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Purpose of Session


The Membership Committee will offer resources and best practices to all Association Members who are new to NAESPA or their State Agency role and responsibilities. This session will also serve as a refresher for experienced NAESPA members. Association leaders from across the country will share their expertise.




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Agenda

- I. Overview of ESEA Programs
 - Kathy Gauby (ID) & Katheryn Nichol (NH)
- II. Role of the State Agency
 - Ken Banter (GA) & Tara Rodriguez (KY)
- III. Cross-cutting Issues
 - Shelly Babler (WI)
- IV. ESEA Equitable Participation
 - Jack O'Connor (MT)



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Overview of ESEA Programs
Kathy Gauby (ID) & Katheryn Nichol (NH)

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This is Where It All Began...ESEA
Elementary and Secondary Education Act of 1965



- Law passed as a part of President Lyndon B. Johnson's "War on Poverty"
- It has been the most far-reaching federal legislation affecting education ever passed by Congress.



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Changes in the Law by Ronald Reagan

- EDUCATION CONSOLIDATION & IMPROVEMENT ACT (ECIA) under Ronald Reagan
- Congress passed the Education Consolidation and Improvement Act (ECIA) in 1981 to reduce federal regulations of Title I. This reflected the administration's stance that resource control should be in the hands of states and local jurisdictions rather than at a federal level.



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Changes in the Law by Bill Clinton

The 1994 Improving America's Schools Act (IASA) significantly revised the original ESEA. This reform made major changes to Title I.

- Change I: Added math and reading/language arts standards to assess student progress and provide accountability.
- Change II: Reduced the threshold for schools to implement schoolwide programs from 75% poverty to 50% and gave schools a longer rein to use federal funding from multiple programs to dispense funds at a school-wide level.



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Changes in the Law by George Bush

NO CHILD LEFT BEHIND ACT (NCLB)

- The most recent and significant alteration to the original Title I legislation was made by its reauthorization under "No Child Left Behind Act of 2001" (NCLB). In this reauthorization, NCLB requires increased accountability from its schools both from the teachers and from the students.



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Changes in the Law by Barack OBAMA

ESEA ED-FLEX WAIVER

- The White house provided an opportunity for states to get relief from provisions of the Elementary and Secondary Education Act - or No Child Left Behind (NCLB) - in exchange for close achievement gaps to promote rigorous accountability and ensure that all students are on track to graduate college- and career-ready.



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Title I, Part A: Improving Basic Programs

- The program helps students who are most at risk meet state academic standards and be proficient on state assessments. Also provides funding to districts and schools that can be used for professional development, extended-time programs, and other strategies to help raise achievement levels. Title I-A laws hold states, districts, and schools accountable for improving the academic achievement of all students.

<https://www.sde.idaho.gov/federal-programs/basic/>



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Title I-Part C: Migrant Education Programs

- Supports educational programs for migratory children to reduce the impact of academic disruptions from repeated moves so that each child receives the same opportunity to meet academic content standards and can overcome barriers to transition successfully into postsecondary education and employment.

<https://www.sde.idaho.gov/federal-programs/migrant/>



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Title I, Part D: Neglected, Delinquent, or At-Risk

- This section provides prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk. Title I-D improves educational services so that these children and youth meet the same state academic achievement standards that all children are expected to meet.

<https://www.sde.idaho.gov/federal-programs/neglected/>



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Title II, Part A: Supporting Effective Instruction

- Increase student achievement consistent with the challenging State academic standards
- Improve the quality and effectiveness of teachers, principals, and other school leaders
- Increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and provide low-income and minority students greater access to effective teachers, principals, and other school leaders

<https://www.sde.idaho.gov/federal-programs/teacher/>



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Title III: English Learners

- The purpose of Title III is to help LEAs create, implement, and maintain development programs that provide equal learning opportunities for English Learners. The goal is to develop curricula and teaching strategies that embrace each learner's unique identity to help break down barriers that prevent English Learners from succeeding in school.

<https://www.sde.idaho.gov/federal-programs/el/>



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Title IV-A: Student Support and Academic Enrichment

- This federal program helps to improve students' academic achievement by increasing the capacity of States, local educational agencies, schools, and local communities. The grant has three main priorities: (1) to provide all students with access to a well-rounded education; (2) to improve school conditions for student learning; and (3) to improve the use of technology in order to improve the academic achievement and digital literacy of all students.

<https://www.sde.idaho.gov/federal-programs/ssae/>



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Title V-B: Rural Education

- The federal programs called the Small Rural School Achievement (SRSA) Program, and the Rural and Low-Income School (RLIS) Program are intended to help Local Education Agencies (LEAs) and State Education Agencies (SEAs) provide financial assistance to meet rural schools' unique needs.

<https://www.sde.idaho.gov/federal-programs/rural/>



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Title IX-A: Education for Homeless Children and Youth

- This section of the Every Student Succeeds Act (ESSA) ensures that students who lack a fixed and regular nighttime residence are provided a free, public education. It was most recently reauthorized as Title IX-A of the Every Student Succeeds Act (ESSA) on December 10, 2015.

<https://www.sde.idaho.gov/federal-programs/homeless/>




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Questions



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**Role of the State Agency and
State Director**

Ken Banter (GA) & Tara Rodriguez (KY)

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Role of the State Agency

- Use sound financial management systems ([2 CFR 200.302](#))
- Maintain effective internal control over the Federal award that provides reasonable assurance that it is being managed in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. ([2 CFR 200.303](#))
- Make subawards to districts ([2 CFR 200.332](#))
- Monitor and report program performance ([2 CFR 200.329](#))
- Retain appropriate records ([2 CFR 200.334](#))
- Carry out the state plan ([State ESSA Plans](#))

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Financial Management Systems

- Accurate, current, and complete disclosure of the financial results of each Federal award or program
- Effective control over, and accountability for, all funds, property, and other assets
- Comparison of expenditures with budget amounts for each Federal award
- Written allowability procedures



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Internal Controls

- Establish and maintain effective internal control over the Federal award. Internal controls are those processes and procedures that are put into place to provide reasonable assurance that objectives will be achieved and the Federal award is being managed in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.
- Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.
- Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- Take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.



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Make Subawards to Districts

- Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes all required information (e.g., budget period start and end date, total amount of the subaward, indirect cost rate, etc)
- Evaluate each subrecipient's risk of noncompliance
- Monitor the activities of the subrecipient as necessary
- Consider imposing specific subaward conditions upon a subrecipient if appropriate



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Monitoring and Reporting Program Performance

- The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved.
- Submit required performance reports on time. Performance reports can help inform improvements in program outcomes and productivity.
- EdFacts



25

Maintain Appropriate Records

- Financial records, supporting documents, statistical records, and all other records pertinent to a Federal award must be retained



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State Plans




- The purpose of the consolidated State plan is to provide parents with quality, transparent information about how the ESEA, as amended by the ESSA, will be implemented in their State.
- Even though a State Educational Agency (SEA) submits only the required information in its consolidated State plan, an SEA must still meet all ESEA requirements for each included program.
- Submission dates were either April 3, 2017, or September 18, 2017.

From US Department of Education [ESSA Consolidated State Plans web site](#)



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Reflection

| | | |
|---|--|--|
|  What squares or aligns with your thinking? |  What questions are still rolling around in your head? |  What will you do differently? |
|---|--|--|

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Inter-Agency Collegiality

- Accounting
- Data Collections
- Special Education
- School Nutrition
- Finance
- Facilities
- Homeless/McKinny Vento
- Accountability/Assessment
- English Learners/Migrants
- State Legislature

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Responsibilities of the State Director

- Determine Risk Factors (2 CFR§200.332(b))
- Monitor Programs (2 CFR§200.332(d))
- Provide Technical Assistance/Training (2 CFR§200.332(e)(1))
- Equitable Services/Ombudsman (34 CFR§200.62-68)
- Ensure LEAs' applications/plans are compliant (ESEA§1112)
- Receiving and Resolving Complaints (ESEA§8304(a)(3)(C))
- Participate in Consolidated Performance Review/Surveys (ESEA §8304(a)(4))

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Risk Factors

- Determine Risk Factors (2 CFR§200.332(b))
- Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in [paragraphs \(d\)](#) and [\(e\)](#) of this section



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Monitoring Programs

- Monitor Programs (2 CFR§200.332(d))
- Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved



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Monitoring and Reporting Program Performance

- The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved.
- Submit required performance reports on time. Performance reports can help inform improvements in program outcomes and productivity.
- ED*Facts* is a U.S. Department of Education (ED) initiative to collect, analyze, and promote the use of high-quality, pre-kindergarten through grade 12 data.
 - Supports planning, policymaking, and management/budget decision-making.
 - Centralizes data provided by state education agencies (SEAs).
 - Collects data on district and school demographics, program participation, and performance data.
- The Consolidated State Performance Report (CSPR) is the required annual reporting tool for of each State, the District of Columbia, and Puerto Rico as authorized under Section 9303 of the Elementary and Secondary Education Act (ESEA), as amended.



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Technical Assistance/Training

- Provide Technical Assistance/Training (2 CFR§200.332(e)(1))
- To ensure proper accountability and compliance with program requirements and achievement of performance goals:
- Provide subrecipients with training and technical assistance on program-related matters



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Equitable Services/Ombudsman

- Equitable Services/Ombudsman (34 CFR§200.62-68)
- To help ensure equity for eligible private school children, teachers, and other educational personnel, an SEA must designate an ombudsman to monitor and enforce the requirements in §§200.62 through 200.67



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LEA Application/Plan


- Ensure LEAs' applications/plans are compliant (ESEA§1112)
- A local educational agency may receive a subgrant for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency
- A local education agency may submit plans or applications to the SEA under those programs on a consolidated basis (ESEA§8305(a)(1))



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Resolving Complaints


- Receiving and Resolving Complaints (ESEA §8305(a)(3)(C))
- The State will adopt and use proper methods of administering each such program, including the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs



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Performance Reviews/Surveys

- Participate in Consolidated Performance Review/Surveys (ESEA §8304(a)(4))
- The State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials



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Turn and Talk:
Share how your Federal program collaborates with...


| | |
|---------------------|-----------------------------|
| • Accounting | • Facilities |
| • Data Collections | • Homeless/McKinny Vento |
| • Special Education | • Accountability/Assessment |
| • School Nutrition | • English Learners/Migrants |
| • Finance | • State Legislature |



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Role of the State Agency
Resources


- NAESPA – <https://www.esenetwork.org>
- U.S Department of Education – www.ed.gov
- Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA) - [Every Student Succeeds Act \(ESSA\) | U.S. Department of Education](http://www2.ed.gov/policy/elsec/leg/essa/index.html)
- ESSA Resources, including guidance and regulatory information – <http://www2.ed.gov/policy/elsec/leg/essa/index.html>
- Education Department General Administrative Regulations (EDGAR) - <http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html>

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Role of the State Agency
Resources

- Office of Management and Budget (OMB) Uniform Grants Guidance - <http://www.whitehouse.gov/omb/circulars/>
- General Education Provisions Act (GEPA) - http://www4.law.cornell.edu/uscode/html/uscode20/uscode20_10_31.html
- Burstein and Manasevit – <https://bruman.com>
- Council of Chief State School Officers – <https://ccsso.org>

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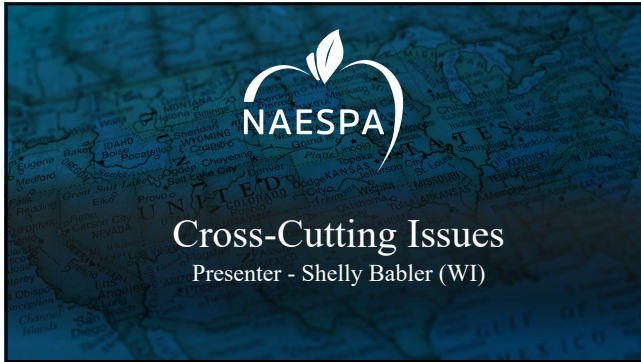
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Questions



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II. Cross-Cutting Issues

- GEPA
- ESEA Consolidation of Administrative Funds
- Title V Flexibilities
- Maintenance of Effort (MOE)
- Supplement, not Supplant
- Uniform Grant Guidance
- EDGAR
- Indirect Costs

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General Education Provisions Act (GEPA)

Defines statutory provisions applicable to federal education programs administered USDE as well as provisions related to the powers and responsibilities of USDE.

Examples include:

- Section 421(b): Period of Performance – Generally, LEAs and SEAs must obligate funds during the 27-month period (aka the Tydings Amendment)
- Section 427: Ensures equitable Access to and equitable participation in the activities to be conducted with funds from USDE

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ESEA Consolidation of Administrative Funds

- Sections 8201(c) and 8203(e)
- Not required to keep separate records
- Section 1114: Title I Schoolwide Programs - Federal funds that a school consolidates in a schoolwide program are not subject to most of the statutory or regulatory requirements of the programs providing the funds



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Title V Flexibilities

| Transferability Section 5103 | Alternative Fund Use Authority (AFUA) Section 5211 (a – c) |
|---|---|
| Any SEA or LEA receiving Title II, Part A or Title IV, Part A | Any LEA that is eligible for the Small, Rural School Achievement (SRSA) Program |
| Must treat transferred funds as all other funds allocated under the eligible ESEA program or programs (TI-A, TI-C; TI-D; TII-A, TIII-A, TIV-A&B, TV-B) into which the LEA has transferred funds | Must spend funds on local activities authorized under eligible ESEA programs (TI-A, TII-A, TIII, TIV-A & B) |



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Title V Flexibilities (Transferability and AFUA)

- Rural Education Achievement Program (REAP) Informational Document: <https://oese.ed.gov/files/2021/01/19-0043-REAP-Informational-Documents-final-OS-Approved-1.pdf>
 - Appendix C: Compares AFUA and Transferability authorities for LEAs



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Waivers and Expanded Flexibility

- **Waivers Section 8401**
 - Ability to waive SOME requirements under ESEA
 - LEAs waiver requests are submitted by the SEA
 - Example period of performance
- **ED-Flex Section 9207**
 - Authorizes SEAs to waive SOME requirements under ESEA and Perkins
 - Guidance: <https://www2.ed.gov/programs/edflex/edflex-faqs.pdf>

ESEA Maintenance of Effort (MOE)

- A year-by-year analysis to ensure that LEAs maintain a consistent level of non-federal funding to support public education.
- An LEA may receive its full allocation of ESSA funds if the state determines the LEA has maintained its fiscal effort.
- If an LEA fails to maintain fiscal effort twice in five years, an SEA must reduce an LEA's allocation.



• Section 8521

Supplement, not Supplant

| Title | Provision |
|--|--|
| Title I, Part A (Sec 1118(b)) | LEAs are required to: identify the methodology used to allocate state and local funds to Title I schools AND demonstrate that these schools receive all the state and local funds they would be entitled to, even if they were not Title I schools |
| Title I, Part C (Sec 1304(c)(2)) | “SnS Presumption Tests” Plus |
| Title II (Sec 2301) | “SnS Presumption Tests” |
| Title III (Sec 3115(g)) | “SnS Presumption Tests” Plus |
| Title IV, Parts A & B (Sec 4110 & 4204(b)(2)(G)) | “SnS Presumption Tests” |
| Title V (Sec 5232) | “SnS Presumption Tests” |
| ESF Funding | No Supplement, not Supplant Provision |

Supplement, not Supplant

In the following instances, it is presumed that supplanting has occurred when the SEA or LEA used:

- federal funds to provide services that the SEA or LEA was required to provide under other federal, state, or local laws or
- federal funds to provide services that the SEA or LEA provided with nonfederal funds (or for Title III, Part A, other federal funds) in the prior year.
- MEP funds to provide services for participating children that the SEA or LEA provided with nonfederal funds for nonparticipating children.



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Uniform Grant Guidance (UGG)

The Uniform Grant Guidance (2 CFR, Part 200) are regulations that establish rules that apply to all federal grants, regardless of which Federal agency is providing the award. Examples include:

- Written Procedures (Cash Management, Conflict of Interest, Determining Allowed Costs)
- Time and Effort Requirements
- Procurement Standards
- Cost Principles



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Education Department of General Administrative Regulations (EDGAR)

The EDGAR (34 CFR, Parts 75, 76, and 81) governs all federal grants awarded by the U.S. Department of Education. Examples include:

- Construction
- Private School Regulations
- Obligation of funds



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Indirect Costs

- Indirect costs are grant activities that generate operational costs such as payroll but are not directly related to conducting the grant activities.
 - SEAs develop an indirect cost plan (approved by USDE) to calculate the restricted/unrestricted rates for LEAs
 - The indirect cost plan is reviewed/approved by USDE every five years.
 - Restricted rate used for programs subject to supplement, not supplant – 34 CFR 76.563



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Is this direct cost allowable?

It Depends

- UGG
- EDGAR
- Statutes
- State Policy and Procedures
- LEA Policy and Procedures



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Questions



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Ombudsman

- The Ombudsman is a requirement under the ESSA
- Role is to work on behalf of the private schools to make sure that high-quality services are provided
- Assists private schools if they are not being treated fairly

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ESEA/ESSA Sec. 1117

- Under Title I, LEA's must provide services to eligible private school students if requested
- In Montana, homeschools are considered private schools
- Services must be to eligible elementary and secondary students, their teachers, and their families
- "Equitable share"
- Services must be equitable to those provided to eligible public school children, teachers, and families
- Services must be secular, neutral, and nonideological

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Contacting private schools

- The district must then contact each private/non-public school to determine if that entity wants to participate in federal programs. (2 weeks minimum)
- Should be able to document at least two attempts.
- The public school is required to keep track of all contact.

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Consultation, Part 1

- Discussions must be held between the LEA and private schools on the key issues related to Title I services
- Ways the LEA will identify eligible students
- Services to be provided
- How and when the LEA will make decisions about the delivery of services
- How, where, and by whom the LEA will provide services
- The method and sources of data the LEA will use to identify eligible students

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Consultation, Part 2

- Services the LEA will provide to teachers and families of eligible students
- Discussion of the delivery mechanisms the LEA will use to provide services
- If a third-party contractor should be use
 - MOU
 - LOA
 - Other contract
- Signed agreements
- Complaint forms

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Title I Plan Steps

- Decide on the instructional plan based upon the Needs Assessment.
- Discuss what supplies will be needed by the public school and private to run the program (Third-party provider)
- What types of professional development will be needed
- How, when, and what types of assessments will be used to determine progress
- Exiting criteria
- Program evaluation



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Uses of Funds

- Equitable services funds must be primarily for a Title I program
- May not just be for professional development and supplies
- General rule of thumb-2/3s of the funds should be for salaries and benefits; the remainder for PD and supplies
- If there is no educational program, then there is no need for PD and supplies to support it.
- The public school owns all instructional materials and supplies!



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Targeted Assistance Program

- Title I services to private school students must be set up like a TAS program
- Students must be identified for services based upon multiple, educationally-related criteria
- Must develop a prioritized list of eligible students
- Materials and supplies purchased must supplement the regular educational program at the private school



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Title II

Supporting Effective Instruction

- Based upon a school needs assessment and teacher growth plans
- Private school staff may also participate in Title II, Part A
- Private school equitable share funds may only be used for professional development activities.
- Private school is required to complete a needs assessment for school PD needs, and it should also look at teacher professional growth plans.
- District may invite private school staff to its own PD activities, and a portion of those costs may come out of the equitable share set aside.
- Private schools may use a portion of the equitable share funds to attend PD like the National Catholic Schools conference.
- District may not reimburse the private school but may directly pay staff members.



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Title III

- Title III assists ELs, including immigrant children and youth, to develop English proficiency and to meet the same challenging state academic standards that other children are expected to meet.
- Schools must use Title III funds to implement language instruction educational programs that are keyed to the overall standards. SEAs, districts, and schools must report the English proficiency and core academic content knowledge of ELs.
- Title III has a dual purpose: to help ELs meet the same state academic achievement standards applicable to all students, and that they develop proficiency in the English language. These goals are closely related but distinct



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Title IV, A

- Title IV Part A is also known as **Student Support and Academic Enrichment (SSAE)**. The SSAE program is intended to improve students' academic achievement by increasing the capacity to provide all students with:
 - **Access to a well-rounded education**
 - **Improve school conditions for student learning, safe and healthy students**
 - **Improve the use of technology to improve the academic achievement and digital literacy of all students**

The LEA should consult with its private school(s) prior to making any decisions to transfer Title IV-A funds. If the public school determines, based on their needs assessment, that a transfer will occur, the private school students will receive their equitable share of services based upon the program to which the funds are transferred.



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Set Asides/Transfer Order

- The equitable share is now determined before district level set asides
- This increases the funds available to the private schools
- All funds must be expended in the year they were allocated-there is no more carryover of equitable share dollars unless there was some unforeseen situation.
- After consultation, and even if the non-public objects, the district can move funds from one federal program to another, even if this removes all federal funds from a program.
- For example, the district moves Title II, III, and IV funds to Title I. This means that there would be no equitable share funds for the private school in those programs as the fund balance would be zero. However, there would be an increase in the equitable share dollars for Title I.
- Funds may not be left behind in a federal program just for equitable share.
- The equitable share for this situation would be based upon any amount left behind.



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Montana Forms

- Consultation form:
<https://opi.mt.gov/LinkClick.aspx?fileticket=IXuOfMzxZWU%3d&portalid=182>
- Equitable Service Agreement form:
<https://opi.mt.gov/LinkClick.aspx?fileticket=jwN0ZnZvqrg%3d&portalid=182>
- Interlocal form:
<https://opi.mt.gov/LinkClick.aspx?fileticket=SgRhGyy3w4w%3d&portalid=182>



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Contact Information

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 - Email: jocconnor2@mt.gov



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Questions



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