,578	$4,618	Yes
Hallfield School	9 - 12	962	$4,308,798	$4,479	Yes
Johnnycake School	PK - 5	467	$2,296,239	$4,917	No
District-wide per-child amount provided from State and local funds for all schools		7,959	$35,140,568	$4,415	
90 % of the district-wide per-child amount				$3,974	
110 % of the district-wide per-child amount				$4,857	

In order to be comparable in this example, the amount of State and local funds allocated per child in each school needs to be between $3,974 and $4,857. In this example, the amount allocated per child for the first school listed is $3,952 and the amount allocated per child in the last school listed is $4,917. In both schools, the amounts allocated per child fall outside the range that is between 90 and 110 percent of the district average. This example illustrates that a school can be noncomparable if it receives an excess of State and local funds or receives too little. Because the two schools are not comparable, the LEA would need to make upward or downward adjustments in the allocation of State and local resources to its schools during the school year in order to make Hawthorne and Johnnycake schools comparable.

EXAMPLE 8
(All schools in the LEA are Title I schools, different grade spans are compared, and the district uses the per-pupil amount of State and local funds allocated to schools in each grade span)

In this example, an LEA serves all its schools with Title I funds, and chooses to compare its schools by grade span, based on the amount of State and local funds allocated per child for each grade span as a whole. To determine comparability, the LEA compares the per-pupil amount allocated to each school within the grade span to a range that falls within 90 and 110 percent of the per-pupil average for the grade span as a whole.

Elementary Schools					
Schools	Grade Span	Total Enrollment	State and Local Funds Allocated	Per Pupil Amount	Comparable?
Logan School	K - 5	647	$2,637,995	$4,077	Yes
Edmondson School	K - 6	425	$1,974,622	$4,646	No
Millbrook School	K - 5	327	$1,239,003	$3,789	Yes
Harford School	K - 5	184	$751,640	$4,085	Yes
Per-child amount LEA provides from State and local funds to all schools in the grade span		1,583	$6,603,260	$4,171	
90 % of per child amount				$3,754	
110 % of per child amount				$4,588	

In order to be comparable in this example, the amount of State and local funds allocated per child in each school would need to be between $3,754 and $4,588. The allocation per child for the second school listed is $4,646, which is more than $4,588 or 110 percent of the average for the grade span. The LEA would need to make adjustments in the allocation of State and local resources during the school year in order meet the comparability requirement.

Middle Schools					
Schools	Grade Span	Total Enrollment	State and Local Funds Allocated	Per Pupil Amount	Comparable?
Woodlawn MS	6 - 8	562	$2,298,580	$4,090	Yes
Deep Creek MS	7 - 8	719	$3,285,830	$4,570	Yes
Loch Raven MS	6 - 8	323	$1,468,035	$4,545	Yes
Per-child amount LEA provides from State and local funds to all schools in the grade span		1,604	$7,052,445	$4,397	
90 % of per child amount				$3,957	
110 % of per child amount				$4,836	

In this example, all of the middle schools are comparable because the amount of State and local funds allocated per child in each school is between $3,957 and $4,836.

EXAMPLE 8 (continued)

High Schools					
Schools	Grade Span	Total Enrollment	State and Local Funds Allocated	Per Pupil Amount	Comparable?
Edgemere HS	9 - 12	962	$4,677,244	$4,862	Yes
Franklin HS	9 - 12	500	$2,013,704	$4,027	No
Per-child amount LEA provides from State and local funds to all schools in the grade span		1,462	$6,690,948	$4,577	
90 % of per child amount				$4,119	
110 % of per child amount				$5,034	

The second high school is not comparable because the amount allocated per child is less than $4,119, and the LEA would need to adjust the allocation of State and local funds to that school during the school year in order to comparable.

Questions and Answers on Comparability

B-1. Must an LEA determine comparability every year?

Yes. Demonstrating comparability is a prerequisite for receiving Title I funds. Because Title I allocations are made annually, comparability is an annual requirement. *[Section 1120A(c)(1)(A)]*

B-2. When should comparability be determined?

The comparability process must enable an LEA to identify, and correct during the current school year, instances in which it has non-comparable schools. An early determination of comparability would allow an LEA to make adjustments with the least amount of disruption. The SEA may establish deadlines for comparability determinations and for implementing any required corrective actions.

EXAMPLE:

Below is a possible timeline an LEA could follow in determining comparability:

January – April

- Engage in district-level budget (State and local funds) discussions concerning staff assignments, and distribution of equipment and materials for the purpose of ensuring compliance with Title I comparability requirements for the upcoming school year.

May – July

- Conduct meetings with appropriate LEA representatives to discuss the requirements for completing the annual comparability calculations.
- Establish participant roles and responsibilities.
- Establish specific timelines for completion of the calculations.
- Decide which calculation methodology to use.

August

- Obtain preliminary information from appropriate LEA staff.
- Identify LEA Title I and non-Title I schools.

September

- Identify date and collection methodologies for gathering data needed to complete calculations.

October

- Collect data.
- Meet with appropriate staff and calculate comparability.
- Make corrections to Title I schools shown not to be comparable.

November

- Reconvene appropriate LEA staff to address any outstanding issues.
- Maintain all required documentation supporting the comparability calculations and any corrections made to ensure that all Title I schools are comparable.

An LEA should keep the comparability requirement in mind as it plans for the allocation of instructional staff and resources to schools for the coming school year. This would enable the LEA to minimize the potential for disruption in the middle of a school year, should adjustments need to be made to ensure that Title I schools are comparable to non-Title I schools.

B-3. May an SEA determine the method that LEAs will use to determine comparability?

The SEA may require that all LEAs use the same method or allow LEAs to submit other comparability measures for approval by the SEA. In either case, the SEA must determine that an LEA's methodology will ensure that Title I schools in the LEA are comparable to non-Title I schools or, if all schools are Title I schools, that all Title I schools are substantially comparable with each other.

B-4. If an LEA elects to skip an eligible school when allocating Title I funds because that school is receiving supplemental funds from other State or local resources that are spent according to the requirements of section 1114 or 1115 of Title I, must that school be comparable?

Yes. Section 1113(b)(1)(D)(i) of ESEA requires that a school be comparable in order to be skipped. When calculating whether Title I schools are comparable, an LEA must treat an otherwise eligible Title I school that is skipped as if it were a Title I school when determining comparability. Note that an LEA would exclude any supplemental State and local funds expended in the school in its comparability calculations. (See the discussion on page 39 under the Supplement, not Supplant section concerning the exclusion for State and local funds expended in any school for carrying out a program that meets the intent and purposes of Title I, Part A.)

B-5. If an LEA chooses to measure compliance with the comparability requirement by comparing student/instructional staff ratios or student/instructional staff salary ratios, which staff members should be included as "instructional staff"? Which staff members should be excluded?

If an LEA chooses to measure compliance by comparing student/staff ratios or student/ staff salary ratios, the LEA should consistently include the same categories of staff members in the ratios for both Title I and non-Title I schools. Instructional staff may include teachers and other personnel assigned to schools who provide direct instructional services, such as music, art, and physical education teachers, guidance counselors, speech therapists, and librarians, as well other personnel who provide services that support instruction, such as school social workers and psychologists.

Whether paraprofessionals are included in comparability determinations depends on procedures developed by the SEA or LEA, as appropriate. Consistent with the requirement in Title I that a paraprofessional supported with Title I funds may only provide instructional support under the direct supervision of a teacher, however, we urge SEAs and LEAs to consider carefully whether a paraprofessional supported with State and local funds should be considered equivalent to a teacher or other instructional staff member in comparability determinations. In addition, an LEA should take care not to include aides not involved in providing instructional support in its comparability determinations.

In calculating comparability, an LEA may include only staff paid with State and local funds. *[Section 1120A(c)(1)]* This would exclude staff paid with private or Federal funds.

B-6. If an LEA uses student/instructional staff ratios or student/instructional staff salary ratios to measure comparability, how can the LEA determine which staff are paid with State and local funds in a schoolwide program in which there is no requirement to track Federal funds to particular activities?

As this guidance indicates, there are a number of ways for an LEA to demonstrate that its Title I schools are comparable. Two of the most common measures are student/instructional staff ratios and student/instructional staff salary ratios. These measures assume that an LEA is able to differentiate those instructional staff who are paid from State and local funds from those paid with Federal funds, because comparability determinations only focus on the use of State and local funds. In a schoolwide program school, however, the school is not required to track the expenditure of Federal funds to particular activities. Rather, the school may consolidate its Federal funds with its State and local funds and spend the consolidated funds for any activities included in its schoolwide program plan. As a result, an LEA might not be able to determine which instructional staff to include in its comparability determinations.

There are several ways an LEA may demonstrate comparability in a schoolwide program school:

- If the LEA does not consolidate its Federal funds or continues to track expenditures of those funds to particular activities, the LEA would calculate comparability for its schoolwide program schools the same as it would for its targeted assistance schools.
- The LEA may determine the percentage that Federal funds constitute of the total funds available in a schoolwide program school. The LEA would assume that the same percentage of instructional staff in the school was paid with Federal funds and delete those staff from its comparability determinations.
- The LEA may use a different measure for determining comparability in schoolwide program schools that is not dependent on identifying instructional staff paid with State and local funds. In each case, the non-Title I schools compared would be the same, but the method used for comparison purposes would be different.

B-7. Must an LEA include charter schools that are schools within the LEA when determining whether its Title I and non-Title I schools are comparable?

Yes. All schools within an LEA must be included. However, charter schools that are geographically located within an LEA but are legally their own LEAs would not be included.

B-8. May an LEA use a different method for determining comparability to account for differences between its charter schools and "regular" schools?

Yes. An LEA could, for example, determine the student/instructional staff ratio in each "regular" school operating a Title I program and compare those ratios to the student/instructional staff ratio for all of its non-Title I schools. For charter schools operating a Title I program, an LEA could use a different measure to determine comparability—e.g., determine the per-student amount of State and local funds used to purchase instructional staff and materials in each of those schools and compare that calculation to the average per-student amount of State and local funds used to purchase instructional staff and materials in its non-Title I schools. In both cases, the non-Title I schools compared would be the same, but the method used for comparing Title I charter schools with non-Title I schools and Title I "regular" schools with non-Title I schools would be different.

B-9. If an LEA is using the student/instructional staff ratio method to demonstrate comparability, should all figures used (enrollment and instructional staff FTE) reflect data from the same day in the school year?

Yes. An LEA should be consistent with regard to what day of the year the data collected reflect.

B-10. If all schools in an LEA or in a grade span grouping receive Title I funds, must the LEA demonstrate that these schools are providing comparable services?

Yes. If an LEA serves all its schools with Title I funds, the LEA must use State and local funds to provide services that are substantially comparable in each school. See Examples 3 through 8 for ways comparability can be determined.

B-11. The Title I statute provides that comparability may be determined on a district-wide or grade span basis. Are there limitations on the number of grade spans an LEA may use?

No. However, the number should match the basic organization of schools in the LEA. For example, if the LEA's organization includes elementary, junior high, and senior high schools, the LEA would have three grade spans.

B-12. In addition to grade span groupings, does the LEA have the option to divide grade spans into a large school group and a small school group?

Yes, but there should be a significant difference in the enrollments of schools within the grade span. For example, a significant difference would exist if the largest school in a grade span has an enrollment that is two times the enrollment of the smallest school in the grade span.

B-13. Are there any circumstances in which the comparability requirement might not apply?

Yes. The comparability requirement does not apply to an LEA that has only one building for each grade span. *[Section 1120A(c)(4)]* A variation of this situation would be where an LEA has only two schools, one of which is a large school and the other is a small school. In this case, the comparability requirement would not apply because the LEA would compare the small school to itself and the large school to itself. An LEA may also exclude schools with 100 or fewer students from its comparability determinations.

B-14. If an LEA files a written assurance with the SEA that it has established and implemented a district-wide salary schedule and policies to ensure equivalence among schools in staffing and in the provision of materials and supplies, is that sufficient to demonstrate comparability?

No. An LEA must keep records to document that the salary schedule and policies were actually implemented annually and that they resulted in equivalence among schools in staffing, materials, and supplies so that, in fact, the LEA has maintained comparability among its Title I and non-Title I schools.

If an LEA establishes and implements other measures for determining comparability, such as student/instructional staff ratios, it must maintain source documentation to support the calculations and documentation to demonstrate that any needed adjustments to staff assignments were made annually to ensure compliance with the comparability requirement. *[Section 1120A(c)(3)(B); Section 443 of GEPA; and 34 CFR 75.730, and 80.42]*

B-15. What are an SEA's responsibilities for monitoring the comparability requirement?

An SEA is ultimately responsible for ensuring that its LEAs remain in compliance with the comparability requirement. The SEA should review LEA comparability calculations at least once every two years.

B-16. Is an SEA required to collect LEA comparability information each year? If an LEA submits a yearly written assurance that it has met comparability, is that sufficient?

Again, an SEA should review an LEA's comparability calculations at least once every two years. The SEA may require that LEAs submit comparability documentation biennially, review comparability documentation biennially as part of the regular monitoring process, or submit comparability documentation biennially as part of a desk audit process. An SEA may wish to consider establishing a two-year cycle in which it reviews comparability documentation for half of its LEAs in year one and the other half in the next year. Of course, an SEA may also require its LEAs to submit documentation annually that they have maintained comparability.

B-17. May an SEA use the single audit process to monitor comparability?

The use of single audits as the only way to monitor comparability is generally inadequate because the comparability process must enable an LEA, during the current year, to identify and correct instances where it has non-comparable schools and enable an SEA to verify that comparability has been met. The single audit process, as the only enforcement tool, usually does not allow an SEA to determine whether an LEA has met the comparability requirement within the time frame for allocating Title I funds and for the LEA to correct any non-compliance. *[Section 1120A(c)(1)(A)]*

B-18. Are preschool staff and student enrollment included when determining a school's student-to-instructional-staff ratios?

Generally, preschool should not be considered a grade-span for comparability purposes unless the State considers preschool to be part of elementary and secondary education.

C. SUPPLEMENT, NOT SUPPLANT

Requirement

- Targeted Assistance Schools

  An LEA may use Title I funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of Title I funds, be made available from non-Federal sources for the education of students participating in Title I programs. In no case may Title I funds be used to supplant--i.e., take the place of--funds from non-Federal sources. To meet this requirement, an LEA is not required to provide Title I services using a particular instructional method or in a particular instructional setting. *[Section 1120A(b)]*

  In operating a targeted assistance program, Title I, Part A of the ESEA gives LEA and school officials flexibility in selecting the instructional strategies that they believe will best meet the needs of students who are at risk of not meeting challenging State academic achievement standards. The expectation is that LEAs and schools will use sound instructional strategies of high quality to ensure that the students served will reach proficiency on challenging State academic standards and assessments. At the same time, the type of programs supported by Title I must supplement the educational services that an LEA would, in the absence of Title I, provide to its students. Programs that do not remove children from the regular classroom during regular school hours for Title I services and, instead, provide extended learning time (e.g., extended school year, before- and after-school, and summer programs etc.) are per se supplemental. LEAs and schools are encouraged to be creative in the way they provide services to Title I children while remembering that the educational services provided with Title I funds must be in addition to those services that the LEA and school provides to all of its children using State and local funding sources.

- Schoolwide Program Schools

  Unlike a targeted assistance program, a schoolwide program school is not required to select and provide supplemental services to specific children identified as in need of services. A school operating a schoolwide program does not have to: (1) show that Federal funds used with the school are paying for additional services that would not otherwise be provided; (2) demonstrate that Federal funds are used only for specific target populations; or (3) separately track Federal program funds once they reach the school.

  A schoolwide program school, however, must use Title I funds only to supplement the amount of funds that would, in the absence of the Title I funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. *[Section 1114(a)(2)]*

Presumption of Supplanting

To determine compliance with the supplement not supplant requirement, a State must determine what services an LEA would have provided in the absence of Title I funds to students in Title I schools. Keep in mind that any determination about supplanting is very case specific and it is difficult to provide general guidelines without examining the details of a situation. Because Title I funds are available, the State would use a set of presumptions—that is, predictions—of what the LEA would have provided in the absence of the Title I funds based on its behavior in other situations.

In the following instances, it is presumed that supplanting has occurred:

1. An LEA used Title I funds to provide services that the LEA was required to make available under Federal, State, or local law.

EXAMPLE:

The Individuals with Disabilities Education Act (IDEA) requires that an LEA serving children with disabilities develop an individualized education program (IEP) to ensure that a child with a disability receives a free appropriate public education. The IEP functions as a framework for the services the LEA is required to provide to each child to meet the requirements of IDEA. An LEA may not use Title I funds to provide services that must be provided under each child's IEP because, in the absence of the Title I funds, it is presumed that the LEA would use other funds or it would be in violation of the IDEA. However, in a targeted assistance school, an LEA may use its Title I funds to provide additional, supplemental services to such children. In a schoolwide school, an LEA must ensure the Title I funds a school receives supplement the amount of funds that would, in the absence of the Title I funds, be made available from non-Federal sources for that school, including the amount of funds needed to provide services that are required by law for children with disabilities.

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2. An LEA used Title I funds to provide services that the LEA provided with non-Federal funds in the prior year(s).

EXAMPLE:

An LEA paid for a reading specialist in a Title I school in the previous year from State and local resources but decides to use Title I funds to pay for that teaching position in the current year. This would be supplanting because the LEA is replacing State and local resources with Title I resources to pay for the same teaching position.

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3. An LEA used Title I funds to provide services for children participating in a Title I program that the LEA provided with non-Federal funds to children not participating in Title I.

EXAMPLE:

A State requires only half-day kindergarten. A district may not use Title I funds to pay for an extended-day kindergarten program for Title I schools and then use State or local funds to pay for a full-day kindergarten program in non-Title I schools. This would be supplanting because Title I schools would not be receiving any of the State or local funds. In other words, unless the exclusion discussed in the next section applies, an LEA may not use Title I funds to pay for services in Title I schools and use State funds to pay for the same services in non-Title I schools.

These presumptions, however, are rebuttable if the LEA can demonstrate that it would not have provided the services in question with non-Federal funds had the Federal Title I funds not been available. For example, in the second situation discussed above, an LEA could provide programmatic and fiscal documents showing that the teaching position paid for in the previous year with State and local funds was eliminated in the current year because of State and local budget cuts. The LEA would need to ensure that it had contemporaneous records to confirm:

- There was in fact a reduced amount or lack of State and local funds available to pay for this position.
- The LEA made the decision to eliminate the position without taking into consideration the availability of Federal funding, along with the reasons for that decision—e.g., school board minutes.

Exclusions

When determining whether Title I funding is supplemental, an SEA or LEA may exclude State and local funds expended in any school for carrying out a program that meets the intent and purposes of Title I, Part A. (These exclusions also apply when determining whether Title I and non-Title I schools are comparable.)

A program meets the intent and purposes of Title I, Part A if the program either—

- Is implemented in a school in which the percentage of children from low-income families is at least 40 percent;
- Is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the State’s challenging academic achievement standards that all students are expected to meet;
- Is designed to meet the educational needs of all students in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards; and

- Uses the State's system of assessment under 34 CFR 200.2 to review the effectiveness of the program.

Or—

- Serves only students who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards;
- Provides supplementary services designed to meet the special educational needs of students who are participating in the program to support their achievement toward meeting the State's student academic achievement standards; and
- Uses the State's system of assessment under 34 CFR 200.2 to review the effectiveness of the program
  [Section 1120A(d) and 34 CFR 200.79]

Questions and Answers on Supplement, not Supplant

C-1. An LEA has hired a Director of Literacy as a K-12 administrative position. All the Title I schools in the LEA are K-5 targeted assistance schools. Thirty percent of the students in the LEA receive Title I services. May Title I pay for 30 percent of the Literacy Director's salary?

No. This is a K-12 position and this employee is responsible for literacy services for all children in the LEA, not just at-risk children in Title I schools. No supplemental services are being provided by the Literacy Director to Title I students. In other words, Title I students are receiving the same services that non-Title I students are receiving, and nothing more. This would be supplanting. In looking at this situation, it is also helpful to ask what the LEA would do in the absence of Title I funds. Since 70 percent of the students are non-Title I students, it is likely the Literacy Director would still be a necessary position that would be paid for with State and/or local funds.

C-2. May Title I funds be used in a targeted assistance program to pay for Title I students' participation in an extended- day kindergarten program?

Yes, if the Title I program is designed to extend the time that a Title I-eligible student is in kindergarten. For example, the district provides morning instruction through State and local funds to all students, including Title I students. Students identified as most in academic need are then served in the afternoon through Title I funds by an appropriately licensed teacher. The teacher may be the same individual who teaches kindergarten in the LEA's regular kindergarten program, with Title I funding the second half of the teacher's day and salary. This model meets the supplement, not supplant test since Title I students are receiving services above and beyond those provided by the LEA to all students.

C-3. May an LEA use State and local funds to pay for non-Title I students' participation in a full-day kindergarten?

No. In the situation described in Q2, in which an LEA funds morning kindergarten instruction for all its students with State and local funds, the LEA may not provide afternoon kindergarten for non-Title I students with State and local funds while using Title I funds to provide afternoon kindergarten for Title I-eligible students. (This principle applies within a single Title I school, or across the district among Title I and non-Title I schools.) This would violate the supplanting prohibition because an LEA may not use Title I funds to provide services to Title I students that it provides with non-Title I funds for non-Title I students.

C-4. May an LEA use Title I funds to pay for extended-day kindergarten costs for Title I eligible students, while parent contributions pay for non-Title I students?

Yes, Title I funds could be used to pay for extended-day kindergarten for Title I-eligible students while parents of non-Title I students pay to participate in the same program, provided that the program the non-Title I students are paying for is the same program that is being provided to Title I students with Title I funds at no cost to the Title I students. This assumes that there are no State or local legal prohibitions to charging parents tuition or a fee for education provided by a public school.

C-5. Does the supplement, not supplant requirement apply to indirect costs?

Yes. Because of the supplement not supplant requirement, an LEA must use the indirect cost rates outlined in §76.564 of the Education Department General Administrative Regulations. *[34 CFR 76.564]*

D. CARRYOVER

Introduction

Under section 421(b) of the General Education Provisions Act (GEPA), LEAs and SEAs must obligate funds during the 27 months extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second succeeding fiscal year. This maximum period includes a 15-month period of initial availability plus a 12-month period for carryover. However, section 1127(a) of Title I of the ESEA limits the amount of Title I, Part A funds an LEA may carry over from one fiscal year's allocation to not more than 15 percent of the total Title I, Part A funds allocated to the LEA for that fiscal year.

The following illustrates how the 27-month availability for Title I, Part A funds and the carryover limitation would operate for an LEA that receives an allocation under the FY 2005 appropriation.

Federal FY 2005 Appropriation
(Title I, Part A Funds Allocated to the LEA from Funds Made Available on July 1, 2005 Total $1,500,000)

Total allocation	$1,500,000
Minimum amount LEA must obligate between July 1, 2005 – September 30, 2006 to avoid excess carryover (85 percent of total appropriation)	1,275,000
Amount LEA may carryover and obligate during October 1, 2006 – September 30, 2007 (carryover period provided under section 421(b) of GEPA)	225,000

During the first 15 months that an LEA's Title I, Part A funds are available, the LEA must, by September 30, 2006, obligate at least $1,275,000 (85 percent) of the total allocated to it. The LEA may carry over a maximum of $225,000 (15 percent) into the next fiscal year and must obligate those funds by September 30, 2007. Any funds that remain unobligated after that date revert to the U.S. Treasury.

Questions and Answers on Carryover

D-1. What actions must an SEA take with respect to an LEA that exceeds the 15 percent carryover limitation?

Unless it grants the LEA a waiver of the carryover limitation (see Q6), an SEA must reduce that LEA's allocation by the exact amount it exceeds its 15 percent carryover limitation. The following chart illustrates how much an SEA would reduce an LEA's allocation because it exceeded its carryover limitation.

EXAMPLE:

		Amount	Percent of Total Allocation
1	Total FY 2005 allocation (funds become available on July 1, 2004)	$1,500,000	
2	Minimum obligation for period July 1, 2005 – September 30, 2006	1,275,000	85%
3	Maximum amount an LEA may carry over into next fiscal year (October 1, 2006 – September 30, 2007)	225,000	15%
4	Actual amount LEA obligated for period July 1, 2005 – September 30, 2006	1,200,000	80%
5	Amount unobligated as of September 30, 2006	300,000	20%
6	Amount by which the LEA is over the 15% carryover limitation and would be reduced (Line 5- Line 3) *	75,000	

* This amount would be available for the SEA to reallocate to other LEAs as provided under section 1126(c) of Title I.

D-2. On what amount is the 15 percent limitation on carryover based?

The percentage limitation is applied to the amount allocated to the LEA for Title I, Part A under Subpart 2 for the current year, plus any funds transferred into Title I, Part A under the authority in Title VI, Part A, Subpart 2 (see Q4). It does not include carryover funds from the preceding year, excess funds that the SEA reallocated to the LEA under section 1126(c) of Title I, school improvement funds received under section 1003, or funds received under the State Academic Achievement Awards program.

D-3. Does an LEA include funds carried over from the previous fiscal year in the current year's allocation base to determine statutory reservations?

No. Title I of the ESEA requires an LEA to reserve certain percentages of its Title I allocation for specific purposes. For example, under section 1118(a)(3), an LEA must generally reserve at least one percent of its allocation for parent involvement activities. The base for calculating

any of the reserves required under Title I is only the current year amount allocated to the LEA for Title I, Part A under Subpart 2, plus any funds transferred into Title I, Part A under the authority in Title VI, Part A, Subpart 2 (see Q4). The LEA would not include carryover funds from the preceding year (or the other types of funds mentioned in Q2) when determining current-year reservations.

D-4. Do funds an LEA transfers into its Title I, Part A program from other ESEA programs under the transferability authority in Title VI, Part A, Subpart 2 of the ESEA affect the base on which the 15 percent carryover limitation is calculated?

Yes. Because transferred funds are subject to the rules and requirements of the programs to which they are transferred, the amount an LEA transfers into Title I, Part A from other ESEA programs increases the Part A resources available to the LEA. Thus, an SEA must base the calculation of an LEA's 15 percent carryover limitation on the Title I, Part A funds allocated to the LEA plus any funds the LEA transferred into Part A from other ESEA programs. The following chart illustrates how this would work:

EXAMPLE:

		Amount	Percent of Total Available for Title I
1	Total FY 2005 Title I, Part A allocation *	$1,500,000	
2	Other ESEA Funds transferred into Title I, Part A under Title VI, Part A, Subpart 2 for SY 2005-06 *	50,000	
3	Total (Lines 1 and 2)	1,550,000	
4	Minimum obligation for period July 1, 2005 – September 30, 2006 (85% of Line 3)	1,317,500	85%
5	Maximum amount an LEA may carry over into the next fiscal year (October 1, 2006 – September 30, 2007)	232,500	15%

* These funds became available on July 1, 2005.

D-5. If a State's fiscal year is not the same as the Federal fiscal year and ends June 30 rather than September 30, may the SEA apply the percentage limitations on carryover funds as of June 30?

No. An SEA may establish a project year that is the same as its State fiscal year so that it begins on July 1 and ends on June 30 of the following year. However, an LEA is entitled to access Title I funds for the full 15-month period (until September 30) before the limitation on carryover funds applies. Therefore, an SEA may not apply the limitation on carryover until after September 30, even if the SEA approves projects for a period from July 1 through June 30. The SEA should establish controls to ensure that, after September 30 of each year, an LEA is not allowed to use any prior-year funds that exceed the 15 percent carryover limitation. If an

LEA's project includes both prior-year and current-year funds, charges should be made against prior-year funds first in order to reduce any amounts that are in excess of the carryover limitation. The SEA or LEA must continue to account for funds by grant year.

D-6. May an SEA waive the 15 percent limitation on carryover funds?

Yes. Section 1127(b) of Title I provides that an SEA may, once every three years, waive the 15 percent carryover limitation if--

- The SEA determines that the request of an LEA is reasonable and necessary; or
- Supplemental appropriations for Title I, Part A become available. *[Section 1127(b)]*

D-7. Does the percentage limitation on carryover funds apply to all LEAs?

No. The percentage limitation does not apply to an LEA that receives an allocation of less than $50,000 in Title I, Part A, Subpart 2 funds. *[Section 1127(c)]*

D-8. What happens to excess funds carried over by an LEA?

If an LEA does not have a waiver of the carryover limitation, the excess funds become available to the SEA to reallocate to other LEAs in accordance with the criteria it has established under section 1126(c) of Title I.

D-9. Does the carryover limitation apply to school improvement funds an LEA may receive from the four percent an SEA reserves under section 1003 of Title I?

No. The carryover limitation applies only to funds an LEA is allocated under Subpart 2 of Title I, Part A, plus any funds transferred into Title I, Part A under the authority in Title VI, Part A, Subpart 2 (see Q4).

D-10. Does the carryover limitation apply to funds an LEA may receive under the State Academic Achievement Awards program under section 1117(b)?

No, because these funds are not part of the LEA's Title I, Part A, Subpart 2 allocation.

D-11. May an SEA carry over State administration funds authorized in section 1004?

Yes. An SEA may carry these funds over, and the percentage limitation in section 1127(a) does not apply because the limitation only applies to Title I, Part A, Subpart 2 funds allocated to LEAs.

D-12. How does an LEA handle Title I, Part A funds that are carried over when allocating funds to school attendance areas?

Although an LEA may not use carryover funds to provide services in an ineligible Title I school, an LEA has considerable discretion in handling carryover funds. Some of these options include:

- Adding carryover funds to the LEA's current-year allocation and distributing them to participating areas and schools in accordance with allocation procedures that ensure equitable participation of private school children.
- Allocating to schools with the highest concentrations of poverty in the LEA, thus providing a higher per-pupil amount to those schools, ensuring equitable participation of private school children.
- Providing additional funds to any of the activities supported by the reservations outlined in §200.77 of the Title I regulations. (Note that if an LEA adds carryover funds to a reservation to which equitable services apply (e.g., parental involvement), the LEA must also calculate and provide equitable services from the carryover funds.)

D-13. If an LEA is required in a given year to reserve a specific amount of funds for a particular purpose but does not spend all of those funds in that year, may the LEA carry over those unspent funds and spend them in accordance with the flexibility noted in D-12?

No. If an LEA is required to spend a specific amount of its Title I, Part A allocation in a given year for a particular purpose, the LEA must meet that obligation. If it does not do so in the year for which the funds were allocated, it must carry over the unspent funds and spend them for the specific purpose in the following year. For example, under section 1116(c)(7)(A)(iii) of Title I, an LEA that has been identified for school improvement must reserve and use 10 percent of its Title I, Part A allocation for professional development activities. The LEA does not have any flexibility to spend less. Thus, an LEA that has been identified for improvement in SY 2005-06 must spend at least 10 percent of its SY 2005-06 allocation, which first became available on July 1, 2005, within 27 months. Any funds that the LEA reserved for professional development in SY 2005-06, but did not use that year, must be carried over into SY 2006-07 and used for professional development activities. These carryover funds may not be used for other Title I purposes. In addition to the 2005-06 funds carried over for professional development activities, the LEA, if it is still identified for improvement in SY 2006-07, must also reserve 10 percent from its SY 2006-07 Title I, Part A allocation for professional development activities (see D-16).

D-14. If an LEA reserves 20 percent of its Title I, Part A allocation for supplemental educational services (SES) and choice-related transportation, but spends less than that amount, is the LEA required to carry over the unspent funds for SES and choice-related transportation costs in the following year?

It depends. There are several situations in which an LEA would need to carry over unspent Title I, Part A funds in this context. For example, if an LEA has documented demand (e.g., parent applications) to absorb the full 20 percent on choice-related transportation and SES but, for whatever reason, spends less than 20 percent, an LEA would be out of compliance with the statute and subject to enforcement sanctions unless it reopens enrollment for SES and/or public school choice. If reopening enrollment is impossible, the LEA must carry over to the following school year the unexpended balance of the set-aside and use that balance for choice-related transportation and SES in that year—in addition to spending an amount equal to 20 percent of that year's Title I, Part A allocation. An LEA may find itself in this position if there is a lower than expected enrollment rate among eligible students that applied for SES, or if the student attendance levels in SES tutoring sessions are lower than anticipated, but there is unmet demand for choice or SES among other eligible students.

Another scenario in which an LEA would need to carry over unspent funds for choice and SES is if the LEA initially prioritizes the students to whom it offers SES—e.g., its lowest-achieving, low-income students—and demand from those students does not absorb the full 20 percent. In this instance, the LEA would need to reopen enrollment to all eligible students or carry over to the following year the unexpended balance of the set-aside and use that balance for choice-related transportation and SES in that year—again, in addition to spending an amount equal to 20 percent of that year's Title I, Part A allocation too.

On the other hand, if an LEA offers the opportunity to transfer to other schools and to receive SES to all eligible students and demand for those services does not absorb an amount equal to 20 percent of the LEA's allocation, the LEA may use those funds for other allowable activities during the year in which the reservation was made or carry over the unexpended balance and use those funds for any purposes for which carryover funds may be used (see Q12). If these funds are carried over, the equitable participation requirements for private school children in Title I would apply. *[Section 1120; 34 CFR 200.64]*

D-15. Are unspent funds from required reservations included in the carryover limitation?

Yes. The 15 percent carryover limitation applies to the LEA's entire Part A, Subpart 2 allocation and, therefore, includes any funds reserved but not spent. For example, if the combination of unused funds reserved for professional development and other unspent Part A funds exceeds 15 percent of an LEA's total Part A, Subpart 2 allocation, the excess funds must be returned to the SEA for reallocation to other LEAs, unless the SEA grants the LEA a waiver. However, the LEA must still meet its obligations with respect to the statutory reservations from funds available for the subsequent school year.

D-16. Do funds carried over from reserves affect the amount of money an LEA must reserve in the following year?

No. For example, an LEA identified for improvement reserves funds for professional development in SY 2004-05 and carries over some of those funds into SY 2005-06. That LEA would still be required to reserve 10 percent from its SY 2005-06 Title I allocation for professional development if it were still in program improvement status. The 10 percent reserve taken from SY 2005-06 funds would be in addition to the funds the LEA carried over from the previous year for this purpose.

D-17. How does the carryover provision apply to equitable services to private school children?

In general, if an LEA provided equitable services for private school students in the first year, any carryover funds would be considered additional funds for the entire Title I program in the subsequent year and would be part of the LEA's Title I resource base in the next year. Those funds would be used, along with any other carryover funds, for serving both public and private school students on an equitable basis. This situation might occur, for example, if private school students did not fully participate in the Federal program in the first year, even though an equitable program was planned and offered for those students.

However, there may be a circumstance in which equitable services were not provided. For example, there was a delay by an LEA in implementing an equitable program for private school children because of consultation and notification issues between private school officials and the LEA. As a result, the LEA could not spend all the funds it had available for providing equitable services to private school children and needed to carry over those funds and use them to provide services to private school children in the following year. These carryover funds would be in addition to funds that the LEA would otherwise be required to use to provide equitable services for private school students out of the LEA's current-year allocation.

Under either situation, the LEA retains control of the Federal funds carried over into the following year. No funds are provided directly to private schools.

E. CONSOLIDATING FUNDS IN SCHOOLWIDE PROGRAMS

Introduction

Section 1114 of Title I of the ESEA allows a school in which 40 percent or more of its students are from low-income families to use its Title I funds, along with other Federal, State, and local funds, to operate a schoolwide program to upgrade the entire educational program in the school to improve the academic performance of all students, particularly the lowest-achieving students. *[Section 1114(a)(1)]* To operate a schoolwide program, a school must conduct a comprehensive needs assessment of the entire school and, using data from the needs assessment, develop a comprehensive plan that meets the requirements of the ESEA and §200.27 of the Title I regulations. *[Section 1114(b); 34 CFR 200.27]* A school operating a schoolwide program is not required to identify specific students as eligible to participate in the schoolwide program, or to demonstrate that the services provided with Title I funds are supplemental to services that would otherwise be provided. *[Section 1114(a)(2)]* This is in contrast to a targeted assistance program, in which Title I funds may be used only for supplementary educational services for children identified as being most at risk of not meeting State standards. *[Section 1115(a)]*

The underlying purpose of the schoolwide approach is to enable schools with high numbers of at-risk children to integrate the services they provide to their children from Federal, State, and local resources. A growing body of evidence shows that it is possible to create schools where all of the students achieve high standards even when most are poor or disadvantaged. Such schools are most likely to be effective if they can make significant changes in the way they deliver services. By making systemic changes that knit together services funded from all sources into a comprehensive framework, schools will have a better chance of increasing the academic success of all their students.

A schoolwide program school may consolidate funds from Federal, State, and local sources to implement the school's comprehensive plan to upgrade its entire educational program. *[Section 1114(a)(1)]* In consolidating State and local funds with funds from Title I, Part A and most other Federal elementary and secondary programs administered by the Department, a schoolwide program school does not need to meet most of the statutory and regulatory requirements of the Federal programs included in the consolidation as long as it meets the intent and purposes of those programs. *[Section 1114(a)(3)(A)-(B)]* Moreover, the school is not required to maintain separate fiscal accounting records by program that identify the specific activities supported by those particular funds in order to demonstrate that the activities are allowable under the program. *[Section 1114(a)(3)(C)]* Each school, however, must identify the specific programs being consolidated, and the amount each program contributes to the consolidation *[Section 1114(b)(2)(A)(iii)]*, and maintain records that demonstrate that the schoolwide program addresses the intent and purposes of each of the Federal programs whose funds are being consolidated to support the schoolwide program. *[Section 1114(a)(3)(C)]* Each SEA must encourage schools to consolidate funds from Federal, State, and local sources in their schoolwide programs and must eliminate State fiscal and accounting barriers so that these funds can be more easily consolidated. *[Section 1111(c)(9)-(10); see generally 34 CFR 200.29]*

Questions and Answers on Consolidating Funds in Schoolwide Programs

Consolidating Funds

E-1. What are the purpose and benefits of consolidating Federal, State, and local funds in a schoolwide program?

The purpose of consolidating funds is to help a schoolwide program school effectively design and implement a comprehensive plan to upgrade the entire educational program in the school based on the school's needs identified through its comprehensive needs assessment. (See "Designing Schoolwide Programs" non-regulatory guidance at http://www.ed.gov/policy/elsec/guid/designingswpguid.doc for information on conducting a comprehensive needs assessment, designing quality plans, and annually evaluating the program's success.) By consolidating funds from Federal, State, and local sources, a schoolwide program school can address its needs using *all* of the resources available to it. This gives a school more flexibility in how it uses available resources to meet the specifically identified needs of its students.

Consolidating Federal funds in a schoolwide program has other advantages, too.

- Consolidating Federal funds eases the requirements for accounting for funds from each specific program separately, because a schoolwide school is not required to distinguish among funds received from different sources when accounting for their use. Therefore, a school is not required to maintain separate fiscal accounting records, by Federal program, that identify the specific activities supported by each program's funds in order to demonstrate that those activities are allowable under the program. *[Section 1114(a)(3)(C)]*

- A school that consolidates Federal funds in its schoolwide program is not required to meet most of the statutory and regulatory requirements of the specific Federal programs included in the consolidation. However, the school must ensure that it meets the intent and purposes of the Federal programs included in the consolidation so that the needs of the intended beneficiaries are met. (See E-8 through E-10.) *[Section 1114(a)(3); 34 CFR 200.29(a), (b), (d)]*

E-2 What does it mean to consolidate funds, including Title I, Part A funds, in a schoolwide program?

Consolidating funds in a schoolwide program means that a school treats the funds it is consolidating like they are a single "pool" of funds. In other words, the funds from the contributing programs in the school lose their individual identity and the school has one flexible pool of funds. The school uses funds from this consolidated schoolwide pool to support any activity of the schoolwide program without regard to which program contributed the specific funds used for a particular activity. A schoolwide school must identify in its schoolwide plan which programs are included in its consolidation and the amount each program contributes to the consolidated schoolwide pool. *[Section 1114(b)(2)(A)(iii)]*

Keep in mind that an LEA must ensure that such a school meets the supplement not supplant requirement as it relates to a schoolwide program, *i.e.* each school operating a schoolwide program must receive all the State and local funds it would otherwise receive to operate its educational program in the absence of Title I, Part A or other Federal education funds. (See E-17.) *[Section 1114(a)(2)(B)]*

In accounting for expenditures from funds included in a consolidated schoolwide pool, an LEA has a number of options. See E-3 for several ways this can be done. In each of these methods, the common denominator is that consolidated funds are not tracked to specific activities allowable under a particular program.[2]

E-3 Are there examples of procedures SEAs can establish that enable an LEA with schools operating schoolwide programs to account for funds that have been consolidated?

Yes. The examples on the next pages illustrate several ways for how an LEA may account for funds in a schoolwide consolidation.

[2] As Options 1 and 2 in Example 2 illustrate, an LEA does not literally need to combine funds in a single account or pool with its own accounting code. Rather, the word "pool" is used conceptually to convey that a schoolwide program school has the use of all consolidated funds available to it for the dedicated function of operating a schoolwide program without regard to the identity of those funds.

EXAMPLE 1:

In this example, an SEA creates, through its electronic consolidated funding application system, a process that allows an LEA to list the program funds each school plans to consolidate in its schoolwide program. This enables the LEA to create a consolidated schoolwide pool, with its own accounting code, for all of the schools operating a schoolwide program. The program funds distributed to a school operating a schoolwide program that are included in the consolidation lose their identity and may be used for any activity consistent with the school's schoolwide plan.

As illustrated in Chart A below, an LEA determines for each of its Title I schools operating a schoolwide program how much each program included in its schoolwide program contributes to the consolidated schoolwide pool. As each of its schoolwide schools spends money for activities to support its schoolwide plan, the LEA draws down funds and charges them to each program contributing to the consolidated schoolwide pool based on the proportionate shares shown. For example, because Title I, Part A contributed 8 percent of the funds to the consolidated schoolwide pool, the LEA would know that 8 percent of the expenditures made from the consolidated schoolwide pool for all its schoolwide schools should be attributed to Title I, Part A. Note that any Federal funds not included in the consolidated schoolwide pool must be accounted for separately.

Chart A

Programs Contributing Funds to the Consolidated Schoolwide Pool						
	Federal Funds					
School Building	Title I - A Disadvantaged	Title II-A Improving Teacher Quality	Title IV-A Safe and Drug Free Schools	IDEA- B	State and Local Funds	Total for Each Building
A	$182,535	$25,000	$10,685	$94,462	$2,048,115	$2,360,797
B	115,455	25,000	20,071	27,709	1,380,884	1,569,119
C	181,780	25,000	23,686	69,272	1,940,161	2,239,899
D	141,900	110,437	22,351	93,202	1,999,902	2,367,792
E	229,460	110,437	27,546	61,715	1,936,291	2,365,449
F	169,860	110,437	23,796	54,158	1,525,307	1,883,558
Total Funds LEA Distributes to Individual Schools	1,020,990	406,311	128,135	400,518	10,830,660	12,786,614
Percent of Total	8%	3%	1%	3%	85%	100%

The first line of the table reads: School A contributes $182,535 in Title I-A funds, $25,000 in Title II-A funds, $10,685 in Title IV-A funds, $94,462 in IDEA-B funds, and $2,048,115 in State and local funds to the consolidated schoolwide pool within the LEA.

Although programs consolidated in a schoolwide setting lose their identity and LEAs are not required to track expenditures by specific program, State accounting guidelines generally require that an LEA be able to identify expenditures for the entire consolidated schoolwide pool by functional categories like salaries, travel, and supplies, etc. [3] However, an LEA would not be required to track how much it spends on salaries, for example, back to a specific program included in the consolidated schoolwide pool.

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[3] An LEA would account for indirect costs for all Federal programs on a district basis in accordance with §§75.560 through 75.563 of EDGAR before allocating Federal funds to individual schools for consolidation, where applicable, in a schoolwide pool.

EXAMPLE 2:

This example looks at a single school. Here an LEA establishes a consolidated schoolwide pool from which a schoolwide building uses all or a portion of the Federal, State, and local funds it receives to support its schoolwide activities consistent with its schoolwide plan. Although the program funds included in the consolidated schoolwide pool lose their identity and may be used for any activity consistent with the school's schoolwide plan, the LEA, for accounting purposes, still attributes expenditures of those funds back to a specific program regardless of what services those funds support. An LEA may use any reasonable method to demonstrate that the funds in a schoolwide program have been expended. Two options are illustrated below:

Option 1 – Distribution of Expenditures Based on Revenues

A building has a schoolwide program with a total of $1,000,000 in revenues from the programs shown in Chart A below:

Chart A

Source of Funds	Revenues	Percent of Total	Expenditures
Total	$1,000,000	100.0%	$950,000
State and Local Funds (included in schoolwide program)	520,000	52.0%	494,000
Federal Programs (included in schoolwide program)			
Title I, Part A	240,000	24.0%	228,000
Title II, Part A -- Improving Teacher Quality	40,000	4.0%	38,000
IDEA Part B (Special Education) *	50,000	5.0%	47,500
Title V, Part A	70,000	7.0%	66,500
Carl D. Perkins Career and Technical Education Act	80,000	8.0%	76,000

The first two lines of the table read: Of the $1,000,000 included in the consolidated schoolwide pool for the school building, $520,000 (52 percent) is from State and local sources and $240,000 (24 percent) is from Title I, Part A. Thus, 52 percent ($494,000) of the expenditures are attributed to State and local sources and 24 percent ($228,000) to Title I, Part A.

* See response in E-10 concerning how a schoolwide program may consolidate funds received under Part B of IDEA.

In this option, the LEA allocates all building schoolwide program expenditures based on the proportion of program revenues coming into the building and budgeted for schoolwide activities. Expenditures are allowable without regard to whether they support the program that generated the funds so long as they are incurred to support the schoolwide program plan.

Like the first example, although programs consolidated in a schoolwide setting lose their identity and LEAs are not required to track expenditures by specific program, State accounting guidelines generally require that an LEA be able to identify expenditures for the entire schoolwide consolidated pool by functional categories such as salaries, travel, and supplies, etc. [4] However, an LEA would not be required to track how much it spent on salaries, for example, back to a specific program included in the consolidated schoolwide pool.

[4] An LEA would account for indirect costs for all Federal programs on a district basis in accordance with §§75.560 through 75.563 of EDGAR before allocating Federal funds to individual schools for consolidation, where applicable, in a schoolwide pool.

Option 2 – Sequence Charging of Schoolwide Expenditures

Another option is for an LEA to charge 100 percent of all employee and non-employee schoolwide expenditures in a school building first to State and local sources and then to Title I, Part A and other Federal programs until these funds are spent in their entirety or until the maximum carryover amount is all that remains unexpended. The chart below uses the figures from Option 1 to illustrate how sequence charging might work.

Source of Funds	Revenues	Total Expenditures ($950,000) Charged to Federal, State, and Local Programs	Amount Remaining
Total Included in Schoolwide Consolidated Pool	$1,000,000		
State and Local Sources	520,000	- $520,000	
Title I, Part A	240,000	- 240,000	
Title II, Part A -- Improving Teacher Quality	40,000	- 40,000	
IDEA Part B (Special Education) *	50,000	- 50,000	
Title V, Part A	70,000	- 70,000	
Carl D. Perkins Career and Technical Education Act	80,000	- 30,000	50,000

This table reads: Of the $950,000 expended from the consolidated schoolwide pool for the school building, the first $520,000 in expenses is charged to State and local sources; the next $240,000 is charged to Title I, Part A; and the next $40,000 is charged to Title II, Part A. $50,000 remain available for expenditure in the following year from the Carl D. Perkins Career and Technical Education Act program.

* See response in E-10 concerning how a schoolwide program may consolidate funds received under Part B of IDEA.

An LEA may attribute employee and non-employee expenditures to particular fund sources without regard to whether they actually support the fund source so long as the expenditures incurred support the schoolwide program plan. Like the other examples, although programs consolidated in a schoolwide setting lose their identity and an LEA is not required to track expenditures by specific program, State accounting procedures generally require that an LEA be able to identify expenditures for the entire consolidated schoolwide pool by functional categories such as salaries, travel, and supplies, etc. However, an LEA would not be required to track how much it spent on salaries, for example, back to a specific program included in the consolidated schoolwide pool.

E-4 May a schoolwide program school consolidate only its Federal funds?

Yes, although this practice may not be as effective as when a school consolidates Federal, State, and local funds because it does not give the school the flexibility to use all of its available resources to meet the identified needs of its students.

In this situation, the school would consolidate its Title I, Part A funds and funds from other Federal education programs included in its comprehensive schoolwide program plan into a single Federal consolidated schoolwide pool. From an accounting perspective, the funds from the contributing Federal programs lose their individual identity when they become part of a consolidated schoolwide pool and would be accounted for as part of that pool rather than by the individual programs that contribute to the consolidated schoolwide pool. Practices similar to those illustrated in E-3 may be used to account for funds consolidated into a Federal consolidated schoolwide pool. When Federal funds are consolidated, the schoolwide program school does not need to meet most of the statutory and regulatory requirements of the Federal programs included in the consolidation as long as it meets the intent and purposes of those programs. The school and LEA must be able to demonstrate, however, that the intent and purposes of the Federal programs whose funds are consolidated are met. *[Section 1114(a)(3)(A) and (C)]*

E-5 On what activities in a schoolwide program may consolidated Federal funds, including Title I , Part A funds, be used?

According to the purpose of a schoolwide program, Title I, Part A funds, as well as other Federal, State, and local funds, may be used to upgrade the "educational program" of the school. *[Section 1114(a)(1)]* The school's comprehensive schoolwide program plan must describe how it will upgrade its educational program based on data derived from its comprehensive needs assessment regarding the achievement of children in the school relative to the State's academic content and achievement standards. Strategies for upgrading a school's educational program must include instructional strategies based on scientifically based research that strengthen the core academic program, increase the amount and quality of learning time, and address the needs of the lowest-achieving children as well as strategies to attract and retain highly qualified teachers, to provide high-quality professional development, and to increase parental involvement. *[Section 1114(b)]* Accordingly, Title I, Part A funds and other consolidated Federal funds must be used to address the specific educational needs of the school identified by the needs assessment and articulated in the comprehensive plan. Use of those funds is governed by the cost principles in Office of Management and Budget (OMB) Circular A-87 available at http://www.whitehouse.gov/omb/circulars/a087/a87_2004.html.

E-6 If all the Title I, Part A schools in an LEA operate schoolwide programs, may the LEA consolidate funds it is required to reserve under Title I, Part A and other Federal programs into one district-wide pool?

No. Consolidation of funds in schoolwide programs applies only to programs at the school building level in accordance with a school's schoolwide plan. An LEA must, therefore, still set aside Title I, Part A funds specifically required for homeless children, children in locally

operated institutions for neglected children, parental involvement, choice-related transportation and supplemental educational services, and professional development as required by law and must account for the Title I funds it spends on those activities. The LEA must then allocate the remaining funds to schools in accordance with section 1113 of the ESEA and §200.78 of the Title I regulations.

E-7 If a school operating a schoolwide program does not consolidate its Title I, Part A funds with other Federal, State, and local funds, what activities may Part A funds support?

As discussed in E-5, the purpose of a schoolwide program is to upgrade the "educational program" of a school as reflected in a comprehensive schoolwide program plan based on data from a comprehensive needs assessment. *[Section 1114(a)(1)]* Accordingly, Part A funds must be used to address specific educational needs of the school identified by the needs assessment and articulated in the plan. All children in the school may participate in activities funded with Title I, Part A funds (consistent with the school's comprehensive schoolwide program plan), and the school does not need to demonstrate that those activities are supplemental to ones that would otherwise be provided by the school. *[Section 1114(a)(2)(A)]* Use of Title I, Part A funds in this situation would be governed by the cost principles in OMB Circular A-87. Because Title I, Part A funds are not consolidated with other Federal, State, and local funds, the school and LEA must account for and track the Title I, Part A funds separately, identifying the activities that the Part A funds support.

E-8 May Title I, Part A funds in a schoolwide program school be used for basic operational expenses such as building maintenance and repairs, landscaping, and custodial services?

As discussed in E-5, Title I, Part A funds (as well as consolidated Federal funds) must be used to address the <u>educational</u> needs of a school identified by the needs assessment and articulated in the comprehensive plan. *[Section 1114(a)(1)]* Accordingly, they may not be used for non-educational activities such as building maintenance and repairs, landscaping, and custodial services.

When Title I, Part A funds are consolidated with State and local funds as described in E-2 and E-3, they lose their identity; thus, it is impossible to know on what specific activities Part A funds are spent. However, to meet the supplement not supplant requirement as it relates to a schoolwide program, an LEA must ensure that each school operating a schoolwide program receives all the State and local funds it would otherwise need to operate in the absence of Federal funds *[Section 1114(a)(2)(B)]*, including State and local funds necessary to provide for routine operating expenses such as building maintenance and repairs, landscaping and custodial services. Thus, even though Title I, Part A funds are included in the consolidated pool of resources available to the school that may support, for example, building maintenance and repair, landscaping, or custodial services, there must also be sufficient State and local funds in that consolidated pool to cover non-educational activities.

E-9. Which Federal education program funds may be consolidated in a schoolwide program?

Except as noted below, the Secretary has authorized a schoolwide program school to consolidate funds from any Federal education program administered by the Secretary whose funds can be used to carry out activities that support students enrolled in a public elementary or secondary school. (See 69 FR 40360-64 (July 2, 2004), Notice of authorization and exemption of schoolwide programs. The notice is available on ED's website at **http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html**.) This authority also extends to services, materials, and equipment purchased with those funds and provided to a schoolwide program school.

A school that operates a schoolwide program may **NOT** consolidate funds under Subpart 1 of Part B of Title I of the ESEA (Reading First), which establishes reading programs for students in kindergarten through grade 3.

Within the general schoolwide consolidation authority, a schoolwide program school may consolidate funds received under the following programs only as outlined below:

- Migrant Education. Consistent with section 1306(b)(4) of Title I and 34 CFR 200.29(c)(1), before a school operating as a schoolwide program consolidates funds received under Part C of Title I, of the ESEA for the education of migratory children, the school, in consultation with parents of migratory children or organizations representing those parents, or both, must first meet the unique educational needs of migratory children that result from the effects of their migratory lifestyle and those other needs that are necessary to permit those students to participate effectively in school, and must document that these needs have been met.

- Indian Education. Consistent with section 7115(c) of the ESEA and 34 CFR 200.29(c)(2), a school operating as a schoolwide program may consolidate Indian education funds received under Subpart 1 of Part A of Title VII of the ESEA only if the parent committee established by the LEA to help develop the Indian education program under section 7114(c)(4) of the ESEA approves the inclusion of those funds.

- Individuals with Disabilities Education Act. See response to E-10.

E-10. May a schoolwide program school consolidate funds it receives under the Individuals with Disabilities Education Act (IDEA)?

Yes. Consistent with section 613(a)(2)(D) of the IDEA and 34 CFR 200.29(c)(3), a school that operates as a schoolwide program may consolidate funds received under Part B of the IDEA. However, the amount of funds consolidated may not exceed the amount received by the LEA under Part B of the IDEA for that fiscal year, divided by the number of children with disabilities in the jurisdiction of the LEA, and multiplied by the number of children with disabilities participating in the schoolwide program. A school may also consolidate funds it receives for students with disabilities under section 8003(d) of the ESEA. A school that consolidates funds under Part B of the IDEA or section 8003(d) of the ESEA may use those

funds in its schoolwide program for any activities under its schoolwide program plan but must comply with all other requirements of Part B of the IDEA to the same extent as it would if it did not consolidate funds under Part B of the IDEA or section 8003(d) of the ESEA in the schoolwide program.

E-11 May individual schools operating schoolwide programs in an LEA include different programs in their schoolwide consolidations?

Yes. The programs included in a school's schoolwide plan may vary from school to school depending on the content of the school's schoolwide plan and the specific Federal funds an LEA actually allocates to the school.

E-12. May a schoolwide program school consolidate funds it receives from discretionary grant programs?

In general, a schoolwide program school may consolidate funds it receives from discretionary (competitive) grants as well as from formula grants, except for Reading First. (See 69 FR 40360-64 (July 2, 2004).) However, if a school operating a schoolwide program consolidates funds from discretionary grant programs, the school must still carry out the activities described in the application under which the funds were awarded. However, a schoolwide program school does not need to account separately for specific expenditures of the consolidated discretionary grant funds.

Although not required, it is preferable that the applicant LEA or school indicate in its application for discretionary funds that some or all of the funds would be used to support a schoolwide program and describe its activities accordingly. Moreover, if authorized by the program statute, the Department or an SEA could include in its selection criteria for a particular program extra points for conducting activities in a schoolwide program school. For example, an SEA could include such points when awarding subgrants under the Even Start Family Literacy program, which requires an SEA to give priority to applicants that target services to families in need of family literacy services residing in areas with high levels of poverty, illiteracy, or other such need-related factors, including projects that would serve a high percentage of children who reside in participating areas under Part A.

Specific examples illustrating how schoolwide program schools could consolidate and use discretionary grant funds by carrying out the activities described in the application under which the funds were awarded are provided in 69 FR 40360-64 (July 2, 2004), Notice of authorization and exemption of schoolwide programs. This notice is available on ED's website at **http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html**.

E-13. The July 2, 2004 Federal Register notice states that it is permissible for a schoolwide program school to consolidate the Title I, Part D (prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk) funds it receives. Part D consists of two programs. Subpart 1 authorizes the State Agency Neglected and Delinquent program, and Subpart 2 authorizes the Local Agency program. Which of these programs may a schoolwide program school consolidate with other Federal, State, and local funds?

Title I, Part D, Subpart 2 funds support the operation of programs in LEAs with high numbers or percentages of children and youth residing in locally operated correctional facilities for children and youth, including facilities involved in community day programs designed to—

- Carry out high-quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;
- Provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and
- Operate programs in local schools for children and youth returning from correctional facilities, and programs that may serve at-risk children and youth. *[Section 1421]*

If a schoolwide program school receives these funds, it may consolidate them with other Federal funds.

The Title I, Part D, Subpart 1 (State Agency Neglected and Delinquent) funds are distributed to State agencies and are, therefore, not subject to consolidation in a schoolwide program. Section 1416 of Title I, Part D, Subpart 1, however, provides for a State agency to operate institution-wide projects.

Meeting Intent and Purposes

E-14. How may a school that is operating a schoolwide program meet the intent and purposes of the programs for which it consolidates funds?

A school that consolidates and uses, in a schoolwide program, funds from any other Federal education program administered by the Secretary, except Reading First, is not required to meet most statutory or regulatory requirements of the program applicable at the school level, but must meet the intent and purposes of that program to ensure that the needs of the intended beneficiaries are met. The school must be able to demonstrate that its schoolwide program contains sufficient resources and activities to reasonably address the intent of the included programs, particularly as they relate to the lowest-performing students. *[Section 1114(a)(3)(C); 34 CFR 200.29(a) and (b)]*

For specific examples of how a schoolwide program school may meet the intent and purposes of certain Federal programs see 69 Fed. Reg. 40360-64 (July 2, 2004), Notice of authorization and exemption of schoolwide programs, available at **http://www.ed.gov/legislation/FedRegister/other/2004-3/070204a.html**.

Record Keeping

E-15. What fiscal record-keeping requirements apply to an LEA or a school with respect to Federal funds that are consolidated in a schoolwide program?

A school operating a schoolwide program that consolidates, in a consolidated schoolwide pool, funds from Federal education programs administered by the Secretary, including Title I, Part A, with State and local funds is not required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those program funds. The school must, however, maintain records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal education programs whose funds were consolidated to support it. *[Section 1114(a)(3)(C)]*

There may be reasons why an LEA would want or need to know the amount of funds from a given Federal education program that was expended under the single consolidated schoolwide pool. For example, Title I, Part A and Title IV, Part A have limitations on the amount of funds that may be carried over to the succeeding fiscal year. (See E-21.) Similarly, an SEA may want to recoup any unexpended State funds to demonstrate that Federal funds in a consolidated schoolwide pool have been expended. For example, the LEA could allocate expenditures of Federal funds consolidated in a schoolwide program school in proportion to the amount of funds allocated to the school under a given Federal program.

If an LEA only consolidates Federal funds, including Title I, Part A funds, in a consolidated schoolwide pool, the LEA must keep records that demonstrate that the Federal funds, including Title I, Part A funds, are used to support activities that address specific educational needs of the school identified by the school's comprehensive needs assessment and are articulated in the schoolwide program plan. (See E-5.) These records do not need to identify, by program, the specific activities supported by those program funds. However, the LEA must be able to demonstrate that each schoolwide program contains sufficient resources and activities to reasonably address the intent and purposes of each of the consolidated Federal programs, particularly as they relate to the lowest-performing students. (See E-14.) *[Section 1114(a)(3)(C)]*

If an LEA includes Title I, Part A funds without consolidating them, it must maintain records to demonstrate that the Title I, Part A funds are used to support activities that address specific educational needs of the school identified by the school's comprehensive needs assessment and that are articulated in the schoolwide program plan. (See E-5.) *[Section 1114(a)(1)]* The LEA, however, does not need to demonstrate that those activities benefit specific students or that the activities are supplementary to those the schoolwide program school would otherwise provide. *[Section 1114(a)(2)(A)]*

E-16. If an LEA consolidates Federal, State, and local funds into a consolidated schoolwide pool, and the LEA, for example, must return unspent State funds, how would the LEA distinguish unspent State funds that remain at the end of the year from Federal funds that have been combined in a consolidated schoolwide pool?

In a school that has consolidated funds, it is important that an LEA maintain records that enable it to know the amounts of funds from Federal, State, and local sources that the LEA allocates to the school and that are combined in the consolidated schoolwide pool. The LEA could then apportion any unspent funds at the end of the year based on the percent of funds contributed to the pool from each source.

E-17. How does an LEA document employee time and effort in schools that operate schoolwide programs?

Generally, Attachment B.8.h(3) of OMB Circular A-87, which contains government-wide cost principles that apply to the use of Federal funds by State and local governments and Federally recognized Indian tribal governments, provides that charges for the wages or salary of an employee who works solely on a single Federal program or cost objective must be supported by periodic certifications that the employee worked solely on that program or cost objective. These certifications must be prepared at least semi-annually and must be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee. If an employee works on multiple activities or cost objectives, Attachment B.8.h(4), (5), and (6) require the employee to prepare personnel activity reports or equivalent documentation to support a distribution of his or her salary or wages among the Federal programs or cost objectives.

Application of the OMB Circular A-87 requirements to employees in a school operating a schoolwide program varies under different circumstances. For example:

1. If a school operating a schoolwide program consolidates Federal, State, and local funds under section 1114(a)(3) in a consolidated schoolwide pool (see E-2), an employee who is paid with funds from that pool is not required to file a semi-annual certification. Because Federal funds are consolidated with State and local funds in a single consolidated schoolwide pool, there is no distinction between staff paid with Federal funds and staff paid with State or local funds.

2. If a school operating a schoolwide program does not consolidate Federal funds with State and local funds in a consolidated schoolwide pool, an employee who works, in whole or in part, on a Federal program or cost objective must meet the OMB Circular A-87 requirements as follows:

    (a) An employee who works solely on a single cost objective (i.e., a single Federal program whose funds have not been consolidated or Federal programs whose funds have been consolidated but not with State and local funds) must furnish a semi-annual certification that he/she has been engaged solely in activities supported by

the applicable source in accordance with OMB Circular A-87, Attachment B, paragraph 8.h(3).

(b) An employee who works on multiple activities or cost objectives (i.e., in part on a Federal program whose funds have not been consolidated in a consolidated schoolwide pool and in part on Federal programs supported with funds that have been consolidated in a pool or on activities funded from other revenue sources) must maintain time and effort distribution records in accordance with OMB Circular A-87, Attachment B, paragraph 8.h(4), (5) and (6). The employee must document the portion of time and effort dedicated to:

(1) The Federal program; and
(2) Each program or other cost objective supported by either consolidated Federal funds or other revenue sources.

General Fiscal Questions

E-18. How can a schoolwide program demonstrate that it supplements, and does not supplant, State and local funds?

In a schoolwide program, Title I, Part A funds and other Federal education program funds may be used only to supplement the total amount of funds that would, in the absence of Federal funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency. *[Section 1114(a)(2)(B)]*

It is generally an LEA's responsibility, and not a school's, to ensure that the "supplement not supplant" requirement is met and that a schoolwide program school receives all the State and local funds it would receive were it not a Title I schoolwide program school. In other words, an LEA may not reduce its allocation of State and local funds and resources to a schoolwide program school because the school receives Federal funds to operate a schoolwide program. An LEA should be able to demonstrate, through its regular procedures for distributing funds and resources, that it distributes State and local funds fairly and equitably to all its schools–including schoolwide program schools–without regard to whether those schools are receiving Federal education funds.

A schoolwide program school is not expected to keep records of the particular services paid for with Federal education funds that are used in the schoolwide program, nor is it required to demonstrate that any particular service supplements the services regularly provided in that school. *[Section 1114(a)(2)(A)]*

E-19. How can an LEA determine whether a school operating a schoolwide program is comparable with non-Title I schools when staff and funding resources from State and local sources are combined with Federal resources and there is no requirement to track Federal funds separately?

See the response to B-6 in the comparability section on page 33 of this guidance.

E-20. When an LEA calculates whether it has maintained fiscal effort, it excludes expenditures from Federal funds. If a schoolwide program can consolidate Federal education funds, and those funds "lose their program identity," how can the LEA determine the amount of Federal expenditures to exclude in calculating maintenance of effort?

In calculating whether it has maintained effort, an LEA could allocate expenditures of Federal funds in a schoolwide program in proportion to the amount of Federal funds provided to the schoolwide program. For example, if Federal programs contributed 25 percent of the funds in a schoolwide program, the LEA would consider 25 percent of the funds expended in the schoolwide program to be Federal funds that the LEA would then exclude from its maintenance of effort determination. An LEA may also use other reasonable methods.

E-21. Some programs have limitations on the use of funds for certain activities within the program. For example, section 4115(c)(1) of Title IV (Safe and Drug-Free Schools) limits expenditures for certain activities (supporting "safe zones of passage," acquiring and installing metal detectors, and hiring security personnel) to not more than 40 percent of the funds made available to an LEA under Part A, Subpart 1 of Title IV. How does this limitation apply in the following scenarios?

(a) <u>Calculating the amount of the cap</u>. If some Title IV funds are consolidated in a schoolwide program and, therefore, lose their identity as Title IV funds, are those funds included in the base on which the LEA calculates the 40 percent cap?

Yes. Section 4115(c)(1) of Title IV limits the expenditure of funds for the activities described above to not more than 40 percent of the funds made available to the LEA under Title IV, Part A, Subpart 1 in a given fiscal year. We interpret this language to mean the allocation of Title IV, Part A, Subpart 1 funds an LEA receives from the Federal appropriation for that program in a given fiscal year. Thus, the amount of the 40 percent cap is calculated on the basis of an LEA's full Title IV, Part A, Subpart 1 allocation, regardless of whether Title IV funds are being used in a schoolwide program or in a categorical drug-free program.

(b) <u>Exceeding the cap</u>. If Title IV funds are consolidated in a schoolwide program and the schoolwide program school spends funds for the activities described above, are those expenditures considered in determining whether the Title IV cap has been exceeded?

No. Title IV funds lose their specific program identity when they are consolidated in a schoolwide program.

E-22. At least two Federal education programs limit the amount of funds that may be carried over to the subsequent fiscal year. Section 1127(a) of Title I prohibits an LEA from carrying over more than 15 percent of the amount of funds allocated to it for any fiscal year under Part A. Similarly, section 4114(a)(3)(B) of Title IV (Safe and Drug-Free Schools) prohibits an LEA from carrying over more than 25 percent of the allocation it receives under Title IV for that fiscal year unless approval to carry over a greater amount is given by the SEA. How are the amounts of these caps calculated in the following scenarios?

(a) If funds from other Federal education programs are consolidated in a schoolwide program, are those funds included in the base on which Title I, Part A's 15 percent carryover cap is calculated?

No. The 15 percent cap on carryover funds under Title I, Part A is calculated only on the allocation an LEA receives under Part A in a given fiscal year.

(b) If funds from a program with a cap on carryover (e.g., Title I, Part A and Title IV, Subpart 1) are consolidated in a schoolwide program, are those funds still included in the base on which the respective cap is calculated?

Yes. Under section 1127 of Title I of the ESEA, an LEA may carry over not more than 15 percent of the funds allocated to the LEA under Part A, subpart 2. Thus, all Part A, Subpart 2 funds an LEA receives, whether used in schoolwide or targeted assistance schools, would be included in the base for calculating the 15 percent cap. Similarly, under section 4114(a)(3)(B) of Title IV, Title IV funds combined in a schoolwide program would be included in the base in calculating the 25 percent cap on carryover, because they would be part of the Title IV allocation an LEA receives.

E-23. An SEA must exclude expenditures by its LEAs of Federal funds under Title I and Title V, Part A of the ESEA in calculating "current expenditures" for the purpose of determining the State per pupil expenditure (SPPE). If a schoolwide program school consolidates Title I and Title V, Part A funds and they thus lose their specific program identity, how can the LEA determine its expenditures of those funds so that the SEA may exclude them in calculating SPPE?

To determine its expenditures under Title I and Title V, Part A in a schoolwide program school, an LEA could calculate the percentage of funds that Title I and Title V, Part A contributed to

the schoolwide program, and then apply those percentages to the total expenditures in the schoolwide program. For example, if Title I, Part A contributed 20 percent of the funds in the schoolwide program and Title V, Part A contributed 5 percent, the LEA would attribute 20 percent of the funds expended in the schoolwide program school to Title I, Part A and 5 percent to Title V, Part A. The SEA in calculating current expenditures would then exclude these amounts.

E-24. What is an SEA's responsibility regarding the consolidation of funds at the school level for schools operating schoolwide programs?

Each SEA must--

- Encourage schools to consolidate funds from Federal, State, and local sources in their schoolwide programs; and

- Modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from Federal, State, and local sources in their schoolwide programs. *[Section 1111(c)(9) and (10); 34 CFR 200.29(c)]*

E-25. What are an SEA's and LEA's responsibilities to ensure that schoolwide plans are administered in accordance with the statute?

Under the statute, schoolwide plans are developed at the school level with input from the LEA. However, both the SEA and LEA have significant authority to ensure that schoolwide plans and associated budgets are implemented in accordance with the statute and regulations and in ways that are most likely to get good results. For example, in a school operating a schoolwide program, an LEA must identify in its schoolwide plan the specific programs being consolidated and the amount each program contributes to the consolidated schoolwide pool. *[Section 1114(b)(2)(A)(iii)]* In a State or LEA with a single planning process that incorporates the Title I school improvement and schoolwide plan components, an LEA must review the entire plan, including the schoolwide components, as part of the required school improvement plan peer review. *[Section 1116(b)(3)(E); 34 CFR 200.41]*

At the SEA level, monitoring protocols should include both a programmatic and budget review for a school operating a schoolwide program. The programmatic monitoring should include a review of the proposed activities, how these activities address issues identified in the needs assessment through the required plan components, and the research base that indicates these activities will lead to improved student achievement. The budget monitoring for a school operating a schoolwide program that is consolidating only Federal education funds, including Title I, Part A, should ensure these funds are being used only to address instructional needs that are identified in the schoolwide plan and directly linked to the school's needs assessment. (See E-4 and E-5.)

F. GRANTBACKS

In cases in which the Department has recovered funds from an SEA or LEA that misspent or failed to account properly for Title I, Part A funds, Section 459 of GEPA (20 U.S.C. 1234(h) allows the SEA to request a "grantback." A grantback may not exceed 75 percent of the recovered funds.

F-1. What requirements must be met for the Secretary to award a grantback?

If an SEA wishes to request a grantback of Title I, Part A funds, the chief State school officer must submit the following to the Assistant Secretary for Elementary and Secondary Education:

- A letter that –

  1. Requests a grantback of funds;

  2. Provides assurances that –

     (a) The practices in the SEA or LEA that resulted in the violation of law have been corrected; and

     (b) The Title I, Part A program in the SEA or LEA has been reviewed during the current school year, and the SEA has determined that it is in compliance with all applicable requirements.

- A detailed explanation and documentation of actions taken to correct the specific violation.

- A plan for the use of grantbank funds that—

  1. Meets the requirements of Title I, Part A;

  2. To the extent possible, benefits the Title I children who were affected by the failure to comply or by the misuse of funds that resulted in the recovery. (If a time lapse makes it impossible to serve the same children, the plan must justify use of funds for the benefit of current participating Title I children.); and

  3. Includes the following:

     (a) An identification of the recipient(s) of the grantback funds;

     (b) A brief description of the SEA's or LEA's current Title I, Part A program;

     (c) A detailed description of the activities to be provided with grantback funds and how these activities would supplement the regular Title I, Part A program;

     (d) An itemized budget that shows how the recipient(s) would spend the funds on the proposed activities;

(e) The beginning and ending dates of the project period;

(f) Evidence that parents or other representatives of the children who would benefit from the grantback funds were consulted in planning the program;

(g) A description of how equitable services would be provided to eligible private school children;

- Evidence that the SEA has fully satisfied its financial liability or has entered into a repayment agreement with the Department. It is important for the SEA to address any other outstanding debts with the Department by making payment or entering into a repayment agreement before requesting a grantback of Title I, Part A funds.

- If funds were repaid to the Department as a result of LEA audit findings under the Single Audit Act, audit materials that provide the basis for how the audit determinations were resolved by the SEA.

F-2. What is the period of availability for the use of grantback funds?

Grantback funds remain available for the period of time deemed reasonable by the Secretary, but in no case for more than three fiscal years following the later of—

1. The fiscal year in which final agency action under 20 U.S.C. 1234a is taken; or

2. If the recipient files a petition for judicial review, the fiscal year in which final judicial action under 20 U.S.C. 1234g is taken.

F-3. Will the Department consider approving grantbacks on all misused Federal education funds?

No. Grantbacks will not be considered for funds recovered due to excess cash findings, investment interest earned on grant funds, accrued interest on audit debts, over-allocation of funds, or recovered funds that would not or should not have been made available to the recipient in the first place. Grantbacks will also not be considered if no successor program exists to serve the purpose for which funds were originally granted.

F-4. What are the terms and conditions to which a grantback payment is subject during and after the project period?

Any grantback payments by the Secretary shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

1. The submission of periodic reports on the use of grantback funds; and

2. Consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments. *[20 U.S.C. 1234h(b)]*

F-5. What public notification is made that the Secretary intends to award a grantback?

The Secretary must publish a notice in the Federal Register at least 30 days prior to making a grantback payment. The notice explains the terms and conditions under which payment will be made and describes the plan for the use of the funds. Interested persons may submit comments to the Secretary for at least 30 days regarding the proposed arrangement. *[20 U.S.C. 1234h(d)]*