WITHIN-DISTRICT ALLOCATIONS UNDER TITLE I, PART A OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED

Non-Regulatory Guidance

February 2022

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INTRODUCTION

This non-regulatory guidance discusses provisions that govern within-district allocations under Title I, Part A (Title I) of the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *Every Student Succeeds Act* (ESSA), and accompanying regulations in 34 C.F.R. §§ 200.64, 200.77, and 200.78.[1] It first addresses required and authorized reservations of Title I funds by a local educational agency (LEA) and then outlines how an LEA, with the Title I funds that remain after the reservations, identifies eligible Title I school attendance areas[2] and allocates Title I funds to public schools. In this document, the term "school" means an "elementary school" or "secondary school," as the ESEA defines these terms.[3]

The guidance in this document supersedes the following prior non-regulatory guidance issued by the U.S. Department of Education (Department) concerning statutory and technical issues related to within-district Title I allocations: the entirety of "Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I funds to those Areas and Schools" (August 2003), the section entitled "Title I Within-District Allocations" of the "ESSA Fiscal Changes and Equitable Services Guidance" (November 2016), and the section entitled "Within-District Allocations" of the "The Community Eligibility Provision and Selected Requirements Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended" (March 2015).

The Department has determined that this document contains "significant guidance" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (2007). See www.whitehouse.gov/files/omb/memoranda/2007/m07-07.pdf. Significant guidance is non-binding and does not create or impose new legal requirements. The Department is issuing this guidance to provide LEAs with information to assist them in meeting their obligations under the ESEA and implementing regulations. Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The Department provided a 30-day opportunity for the public to comment on this draft document and received six comments. We have taken those comments into consideration in revising the draft document. In addition, some commenters asked about related topics, including a State's role in administering the Title I program, the Title I supplement not supplant requirement, and the use of Title I funds. Please visit the Department's Title I program "resources" page for information on other relevant topics regarding implementation of a Title I program at the State

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[1] The ESEA is available at: https://uscode.house.gov/browse/prelim@title20/chapter70&edition=prelim. 34 C.F.R. Part 200 is available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=6d5df3f9a5168e60511c5e581c5033a4&mc=true&node=pt34.1.200&rgn=div5.

[2] Section 1113(a)(2)(A) of the ESEA defines a "school attendance area" as, "in relation to a particular school, the geographical area in which the children who are normally served by that school reside."

[3] An "elementary school" means a "nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law." (ESEA section 8101(19)). A "secondary school" means a "nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12." (ESEA section 8101(45)). Depending on State law, a secondary school might include middle schools as well as high schools.

and LEA level. See: https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/title-i-part-a-program/resources/.

If you are interested in commenting further on this document, please email your comments to OESE.feedback@ed.gov or write to the following address: Office of Elementary and Secondary Education, 400 Maryland Avenue, SW, Washington, DC 20202. For further information about the Department's guidance processes, please visit www2.ed.gov/policy/gen/guid/significant-guidance.html.

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A. REQUIRED AND AUTHORIZED LEA RESERVATIONS

Two main factors determine the amount of Title I funds that an LEA has available to allocate to public schools.[4] The first factor is the size of the LEA's Title I allocation (including any transfers into Title I from Title II, Part A or Title IV, Part A under ESEA section 5103). The second factor, which is discussed in this section, is the amount of funds the LEA reserves for required and authorized activities.

Required Reservations

Equitable Services for Eligible Private School Children
An LEA that receives Title I funds must determine the proportional share of those funds available to provide Title I equitable services. (ESEA section 1117(a); 34 C.F.R. §§ 200.64(a), 200.77(d)). Section 1117(a)(4)(A)(ii) of the ESEA and 34 C.F.R. § 200.64(a)(2) require an LEA to determine the proportional share of Title I funds available for providing and administering equitable services based on the LEA's total Title I allocation prior to any expenditures or transfers of funds. This means that an LEA applies the proportion used to calculate the proportional share to its entire Title I allocation (including any Title II, Part A or Title IV, Part A funds that an LEA transfers to Title I) prior to the other required and authorized reservations discussed below.[5] From the proportional share for equitable services, the LEA must reserve at least one percent (if the LEA's total Title I allocation exceeds $500,000) to provide engagement activities for parents and families of participating private school children. (ESEA sections 1116(a)(3), 1117(a)(1)(B)).

Parent and Family Engagement
Section 1116(a)(3) of the ESEA requires an LEA with a total Title I allocation that exceeds $500,000 to reserve at least one percent of its total Title I allocation to carry out parent and family engagement activities under section 1116 of the ESEA. This amount includes reserving at least one percent of the proportional share for equitable services in order to provide equitable services to parents and families of participating private school children. Of the amount remaining after determining equitable services for parents and families of private school children, the LEA must distribute at least 90 percent to its Title I schools, giving priority to high-need schools. (ESEA section 1116(a)(3)(C)). An LEA with a Title I allocation of $500,000 or less may, but is not required to, reserve Title I funds for parent and family engagement, although its Title I schools must carry out parent and family engagement activities under section 1116 regardless of any reservation.

Homeless Children and Youths; Children in Local Institutions for Neglected Children
Section 1113(c)(3)(A) of the ESEA and 34 C.F.R. § 200.77(a)(1)-(2) require an LEA to reserve Title I funds to provide services comparable to those provided to children in Title I schools to homeless children and youth in Title I and non-Title I schools, which may be determined based

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[4] Unless a distinction between schools and school attendance areas is pertinent, references in this document to "schools" also means "school attendance areas."

[5] See the Department's October 2019 Title I equitable services guidance for more information on how the ESEA requires an LEA to determine the proportional share for equitable services (available at: https://oese.ed.gov/files/2020/03/equitable-services-guidance-100419.pdf).

on a needs assessment (ESEA section 1113(c)(3)(C)),[6] and to children in local institutions for neglected children. The ESEA requires an LEA to determine the amount of these reservations based on its total Title I allocation prior to any allowable expenditures or transfers of funds. (ESEA section 1113(c)(3)(B); 34 C.F.R. § 200.77(a)(4)).

Authorized Reservations

In addition to the required Title I reservations, an LEA, at its discretion, may reserve funds for:

> ➢ Children in local institutions for delinquent children and neglected or delinquent children in community-day programs (ESEA section 1113(c)(3)(A)(iii); 34 C.F.R. § 200.77(a)(3));
> ➢ Financial incentives and rewards to teachers who serve students in Title I schools identified for comprehensive support and improvement or implementing targeted support and improvement plans under section 1111(d) of the ESEA for the purpose of attracting and retaining qualified and effective teachers, in an amount that does not exceed five percent of the LEA's total Title I allocation[7] (ESEA section 1113(c)(4); 34 C.F.R. § 200.77(b));
> ➢ Administration of Title I programs for public school children, including the option of paying for variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to schools (34 C.F.R. § 200.77(e))[8]; and
> ➢ Other authorized activities, such as early childhood education, school improvement, and coordinated services. (ESEA section 1113(c)(5); 34 C.F.R. § 200.77(f)).

Reservations Example

The following example illustrates how, for an LEA with a total Title I allocation of $5,000,000, making the required and authorized reservations discussed above results in the amount available to allocate to public schools. The ESEA requires an LEA to base the reservations described in steps 1-3 on its total Title I allocation.

Step 1: The LEA determines the proportional share of Title I funds that it must reserve for Title I equitable services. In this example, 10 percent of children from low-income families who reside in the LEA's Title I public school attendance areas attend private schools. Therefore, the LEA must allocate 10 percent of its total allocation for equitable services (i.e., the proportional share). This amount includes the amount required for parent and family engagement for families of participating private school children (Step 1 of Table 1).

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[6] See the Department's August 2018 Homeless Education guidance for more information about the required Title I reservation to serve homeless children and youth (available at: https://oese.ed.gov/files/2020/02/160240ehcyguidanceupdated082718-3.docx).
[7] An LEA may also use Title II, Part A funds to recruit, hire, and retain effective teachers, particularly in low-income schools with high percentages of ineffective teachers and high percentages of students who do not meet the challenging State academic standards (ESEA section 2103(b)(3)(B)).
[8] Although there is not a specific percentage limitation on the amount of Title I funds an LEA may reserve for administration, under 2 C.F.R. §§ 200.403(a) and 200.405 the amount reserved must be "necessary and reasonable" for the performance of Title I and be allocable to the Title I program.

Step 2a: The LEA determines the amount of Title I funds to reserve for homeless children and youth. This amount must be based on the LEA's total Title I allocation. (ESEA section 1113(c)(3)(B)) (Step 2a of Table 1).

Step 2b: The LEA determines the amount of Title I funds to reserve for children in local institutions for neglected children. This amount must be based on the LEA's total Title I allocation. (ESEA section 1113(c)(3)(B)) (Step 2b of Table 1).

Step 3: The LEA determines the amount it must (as applicable) reserve for parent and family engagement under ESEA section 1116(a)(3)(A) and, based on the proportional share for public school children (i.e., 90 percent in this example), reserves funds from that amount for public school parent and family engagement (Step 3 of Table 1).

Step 4: From its remaining funds, the LEA makes other authorized reservations (e.g., administration) for public school Title I children (Step 4 of Table 1).

Step 5: As described in the next section, the LEA must allocate its remaining funds ($3,000,000, as shown in Step 5 of Table 1) to eligible public schools in accordance with ESEA section 1113 and 34 C.F.R. § 200.78.

Table 1: Determination by an LEA with a Title I Allocation of $5,000,000 of the Amount Available to Allocate to Public Schools After Making Required and Authorized Title I Reservations

Step	Activity	Amount	Basis	Amount of Allocation Remaining After Step
1	Equitable services and administration of equitable services	$500,000 (includes $5,000 to reflect the proportional share of parent and family engagement reservation)	Equitable share calculation based on the LEA's total Title I allocation ($5,000,000 * 10 percent)	$4,500,000
2a	Homeless children and youth	$525,000	Needs assessment and the LEA's total Title I allocation	$3,975,000
2b	Children in local institutions for neglected children	$325,000	Needs assessment and the LEA's total Title I allocation	$3,650,000
3	Public school parent and family engagement reservation	$45,000 (based on one percent of $5,000,000 less $5,000 for families of private school children in Row 1)	Statutory requirement that an LEA with an allocation that exceeds $500,000 reserve one percent or more and the LEA's total Title I allocation (less amount for families of private school children)	$3,605,000
4	Other authorized reservations	$605,000	Statute and regulations	$3,000,000
5	Amount remaining to allocate to public schools	$3,000,000	Allocations to schools with the funds remaining after the required and authorized reservations	$0

B. ALLOCATING TTTLE I FUNDS TO PUBLIC SCHOOLS

The following section summarizes the requirements that apply to an LEA with an enrollment of 1,000 students or more in section 1113 of the ESEA and 34 C.F.R. § 200.78 for identifying Title I-eligible schools and allocating Title I funds to those schools. An LEA with an enrollment of fewer than 1,000 students does not have to follow the requirements of section 1113 of the ESEA and 34 C.F.R. § 200.78 that pertain to determining which of its schools receive Title I funds and the amount of their allocations. (ESEA section 1113(a)(6)). Such an LEA may use other criteria, such as academic performance or the grade span of its schools to determine which of its schools receive Title I funds, or it may choose to allocate Title I funds to all of its schools. Similarly, if an LEA consists of only one school, the LEA does not have to follow the requirements of section 1113 of the ESEA and 34 C.F.R. § 200.78 that pertain to determining which of its schools receive Title I funds and the amount of their allocations because its only school will receive the amount the LEA has available to allocate to public schools.

Step 1: Determining Poverty Counts of Public Schools and Ranking Schools

Section 1113(a)(3) of the ESEA and 34 C.F.R. § 200.78(a)(1) require an LEA to rank all of its school attendance areas according to their percentage of public school children from low-income families. ESEA section 1113(b)(1)(B) also permits an LEA to rank its schools according to their percentage of public school children from low-income families enrolled in the schools. (In addition, in order for an LEA to rank all schools, to the extent the LEA has a school that is not associated with a specific attendance area, such as a magnet school that serves children from multiple school attendance areas in the LEA, the LEA must rank such a school based on its percentage of public school children from low-income families enrolled.) Under section 1113(a)(5)(A) of the ESEA, an LEA must use the same measure of poverty to:

- ➢ Identify eligible school attendance areas and schools;
- ➢ Rank areas and schools; and
- ➢ Determine the allocation for each area and school.

Determining School Poverty Counts and Ranking: In General

To determine the number of public school children from low-income families, section 1113(a)(5)(A) of the ESEA provides an LEA the option to use the number of public school children:

- ➢ Eligible for free or reduced-priced lunch (FRPL) under the *Richard B. Russell National School Lunch Act* (including children counted through the Community Eligibility Provision[9]).
- ➢ In families receiving assistance under the State program funded under Title IV, Part A of the *Social Security Act* (Temporary Assistance for Needy Families).
- ➢ Eligible to receive medical assistance under the Medicaid program.

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[9] For additional information with respect to within-district Title I allocations and FRPL data for LEAs that participate in the Community Eligibility Provision (CEP), see Appendix A. The information in Appendix A comes from the Department's March 2015 Title I CEP guidance (available at: https://www2.ed.gov/programs/titleiparta/15-0011.doc).

➢ Ages 5-17 in poverty as counted in the most recent LEA-level census poverty data approved by the Department.
   Note: Because census data are generally not available at the school level, if an LEA uses this measure, it would most likely be part of a composite with one or more of the above measures.
➢ Counted by the LEA using a composite of any of the above measures.

Year of data in general

An LEA uses the most recently available data, which will be from the previous school year in most cases. For example, with respect to Title I school allocations for the 2020-2021 school year, an LEA that uses FRPL data generally would have used data collected during the 2019-2020 school year. COVID-19 has resulted in exceptions, as the Department describes in its Fact Sheet, "Successfully Implementing State-Administered Programs in ESEA without Complete National School Lunch Program Data from School Years 2020-2021 and 2021-2022" (available at: https://oese.ed.gov/files/2022/01/ED-USDA-Fact-Sheet-Revised-1-12-2022.pdf).

Year of data exception for newly opened and significantly expanded charter schools

Section 4306 of the ESEA and 34 C.F.R. part 76, subpart H provide an exception for a charter school that newly opens or significantly expands its enrollment by November 1 of the current school year and provides written notice to its LEA pursuant to 34 C.F.R. § 76.788(a) at least 120 days in advance of the opening or expansion. Specifically, the LEA must determine such a school's Title I allocation based on current year data and provide the school its allocation within five months of the school's opening or expansion. (ESEA section 4306(a); 34 C.F.R. § 76.792(a)). Thus, for the 2020-2021 school year, an LEA would determine a newly opened or significantly expanded charter school's final Title I allocation based on poverty data collected in the 2020-2021 school year. In addition, for each charter school opening or significantly expanding its enrollment:

➢ After November 1 but before February 1 of an academic year, an LEA must ensure that the charter school receives at least a *pro rata* portion of its Title I allocation on or before the date the LEA allocates funds to other public schools for the succeeding year. (ESEA section 4306(b)(2); 34 C.F.R. §§ 76.792(b), 76.793(b)(1)).
➢ On or after February 1, an LEA may choose to provide the charter school with a *pro rata* portion of its Title I allocation. (34 C.F.R. § 76.792(c)).

(For more information, see Appendix B.)

Ranking Example Based on School Poverty Percentage

The following example shows the poverty rankings of schools by an LEA that uses FRPL as its poverty measure. In this example, the LEA ranks its schools in order of poverty without regard to the grade span that they serve.

Table 2. Ranking Schools by Their Poverty Percentage

Public School	Grades Served	Enrollment	Eligible for FRPL	Poverty Percentage
A	K-5	600	456	76.0%
G	K-5	425	200	47.1%
C	K-5	400	185	46.3%
D	K-5	450	190	42.2%
O	6-8	750	300	40.0%
B	K-5	500	195	39.0%
F	K-5	400	150	37.5%
I	K-5	560	200	35.7%
E	K-5	450	160	35.6%
H	K-5	600	206	34.3%
N	6-8	800	260	32.5%
P	6-8	840	250	29.8%
Q*	9-12	2,600	700	26.9%
M	K-5	450	100	22.2%
L	K-5	425	75	17.6%
J	K-5	420	70	16.7%
K	K-5	395	65	16.5%
LEA Totals		**11,065**	**3,762**	**34.0%**

* Highlighted to compare poverty percentage to feeder pattern example in Table 3

Determining School Poverty Counts and Ranking: Option for Secondary Schools

To determine the number of public school children from low-income families in a secondary school, section 1113(a)(5)(B) of the ESEA and 34 C.F.R. § 200.78(a)(2) provide an LEA the option to use one of the measures described above or a feeder pattern by applying the average percentage of public school children from low-income families enrolled in the elementary schools that feed into one or more secondary schools to the number of children enrolled in the secondary school.[10] If a State recognizes separate middle and high schools, an LEA may use poverty percentages from both the elementary and middle schools that feed into a high school or from just the middle schools to determine the number of public school children from low-income families in the high school; similarly, an LEA may use poverty percentages from elementary schools that feed into a middle school to determine the count of children from low-income families in the middle school. Before an LEA may use feeder patterns to determine the poverty percentage of secondary schools, the LEA must conduct outreach to its secondary schools to inform them of the option and a majority of its secondary schools must approve the use of feeder patterns. (ESEA section 1113(a)(5)(C)).

Using the LEA from the previous table, which uses FRPL as its poverty measure, the following example shows how the LEA, which for the purpose of this example is in a State that defines a secondary school as one that provides education in grades 9-12, determines the poverty count of

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[10] An "elementary school" means a "nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law." (ESEA section 8101(19)). A "secondary school" means a "nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12." (ESEA section 8101(45)). Depending on State law, a secondary school might include middle schools as well as high schools.

its only secondary school (the high school) using a feeder pattern based on poverty data of its K-5 and 6-8 schools. (If a State also considers other grades, such as grades 6-8 as part of secondary education, then the ESEA authorizes an LEA to use a feeder pattern for a school that serves those grades because it is also a secondary school under State law.)

Step 1: Add the FRPL counts and enrollment counts of the LEA's K-5 and 6-8 schools:
FRPL sum = 3,062; Enrollment sum = 8,465

Step 2: Divide the FRPL sum by the enrollment sum to determine the poverty percentage and then multiply the quotient by the high school's enrollment to determine the number of children from low-income families in the high school:
3,062÷8,465 = 36.2%
*36.2 percent * 2,600 = 941 children from low-income families*

As a result of using the feeder pattern, the high school is ranked higher in the LEA's school poverty rankings in Table 3 compared to its ranking in the previous example shown in Table 2.

Table 3. Feeder Pattern for a High School

Public School	Grades Served	Enrollment	Eligible for FRPL	Poverty Percentage
A	K-5	600	456	76.0%
G	K-5	425	200	47.1%
C	K-5	400	185	46.3%
D	K-5	450	190	42.2%
O	6-8	750	300	40.0%
B	K-5	500	195	39.0%
F	K-5	400	150	37.5%
Q*	9-12	2,600	941	36.2%
I	K-5	560	200	35.7%
E	K-5	450	160	35.6%
H	K-5	600	206	34.3%
N	6-8	800	260	32.5%
P	6-8	840	250	29.8%
M	K-5	450	100	22.2%
L	K-5	425	75	17.6%
J	K-5	420	70	16.7%
K	K-5	395	65	16.5%
LEA Totals		**11,065**	**4,003**	**36.2%**

*Highlighted to compare poverty percentage to example in Table 2

Step 2: Identifying Eligible Schools

Determining School Eligibility on an LEA-Wide Basis

Under sections 1113(a)(2)(B) and 1113(b)(1)(A) of the ESEA, a school is eligible for Title I funds if its poverty percentage is as high as the LEA's poverty percentage or, at the LEA's discretion, at least 35 percent. For example, if an LEA's poverty percentage is 30 percent, any school in the LEA that has a poverty percentage of at least 30 percent is eligible. In contrast, for example, in an LEA with a poverty percentage of 40 percent or greater, the schools that are eligible for Title I are those with a poverty percentage that equals or exceeds the LEA's poverty

percentage unless the LEA chooses to make eligible all schools with a poverty percentage of 35 percent or more. As discussed below under allocations, meeting the eligibility criteria does not guarantee that a school will receive Title I funds from its LEA. Receipt of funds depends on the amount of an LEA's allocation and school poverty rankings, the per-pupil amount the LEA allocates to each school (e.g., an LEA may allocate more per pupil to schools with higher poverty percentages), and, in some cases, the grades that a school serves (e.g., an LEA may allocate more per pupil to elementary schools than high schools).

Based on the data in Table 2, Schools A, G, C, D, O, B, F, I, E, and H are eligible because their poverty percentage is as high as the LEA's poverty percentage of 34.0 percent. Based on the data in Table 3, Schools A, G, C, D, O, B, F, Q, I, and E are eligible because their poverty percentage is at least 35 percent, even though Schools I and E are below the LEA's poverty percentage of 36.2 percent. Table 3 also shows how the use of the feeder pattern data results in School Q's gaining eligibility. In contrast, in Table 2, School Q is ineligible for Title I funds because its poverty percentage is below the LEA's poverty percentage of 34 percent. Conversely, School H is no longer eligible in Table 3 because its poverty percentage is below 35 percent and the LEA's poverty percentage. (In Table 3, the LEA's poverty percentage is higher than in Table 2 due to the use of the feeder pattern for its secondary school.)

Determining School Eligibility Among Schools with a Poverty Percentage of 75 Percent or Less

After an LEA has ranked all of its schools by percentage of poverty, section 1113(a)(3)(A) of the ESEA requires the LEA to first allocate, in rank order of poverty, Title I funds to its schools above 75 percent poverty, including any middle schools or high schools. Thus, before an LEA can decide how to determine eligibility for any school with a poverty percentage that does not exceed 75 percent, it must allocate Title I funds to all its schools above 75 percent poverty. In Table 3, for example, the LEA must first allocate funds to School A.

Option for Certain High Schools

Under section 1113(a)(3)(B) of the ESEA, after serving all schools above 75 percent poverty, if funds remain, an LEA may choose to serve high schools with a poverty percentage between 50 percent and 75 percent in rank order of poverty. The implementation of this option occurs before serving any other grade span.

Grade-Span Option

Under section 1113(a)(4) of the ESEA and 34 C.F.R. § 200.78(a)(3), after an LEA has served all of its schools with a poverty rate above 75 percent, if funds remain, the LEA may serve lower-ranked eligible schools. To determine eligibility among these schools, in addition to the district-wide ranking method illustrated above, an LEA may choose which grade span(s) to serve and determine eligibility within grade spans. In doing so, the LEA may use its district-wide percentage of poverty or the percentage of poverty of the relevant grade span(s). (34 C.F.R. § 200.78(a)(3)). If an LEA uses grade spans and the poverty percentage for that grade span is above 35 percent, the LEA may also identify as eligible any school in the relevant grade span with a poverty percentage of at least 35 percent. (ESEA section 1113(b)(1)(A)).

This example shows how the LEA from Tables 2 and 3 determines eligibility on a grade-span basis for its schools with a poverty percentage of 75 percent or below that are in a grade span

with more than one school (i.e., for its elementary grade span and its middle school grade span). If an LEA decides to allocate Title I funds to its schools with poverty percentages of 75 percent or less on a grade span basis and there is only one school in a grade span, then that school is eligible for Title I funds regardless of its poverty percentage, provided that the LEA has already provided a Title I allocation to any school above 75 percent poverty. Therefore, School Q is eligible for Title I funds because it is the only school in the high school grade span.

Table 4. Ranking Elementary Schools with a Poverty Percentage of 75 Percent or Less by Their Poverty Percentage

Public School	Grades Served	Enrollment	Eligible for FRPL	Poverty Percentage
G	K-5	425	200	47.1%
C	K-5	400	185	46.3%
D	K-5	450	190	42.2%
B	K-5	500	195	39.0%
F	K-5	400	150	37.5%
I	K-5	560	200	35.7%
E	K-5	450	160	35.6%
H	K-5	600	206	34.3%
M	K-5	450	100	22.2%
L	K-5	425	75	17.6%
J	K-5	420	70	16.7%
K	K-5	395	65	16.5%
Elementary School Totals		**5,475**	**1,796**	**32.8%**

Based on the data in Table 4, Schools G, C, D, B, F, I, E, and H in the elementary grade span are eligible because their poverty percentage is at least as high as the grade span's poverty percentage of 32.8 percent. The other schools in the elementary school grade span are ineligible because their poverty percentage is lower than the grade-span poverty percentage (32.8 percent). In addition, School A from Table 2 must be served because it has a poverty percentage above 75 percent.

Table 5. Ranking Middle Schools with a Poverty Percentage of 75 Percent or Less by Their Poverty Percentage

Public School	Grades Served	Enrollment	Eligible for FRPL	Poverty Percentage
O	6-8	750	300	40.0%
N	6-8	800	260	32.5%
P	6-8	840	250	29.8%
Middle School Totals		**2,390**	**810**	**33.9%**

Based on the data in Table 5, School O is eligible because its poverty percentage exceeds the grade span's poverty percentage (33.9 percent). In contrast, schools N and P are ineligible because the poverty percentage of each school is lower than the grade-span poverty percentage (33.9 percent) and does not equal or exceed 35 percent. Please note that, as illustrated in Table 2, the LEA must serve elementary School A because its poverty percentage is above 75 percent, even if the LEA chooses to serve only middle schools.

Step 3: Allocating Funds to Eligible Schools

Section 1113(c)(1) of the ESEA and 34 C.F.R. § 200.78(a)(1) require an LEA to allocate Title I funds to schools identified as eligible and selected to participate, in rank order, based on the total number of public school children from low-income families in each school. An LEA has discretion to establish a per-pupil amount for each school and that amount need not be the same per-pupil amount, consistent with the following requirements:

> ➢ "125 percent rule": If an LEA serves any school below 35 percent poverty, section 1113(c)(2)(A) of the ESEA requires the LEA to allocate an amount for each low-income child in each participating Title I school that is at least 125 percent of the LEA's allocation per low-income child, except that the per-pupil amount for the served school with the lowest poverty rate may be less due to the amount of funds remaining.[11]
>> o An LEA's allocation per low-income child is the LEA's total Title I allocation before any reservations under section 1113(c)(3)-(5) of the ESEA and 34 C.F.R. § 200.77 divided by the number of public school and private school low-income children in the LEA as determined using the poverty measure(s) selected by the LEA under ESEA section 1113(a)(5) and 34 C.F.R. § 200.64(a)(3).
>> o The LEA then multiplies this per-pupil amount by 1.25 to determine the minimum amount per low-income child.
> ➢ Under 34 C.F.R. § 200.78(c), an LEA is not required to allocate the same per-pupil amount to each participating school. If an LEA allocates different per-pupil amounts to participating schools, the LEA must allocate a higher per-pupil amount to schools with higher poverty rates than it allocates to schools with lower poverty rates. The flexibility to allocate more funds on a per-pupil basis to a higher-poverty school represents an opportunity for an LEA to distribute Title I funds in a manner that may be more equitable than allocating the same amount of funds per-pupil to every school.[12]

<u>Allocation Examples: LEA-Wide Basis and Grade-Span Basis</u>

The following examples are based on the LEA illustrated in the tables above that has $3,000,000 to allocate to eligible public schools. In Table 6, the LEA determines school allocations on an LEA-wide basis and, in Table 7, determines allocations on a grade-span basis among its schools with a poverty percentage of 75 percent or less.

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[11] The 125 percent rule applies regardless of whether an LEA only serves schools below 35 percent poverty or serves schools with poverty rates that are at or above 35 percent poverty and schools that are below 35 percent poverty. The 125 percent rule does not apply if an LEA serves all schools with poverty rates that are 35 percent or more, in which case the LEA may set a per-pupil amount that is less than 125 percent of the LEA's allocation per low-income child. (ESEA 1113(c)(2)(A))

[12] An LEA that opts to serve high schools between 50 and 75 percent poverty and other schools 75 percent poverty and below using grade-span groupings may determine different per-pupil amounts for different grade spans so long as those amounts do not exceed the amount allocated to any school above 75 percent poverty. Per-pupil amounts within grade spans may also vary so long as the LEA allocates higher per-pupil amounts to schools with higher poverty rates than it allocates to schools with lower poverty rates.

Table 6. Determining Allocations on an LEA-Wide Basis

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Public School	Grades Served	Enrollment	Eligible for FRPL	Poverty Percentage	Per-pupil Allocation Determined by LEA	School Title I Allocation (Column 4 x Column 6)
A	K-5	600	456	76.0%	$1,500.00	$684,000
G	K-5	425	200	47.1%	$1,101.83	$220,366
C	K-5	400	185	46.3%	$1,100.00	$203,500
D	K-5	450	190	42.2%	$1,100.00	$209,000
O	6-8	750	300	40.0%	$1,100.00	$330,000
B	K-5	500	195	39.0%	$1,100.00	$214,500
F	K-5	400	150	37.5%	$1,100.00	$165,000
Q	9-12	2,600	941	36.2%	$1,034.68	$973,634
I	K-5	560	200	35.7%	$0 (eligible, not served)	$0
E	K-5	450	160	35.6%	$0 (eligible, not served)	$0
H	K-5	600	206	34.3%	Ineligible	$0
N	6-8	800	260	32.5%	Ineligible	$0
P	6-8	840	250	29.8%	Ineligible	$0
M	K-5	450	100	22.2%	Ineligible	$0
L	K-5	425	75	17.6%	Ineligible	$0
J	K-5	420	70	16.7%	Ineligible	$0
K	K-5	395	65	16.5%	Ineligible	$0
LEA Totals		11,065	4,003	36.2%		$3,000,000

In Table 6, the LEA chooses to allocate Title I funds to every eligible school except Schools I and E, which are the two eligible schools with the lowest poverty percentages. The LEA ensures that a higher poverty school receives a per-pupil allocation that is at least as high as the per-pupil allocations of lower poverty schools. Finally, the LEA does not allocate Title I funds to any school with a poverty percentage below 35 percent. Therefore, per section 1113(c)(2) of the ESEA, the LEA has flexibility to establish a per-pupil allocation without regard to the 125 percent rule.

Table 7. Determining Allocations Within Grade Spans

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Public School	**Grades Served**	**Enrollment**	**Eligible for FRPL**	**Poverty Percentage**	**Per-pupil Allocation Determined by LEA**	**School Title I Allocation** *(Column 4 x Column 6)*
Schools Above 75 Percent Poverty: LEA must serve regardless of grade span before serving any school at 75 percent poverty or below						
A	K-5	600	456	76.0%	$1,500.01	**$684,004**
Elementary Grade Span: LEA chooses to serve four schools in rank order of poverty						
G	K-5	425	200	47.1%	$1,305.36	$261,072
C	K-5	400	185	46.3%	$1,300.00	$240,500
D	K-5	450	190	42.2%	$1,300.00	$247,000
B	K-5	500	195	39.0%	$1,300.00	$253,500
F	K-5	400	150	37.5%	$0 (eligible, not served)	$0
I	K-5	560	200	35.7%	$0 (eligible, not served)	$0
E	K-5	450	160	35.6%	$0 (eligible, not served)	$0
H	K-5	600	206	34.3%	$0 (eligible, not served)	$0
M	K-5	450	100	22.2%	Ineligible	$0
L	K-5	425	75	17.6%	Ineligible	$0
J	K-5	420	70	16.7%	Ineligible	$0
K	K-5	395	65	16.5%	Ineligible	$0
Elementary School Totals (75 percent and below)		**5,475**	**1,796**	**32.8%**		**$1,002,068**
Middle School Grade Span: LEA chooses to not serve any schools						
O	6-8	750	300	40.0%	$0 (eligible, not served)	$0
N	6-8	800	260	32.5%	Ineligible	$0
P	6-8	840	250	29.8%	Ineligible	$0
Middle School Totals (75 percent and below)		**2,390**	**810**	**33.9%**		**$0**
High School Grade Span: LEA chooses to serve its single high school						
Q	9-12	2,600	941	36.2%	$1,396.31	**$1,313,928**
LEA Totals						**$3,000,000**

In Table 7, the LEA ensures that it allocates Title I funds to its one school with a poverty percentage above 75 percent. After doing so, the LEA has funds remaining and therefore the discretion to allocate the remaining funds by grade span, which includes the flexibility not to serve a grade span. The LEA chooses to serve its elementary and high school grade spans. In the elementary grade span, the LEA allocates Title I funds in rank order of poverty to four

schools. In the high school grade span, the LEA allocates Title I funds to its one high school. The LEA declines to allocate any Title I funds to its middle schools.

Consistent with 34 C.F.R. § 200.78(c), the LEA ensures that its school above 75 percent poverty receives a per-pupil allocation that is at least as high as the per-pupil allocations of all its other schools. In addition, the LEA uses its flexibility to allocate a higher per-pupil amount to its high school, with a 36.2 percent poverty rate, than it allocates to the elementary schools with a poverty percentage of 75 percent and below. This is allowable because, when an LEA allocates Title I funds by grade span, rules such as 34 C.F.R. § 200.78(c) apply within each grade span, not across grade spans. (34 C.F.R. § 200.78(a)(3)).

Allocation Examples: 125 Percent Rule

The examples in Table 8 and Table 9 present a different LEA than the previous examples. This LEA:

- Consists of ten elementary schools (grades K-5) and three middle schools (grades 6-8);
- Has a total Title I allocation of $2,500,000, of which $1,500,000 is available to allocate to public schools;
- Has 1,243 total public and private children from low-incomes families who reside within its boundaries, which results in an LEA per-pupil allocation amount of $2,011.26 ($2,500,000 ÷ 1,243), 125 percent of which is $2,514.08; and
- Allocates Title I funds to at least one school with a poverty percentage below 35 percent, which triggers the 125 percent rule.

Table 8. Applying the 125 Percent Rule on an LEA-Wide Basis

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Public School	Grades Served	Enrollment	Eligible for FRPL	Poverty Percentage	Per-pupil Allocation Determined by LEA	School Title I Allocation *(Column 4 x Column 6)*
A	K-5	600	212	35.3%	$2,514.08	$532,985
B	K-5	425	100	23.5%	$2,514.08	$251,408
C	K-5	400	93	23.3%	$2,514.08	$233,809
D	K-5	450	95	21.1%	$2,514.08	$238,838
E	K-5	560	112	20.0%	$2,169.29	$242,960
F	K-5	500	96	19.2%	$0 (eligible, not served)	$0
G	6-8	400	75	18.8%	$0 (eligible, not served)	$0
H	6-8	450	80	17.8%	Ineligible	$0
I	6-8	600	103	17.2%	Ineligible	$0
J	K-5	450	50	11.1%	Ineligible	$0
K	K-5	425	38	8.9%	Ineligible	$0
L	K-5	420	35	8.3%	Ineligible	$0
M	K-5	395	30	7.6%	Ineligible	$0
LEA Totals		6,075	1,119	18.4%		$1,500,000

In Table 8, the LEA chooses to allocate funds on an LEA-wide basis. The 125 percent rule requires the LEA to allocate at least $2,514.08 per pupil to each served school ($2,011.26 x 1.25). This concentrates the allocations in the LEA's highest-poverty schools (Schools A, B, C, and D) without regard to grade span. After allocating funds in accordance with the 125 percent rule ($2,514.08 per pupil), the LEA still has $242,960 remaining. In this example, it allocates these funds in rank order of poverty to School E, which is the next eligible school. Another way the LEA could have allocated the $242,960 remaining would have been by increasing the per-pupil allocation of School A, the highest-poverty school. An LEA will likely use this approach if it determines that the amount of any remaining funds would not be a sufficient amount for the next eligible school that would receive them to operate a Title I program in accordance with ESEA requirements.

Table 9. Applying the 125 Percent Rule on a Grade-Span Basis

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Public School	**Grades Served**	**Enrollment**	**Eligible for FRPL**	**Poverty Percentage**	**Per-pupil Allocation Determined by LEA**	**School Title I Allocation** *(Column 4 x Column 6)*
Elementary Grade Span: LEA chooses to serve four schools in rank order of poverty						
A	K-5	600	212	35.3%	$2,514.08	$532,985
B	K-5	425	100	23.5%	$2,514.08	$251,408
C	K-5	400	93	23.3%	$2,514.08	$233,809
D	K-5	450	95	21.1%	$969.64	$92,116
E	K-5	560	112	20.0%	$0 (eligible, not served)	$0
F	K-5	500	96	19.2%	$0 (eligible, not served)	$0
J	K-5	450	50	11.1%	Ineligible	$0
K	K-5	425	38	8.9%	Ineligible	$0
L	K-5	420	35	8.3%	Ineligible	$0
M	K-5	395	30	7.6%	Ineligible	$0
Elementary School Totals		**4,625**	**861**	**18.6%**		**$1,110,318**
Middle School Grade Span: LEA chooses to serve its two eligible schools in rank order of poverty						
G	6-8	400	75	18.8%	$2,514.08	$188,556
H	6-8	450	80	17.8%	$2,514.08	$201,126
I	6-8	600	103	17.2%	Ineligible	$0
Middle School Totals		**1,450**	**258**	**17.8%**		**$389,682**
LEA Totals						**$1,500,000**

In Table 9, the LEA chooses to allocate funds on a grade-span basis. The 125 percent rule still requires the LEA to allocate at least $2,514.08 per pupil to each served school ($2,011.26 x 1.25) within both its grade spans, except for the lowest-poverty served school in a grade span. Among elementary schools, this concentrates the allocations in the LEA's highest-poverty elementary schools (Schools A, B, and C). In the middle school grade span, two of the three schools are eligible because their poverty percentages equal or exceed the grade span's poverty percentage. For the purpose of this example, the LEA chooses to serve both eligible schools, not just the

eligible school with the highest poverty percentage (School G). After allocating funds in accordance with the 125 percent rule ($2,514.08 per pupil), the LEA still has $92,116 remaining. It chooses to allocate these funds within the elementary grade span in rank order of poverty to School D, which is the next eligible school in this grade span. As noted above, this is not the only approach available to the LEA. For example, it also could have allocated the $92,116 remaining to the highest poverty school in either grade span (School A and/or School G) by increasing their per-pupil allocations.

C. ADDITIONAL ALLOCATION FLEXIBILITIES PROVIDED BY THE ESEA

Skipping and Related Exception

Section 1113(b)(1)(D) of the ESEA presents an exception to the requirements described in Section B with respect to allocating Title I funds to schools in rank order of poverty. It permits an LEA to elect not to serve—i.e., "skip"—an eligible school that has a higher percentage of children from low-income families if:

1. The school meets the comparability requirements in ESEA section 1118(c);
2. The school receives supplemental funds from State or local sources that it spends according to the requirements in ESEA sections 1114 or 1115—i.e., on programs that meet the intent and purposes of Title I (see 34 C.F.R. § 200.79(c)); and
3. The supplemental funds the school spends from other sources equal or exceed the amount it would receive under Title I.

Under 34 C.F.R. § 200.79(b), a program meets the intent and purposes of Title I if the program either—

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

   OR

1. Serves only students who are failing, or are most at risk of failing, to meet the challenging State academic standards;
2. Provides supplementary services designed to meet the special educational needs of participating students to support their achievement toward meeting the State's student academic achievement standards; and
3. Uses the State's assessment system to review the effectiveness of the program.

If an LEA skips a school under ESEA section 1113(b)(1)(D), the LEA is still required to use Title I funds to provide equitable services to eligible students who reside in the attendance area

of the skipped school. (ESEA section 1113(b)(2)). In implementing this provision, the LEA must include children from low-income families who reside in the attendance area of the skipped school and attend private schools in calculating the proportional share under ESEA section 1117(a)(4)(A), and, from the proportional share, determine the amount of Title I funds that are available for services for eligible private school children residing in the public school attendance area of the skipped school. Section 1117(b)(1)(E) of the ESEA requires the LEA to consult with private school officials about whether eligible private school children residing in the additional served attendance area (i.e., the attendance area for the public school that received Title I funds as a result of skipping the skipped school) will receive services. The LEA is not required, however, to include private school children from low-income families who reside in the additional served attendance area in calculating the proportional share. (See ESEA section 1113(b)(2)).

There is a related exception that applies if the amount of supplemental State or local funds a school receives is less than what it would receive under Title I. Section 1113(c)(2)(B) of the ESEA permits an LEA to reduce the amount of Title I funds allocated to a Title I school by the amount of supplemental funds from State or local sources that it spends on programs that meet the intent and purpose of Title I.

Serving an Ineligible School for One Additional Year

For one additional year only, section 1113(b)(1)(C) of the ESEA authorizes an LEA to allocate Title I funds to a school that is no longer eligible but was eligible and served in the preceding year. This provision applies to a newly ineligible school and not to an eligible school that has fallen in the poverty ranking compared to the previous year's ranking and does not receive a Title I allocation from its LEA because the LEA allocates its Title I funds to other eligible schools with higher poverty percentages. The following example, which is the same LEA from Table 6, illustrates the flexibility an LEA has to serve an ineligible school for one additional year.

Table 10. Serving an Ineligible School for One Additional Year

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Public School	**Grades Served**	**Eligible and Served in Prior Year**	**Poverty Percentage**	**Per-pupil Allocation Determined by LEA**	**School Title I Allocation** *(Column 4 x Column 6)*
A	K-5	Yes	76.0%	$1,500.00	$684,000
G	K-5	Yes	47.1%	$1,101.83	$220,366
C	K-5	Yes	46.3%	$1,100.00	$203,500
D	K-5	Yes	42.2%	$1,100.00	$209,000
O	6-8	Yes	40.0%	$939.25	$281,775
B	K-5	Yes	39.0%	$939.25	$183,154
F	K-5	Yes	37.5%	$939.25	$140,888
Q	9-12	Yes	36.2%	$939.25	$883,834
I	K-5	Yes	35.7%	$0 (eligible, not served)	$0
E	K-5	Yes	35.6%	$0 (eligible, not served)	$0
H	**K-5**	**Yes**	**34.3%**	**$939.24 (Ineligible, served for one additional year)**	**$193,483**
N	6-8	No	32.5%	Ineligible	$0
P	6-8	No	29.8%	Ineligible	$0
M	K-5	No	22.2%	Ineligible	$0
L	K-5	No	17.6%	Ineligible	$0
J	K-5	No	16.7%	Ineligible	$0
K	K-5	No	16.5%	Ineligible	$0
LEA Totals			**36.2%**		**$3,000,000**

In this example, the LEA uses its flexibility to serve an ineligible school for one additional year to allocate Title I funds to School H. The LEA does so by providing a smaller per-pupil allocation to its four lowest eligible served schools (Schools O, B, F, Q) than it provides these schools in Table 6. In addition, the LEA still ensures that a higher poverty school receives a per-pupil allocation that is at least as high as the per-pupil allocations of lower poverty schools.

APPENDIX A: QUESTIONS AND ANSWERS ABOUT WITHIN-DISTRICT TITLE I ALLOCATIONS AND THE COMMUNITY ELIGIBILITY PROVISION

NOTE: These questions and responses are based on relevant sections of the Department's March 2015 Title I CEP guidance (available at: https://www2.ed.gov/programs/titleiparta/15-0011.doc). The question number from the original guidance is provided in parentheses for the reader's awareness.

What is the Community Eligibility Provision? (Question 1)

Section 104(a) of the Healthy, Hunger-Free Kids Act of 2010 (hereinafter the "Act") (P.L. 111-296, available at: www.govinfo.gov/content/pkg/PLAW-111publ296/pdf/PLAW-111publ296.pdf) amended section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) to provide an option that eliminates the need for household applications for free and reduced-price meals in high-poverty LEAs and schools. This option, which is part of the National School Lunch Program (NSLP) and School Breakfast Program, is the Community Eligibility Provision (CEP).

To be eligible, LEAs and/or schools must meet a minimum level of "identified students" for free meals in the year prior to implementing CEP; agree to serve free breakfasts and lunches to all students; and agree to cover with non-Federal funds any costs of providing free meals to students above the amounts provided by Federal assistance (42 U.S.C. 1759a(a)(1)(F)(ii)). Reimbursement for each LEA or school is based on claiming percentages derived from the percentage of identified students, i.e., students certified for free meals through means other than individual household applications. The claiming percentages established in the first year for an LEA or school may be used for four consecutive school years and may be increased if the percentage of identified students rises for the LEA or school. (See P.L. 111-296 or www.fns.usda.gov/nslp/community-eligibility-provision-resource-center for more information.)

If an LEA wishes to use CEP data to allocate Title I funds to schools, when would CEP data first be used to determine a school's eligibility and allocation? (Question 17)

Generally, with the exception of new or expanding charter schools, an LEA uses data from the prior year to determine its within-district allocations. As a result, with respect to a school that is a CEP school for the first time, the NSLP data available to its LEA would probably be from the previous year. Therefore, with respect to within-district Title I allocations, an LEA would likely first use CEP data for a school that is in the second year of the four year CEP cycle.

How does an LEA allocate Title I funds to schools when it has CEP and non-CEP schools? (Question 18)

The number of students directly certified is a subset of the total number of students eligible for free and reduced-price meals. Thus, if an LEA has non-CEP schools with a poverty count based on the number of students approved for free and reduced-price meals and CEP schools with a poverty count based on, for example, students directly certified using Supplemental Nutrition Assistance Program (SNAP) data, the LEA must use a common poverty metric to rank order its schools and allocate Title I funds on an equitable basis (see ESEA section 1113(a)(5)(A)). (Once this common poverty metric is determined, an LEA that chooses to determine whether it meets

Title I's comparability requirement through the high- and low-poverty schools method would also use the same metric for this purpose.)

An LEA has three options for deriving a common poverty metric:
(1) Apply the 1.6 multiplier to the number of students identified by direct certification in a CEP school and use the free and reduced-price meal data for non-CEP schools;
(2) Use the number of students directly certified in both CEP and non-CEP schools; or
(3) Apply the 1.6 multiplier to the number of students directly certified in both CEP and non-CEP schools.
Each option is described in greater detail below.

The first approach is for the LEA to multiply the number of students identified by direct certification in a CEP school by the 1.6 multiplier established under section 104(a) of the Act (and to use free and reduced-price meals data for non-CEP schools (although these are not identical measures, they are considered a common poverty metric). To account for the difference in poverty rates when using free and reduced-price meals data for non-CEP schools and direct certification data for CEP schools, the multiplier of 1.6 is intended to approximate the free and reduced-price meals count for a CEP school.

A second approach is for the LEA to use the number of students directly certified through the Supplemental Nutrition Assistance Program (SNAP) (or another direct certification measure available annually) in both CEP and non-CEP schools. (As all schools, not just CEP schools, must directly certify students through SNAP, an LEA should have direct certification data for each of its schools (42 U.S.C. 1758(b)(4)).)

A third approach consists of applying the 1.6 multiplier to the number of students in CEP and non-CEP schools who are directly certified through SNAP (or another direct certification measure available annually).[13] This approach would not change the order in which schools are ranked based on direct certification data alone, but, due to the inclusion of the multiplier, would result in a higher poverty percentage for each school compared to using direct certification data alone for the purpose of within-district Title I allocations. An LEA may wish to use this approach if, for example, more of an LEA's schools may be eligible for Title I using this approach than with direct certification alone. Consequently, an LEA may be able to more closely approximate the number of schools that would have been eligible if the LEA had used a combination of direct certification data and household applications.

If an LEA considers changing its approach compared to the approach it used the previous year, the Department expects that the LEA would analyze its data to determine whether any schools would be disproportionately disadvantaged by the change. The LEA may also wish to consult with its State educational agency (SEA) before making a change.

Below, we provide examples of each of these approaches. Example A shows how the first approach would work, using the 1.6 multiplier for CEP schools, for a hypothetical LEA with $1,000,000 to distribute to its Title I schools, which consist of three CEP schools and three non-CEP schools. Example B illustrates the second approach, using direct certification data from

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[13] The use of the 1.6 multiplier in non-CEP schools in this approach applies only to Title I within-district allocations as a means to achieving a common poverty threshold across all schools, and not to any aspect of the NSLP, including meal reimbursement.

SNAP for all schools in an LEA with two CEP schools and four non-CEP schools. As detailed in the table footnotes, two schools, Harding and Coolidge, are not eligible in Example B. Using the Example B schools and the same direct certification data for each school, Example C demonstrates the third approach by applying the 1.6 multiplier to the direct certification data for all schools. In this example, as detailed in the table footnotes, Harding is now eligible for Title I. Note also that, as illustrated in Examples A and C, the use of the 1.6 multiplier cannot result in a school's poverty count exceeding its enrollment.

Example A

Within-District Title I Allocations in an LEA with a Combination of CEP Schools and Non-CEP Schools

Column 1 School	Column 2 CEP School (Y/N)	Column 3 Enrollment	Column 4 CEP Schools: Identified Students' Data[1]	Column 5 Non-CEP Schools: Economically Disadvantaged Students Identified by Free and Reduced-Price Meals Data	Column 6 1.6 Multiplier[2]	Column 7 NSLP Count Used to Allocate Title I Funds[3]	Column 8 Percentage of Economically Disadvantaged Students for Title I Allocations[4]	Column 9 Per-Pupil Amount Used by LEA[5]	Column 10 Title I Allocation[6]
Lincoln	Y	425	400	N/A	1.6	425	100%	$500	$212,500
Washington	Y	500	297	N/A	1.6	475	95%	500	237,500
Adams	Y	600	350	N/A	1.6	560	93%	500	280,000
Jefferson	N	450	N/A	400	N/A	400	89%	450	180,000
Madison	N	400	N/A	200	N/A	200	50%	450	90,000
Monroe	N	500	N/A	100	N/A	100	20%	N/A	0
Total	N/A	2,875	N/A	N/A	N/A	2,160	75%	N/A	$1,000,000

[1] The number of identified students must be determined at least once every four years for CEP schools. Moreover, the poverty data used will likely differ from other schools. For the CEP schools, the poverty data will be, for example, direct certification (Identified Students) data (e.g., SNAP or TANF) collected at least every four years times the multiplier. For other schools, the poverty data will be from household applications and direct certification data.

[2] The 1.6 multiplier applies only to a CEP school.

[3] For a CEP school, the Column 7 figure is equal to the lesser of (a) Column 4 x Column 6 or (b) Column 3. In other words, this number may not exceed the school's total enrollment. For the non-CEP schools, the Column 7 figure is equal to Column 5.

[4] Column 7 / Column 3.

[5] An LEA determines the per-pupil amount it will allocate to each school; no lower-ranked school may receive more per pupil than a higher-ranked school.

[6] Column 9 x Column 7 (Note: Monroe is ineligible for Title I funds because its poverty percentage is below both the LEA's average (Column 8 total row) and 35 percent.)

Example B

Using Direct Certification Data Only for Within-District Title I Allocations in an LEA with a Combination of CEP Schools and Non-CEP Schools

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
School	CEP School (Y/N)	Enrollment	All Schools: Direct Certification Data Through SNAP[1]	Percentage of Economically Disadvantaged Students for Title I Allocations[2]	Per-Pupil Amount Used by LEA	Title I Allocation[3]
McKinley	Y	750	500	67%	$540	$270,000
Roosevelt	N	640	400	63%	540	216,000
Taft	Y	900	560	62%	540	302,400
Wilson	N	675	400	59%	529	211,600
Harding	N	500	150	30%	N/A	0
Coolidge	N	750	100	13%	N/A	0
Total	N/A	4,215	2,110	50%	N/A	$1,000,000

[1] The figures in Column 4 exclude, for the purposes of Title I ranking and serving of schools, household applications for free or reduced price meals for the non-CEP schools and direct certification from programs other than SNAP for all schools. (CEP schools are prohibited from collecting household applications.)

[2] Column 4 / Column 3.

[3] Column 4 x Column 6. (Note: Harding and Coolidge are ineligible for Title I funds because their poverty percentages are below both the LEA's poverty percentage (Column 5 total row) and 35 percent.)

Example C

Using Direct Certification Data and the 1.6 Multiplier in All Schools for Within-District Title I Allocations in an LEA with a Combination of CEP Schools and Non-CEP Schools

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9
School	CEP School (Y/N)	Enrollment	All Schools: Direct Certification Data Through SNAP[1]	1.6 Multiplier	Poverty Count Used to Allocate Title I Funds[2]	Percentage of Economically Disadvantaged Students for Title I Allocations[3]	Per-Pupil Amount Used by LEA	Title I Allocation[5]
McKinley	Y	750	500	1.6	750	100%	$333.00[4]	$250,000
Roosevelt	N	640	400	1.6	640	100%	313.00	200,000
Taft	Y	900	560	1.6	896	99%	313.00	280,000
Wilson	N	675	400	1.6	640	95%	310.00	198,400
Harding	N	500	150	1.6	240	48%	298.33	71,600
Coolidge	N	750	100	1.6	160	21%	N/A	0
Total	N/A	4,215	2,110	N/A	3,326	79%	N/A	$1,000,000

[1] The figures in Column 4 exclude, for the purposes of Title I ranking and serving of schools, household application data for the non-CEP schools and direct certification from programs other than SNAP for all schools. (CEP schools are prohibited from collecting household applications.)

[2] The Column 6 figure is equal to the lesser of (a) Column 4 x Column 5 or (b) Column 3. In other words, this number may not exceed the school's total enrollment.

[3] Column 6 / Column 3.

[4] If the application of the 1.6 multiplier results in more than one school at 100 percent poverty, an LEA may allocate a higher per-pupil amount to the school with the larger percentage of directly certified students.

[5] Column 6 x Column 8. (Note: Unlike in Example B, Harding is now eligible for Title I funds because its poverty percentage is at least 35 percent; Coolidge remains ineligible for Title I funds because its poverty percentage is below both the LEA's average (Column 7 total row) and 35 percent.)

If an LEA has all CEP schools, does it need to apply the 1.6 multiplier for Title I ranking and allocation purposes? (Question 19)

No. If an LEA has all CEP schools, under ESEA section 1113(a)(3) through (5), the LEA may rank its schools by the percentage of directly certified students in each school, even though the multiplier is used to determine the United States Department of Agriculture (USDA) school meals reimbursement .

If the application of the 1.6 multiplier results in more than one school at 100 percent poverty, must an LEA allocate the same per-pupil amount to each of these schools? (Question 20)

Not necessarily. At its discretion, an LEA may take into consideration the direct certification poverty percentage of each of these schools.

Generally, an LEA determines each Title I school's allocation by multiplying the number of low-income students in the school by a per-student amount established by the LEA. Under 34 C.F.R. § 200.78(c), an LEA is not required to allocate the same per-pupil amount to each participating school, as long as it allocates higher per-pupil amounts for schools with higher concentrations of poverty than to schools with lower concentrations of poverty. In the case of an LEA that has more than one CEP school at 100 percent poverty by virtue of the 1.6 multiplier but the schools have different direct certification percentages, the LEA may allocate a greater per-pupil amount for the 100 percent school with the higher percentage of directly certified students because the direct certification data indicate that the school has a higher concentration of poverty than the other 100 percent schools. In other words, the direct certification data may be used to differentiate among multiple CEP schools with a 100 percent poverty rate. In order to differentiate among these schools based on the most current data, an LEA may wish to use annual direct certification data and update the rankings as appropriate even if the data are not updated during the four-year period for CEP reimbursement purposes.

To ensure that it complies with 34 C.F.R. § 200.78(c), an LEA must make sure that the 100 percent CEP schools receive at least as much per pupil as CEP and non-CEP schools with poverty rates below 100 percent. For instance, a non-CEP school with a 95 percent poverty rate may not receive more per-pupil funding than a CEP school with a 100 percent poverty rate by virtue of the 1.6 multiplier. If two CEP schools have the same direct certification rate, they must be provided the same per-pupil allocation.

The following table provides an example of an LEA with CEP and non-CEP schools in which the LEA is able to establish a different per-pupil allocation for two CEP schools with a 100 percent poverty rate by virtue of the 1.6 multiplier:

- ➢ School 1 and School 2 are CEP schools with percentages of low-income students of 100 percent by virtue of the 1.6 multiplier. As a result, they are ranked at the top of the LEA's poverty rankings.
- ➢ The LEA allocates a higher per-pupil amount to School 1 than School 2 on the basis of School 1's greater direct certification poverty percentage based on SNAP data (Column 5).

> ➤ The LEA ensures that School 2 receives at least as much per pupil as School 3 and School 4 because School 2's poverty percentage in Column 7, after application of the 1.6 multiplier, is larger than that of School 3 or School 4.

Example

Providing a Different Title I Per-Pupil Allocation to Two CEP Schools that Have a 100 Percent USDA Reimbursement Rate

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9
School	CEP School (Y/N)	Enrollment	Number of Students Directly Certified	Percentage of Identified Students in CEP School	Number of Low-Income Students for Title I School Allocation Calculation[1]	Percentage of Low-Income Students for Ranking Title I Schools	Per-Pupil Amount Used by LEA	Title I Allocation
1	Y	500	400	80%	500	100%	$750	$375,000
2	Y	1500	1050	70%	1500	100%	$650	$975,000
3	N	500	10	N/A	450[2]	90%	$625	$281,250
4	Y	500	250	50%	400	80%	$625	$250,000

[1] For a CEP school, this figure is equal to the lesser of: (a) Column 3 or (b) Column 4 multiplied by 1.6.
[2] Poverty data are based on household applications and direct certification data.

If an LEA chooses to group CEP schools to determine the reimbursement rate from USDA, does each school in a group then have the same poverty percentage for Title I ranking and allocation purposes? (Question 21)

No. Schools may be grouped to determine CEP eligibility and the USDA reimbursement rate. Under section 1113 of the ESEA, however, an LEA with an enrollment of at least 1,000 students must rank schools individually for ranking and allocation purposes. Thus, if an LEA groups schools in order for them to be eligible for CEP or to maximize CEP reimbursement, the LEA must still use the CEP data, either alone or multiplied by the 1.6 multiplier, for each individual school for Title I ranking and allocation purposes. For example:

School 1 has 425 enrolled students, of whom 400 are directly certified. By virtue of the 1.6 multiplier, the school's poverty rate is 100 percent (400 directly certified students x the 1.6 multiplier = 640 (greater than the school's enrollment of 425 students)).

School 2 has 600 students, of whom 350 are directly certified. By virtue of the 1.6 multiplier, the school's poverty rate is 93 percent (350 directly certified students x the 1.6 multiplier = 560 divided by the enrollment of 600 = 93 percent).

For USDA reimbursement, the LEA may combine the data for School 1 and School 2, resulting in a free reimbursement rate of 100 percent for the schools as a group. (The reimbursement rate is 100 percent because: 750 directly certified students divided by the enrollment of 1,025 = 73.1 percent x 1.6 = 100 percent meals reimbursed at the free rate.)

For Title I ranking and allocation purposes, however, the LEA must use the individual school percentages (School 1 = 100 percent; School 2 = 93 percent).

If an LEA has traditionally established a cutoff above which Title I-eligible schools are served, does the LEA have any options if the use of CEP data increases the number of schools above the cutoff? (Question 22)

Yes, an LEA has several options. One option, and perhaps the most straightforward option, is for an LEA to raise its cutoff point. (ESEA section 1113(a)(3) through (4)). For example, if an LEA's policy was to serve all schools above 60 percent poverty, the LEA could choose to serve schools above a higher poverty percentage (e.g., 67 percent).

For the sole purpose of within-district Title I allocations, a second option would be for an LEA to use, as authorized by section 1113(a)(5) of the ESEA, another allowable poverty measure or combination of measures to rank its schools that might result in fewer schools above its cutoff. [14]

May an LEA with one or more CEP schools conduct its own survey to collect the equivalent of NSLP data from the CEP schools for Title I within-district allocations? (Question 23)

Yes; however, the Department urges an LEA to consider this decision. One of the purposes of CEP is to reduce administrative burden. Conducting a survey just for Title I would add burden that may not be necessary because, in the case of an LEA that has one or more CEP schools, the LEA by definition already has poverty data from one of the permitted sources under section 1113(a)(5) of the ESEA (NSLP data).

Should an LEA decide to carry out such a survey, the LEA may use the results for Title I within-district allocations as long as it is confident that the survey data are accurate and used consistently with the ranking and serving criteria in section 1113 of the ESEA, including the income cutoff for one or more of the programs listed in section 1113(a)(5). If an LEA carries out this type of survey, the LEA must ensure that it does not in any way indicate that the survey is required by the Department or USDA.[15] Additionally, if an LEA uses such a survey, for purposes of allocating funds to provide equitable services to eligible private school students it should consult with private school officials to determine whether to use the same or a similar survey to determine the number of private school children from low-income families who reside in a participating public school attendance area.

Under what circumstances may an LEA use Title I funds to conduct a local survey to identify students from low-income families? (Question 23a)

An LEA must consider two primary factors before it uses Title I funds to pay for a local survey. First, in accordance with section 1118(b)(1) of the ESEA, if individual student data are required for State or local purposes, such as State funding formulas, and a survey is the only means of obtaining such data, an LEA must make State or local funds available for this activity. If these

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[14] The composite option in section 1113(a)(5) of the ESEA to establish a poverty percentage for a school applies only to the within-district Title I allocation process. For other Federal or non-Federal purposes, an LEA that uses a composite for within-district Title I allocations may be asked to report poverty figures for its schools that are determined differently (i.e., as defined by the specific data collection) than the method used in the composite.

[15] USDA regulations do not allow school meal program funds to support an alternate application process.

funds are made available to conduct a survey to carry out a State or local requirement, there would be no need to use Title I funds for this purpose.

Second, 2 C.F.R. §§ 200.403(a) and 200.405 require, among other things, that the use of Title I funds be "necessary and reasonable for the performance of the Federal award" of Title I and be allocable to Title I. Whether a local survey is necessary to properly operate a Title I program depends on the factual circumstances within an LEA. SNAP data are available for every school, regardless of whether the school participates in CEP. Those data, however, may not always fully or accurately represent the concentration of poverty for all schools in an LEA. For example, if a school traditionally has had a disproportionately high number of students who are identified for NSLP participation through an annual household application instead of direct certification when compared to other school attendance areas in the LEA, a local survey in place of the annual household survey may be necessary to produce the most accurate poverty count for the school and prevent the school from losing Title I funds without any actual changes to the concentration of poverty in that school attendance area. In such circumstances, the LEA may be able to demonstrate that the use of Title I funds to conduct a local survey is necessary to the operation of its Title I program. Per 2 C.F.R. §§ 200.403(a) and 200.404, the LEA must also demonstrate that the costs of conducting a local survey are reasonable.

To the extent an LEA demonstrates it is necessary and reasonable to conduct a local survey for Title I purposes and uses only Title I funds for the survey, the LEA may not use data from the survey for non-Title I purposes, unless such non-Title I use is incidental (e.g., identifying students for exemption from Advance Placement testing fees) (see 2 C.F.R. §§ 200.403(a) and 200.405)). If an LEA has substantial or multiple local needs for poverty data from a local survey in addition to its Title I needs, the LEA must allocate its survey costs between Title I funds and non-Federal sources so that the costs assigned to Title I are allocable (2 C.F.R. § 200.405).

USDA guidance ([Community Eligibility Provision: Guidance and Updated Q&As | Food and Nutrition Service (usda.gov)](#)) indicates that the original identified student percentage and reimbursement rate, based on April 1 data from the year before CEP implementation, is generally valid for four school years. If the identified student percentage increases during the four-year cycle, the LEA may begin a new cycle.

How should an LEA with CEP and non-CEP schools that collects NSLP household applications for non-CEP schools at a different point during the year consider this difference in timing? (Question 24)

An LEA in this situation has three options.

First, the LEA might use CEP data from April 1 for the CEP schools and NSLP data for the non-CEP schools from another time as long as both periods occur in the same school year. A non-CEP school's data generally include a combination of directly certified students and students who are eligible through the household application.

Second, if compatible with the implementation of NSLP and the timing of submitting a Title I plan to its SEA for the following school year, an LEA might use its count of household applications and access direct certification data for a non-CEP school on approximately April 1.

Third, for Title I purposes only, an LEA might access direct certification data for CEP schools on approximately the same date during the school year as it accesses these data for, and collects household applications from, non-CEP schools (while also still accessing the direct certification data as of April 1 for USDA CEP purposes). Thus, under this third option, the LEA would still use April 1 as the date for calculating a CEP school's USDA reimbursement rate but would use the date when the data were accessed for Title I to establish the school's poverty percentage and number of low-income students for Title I purposes. For example, if on October 31, 2018 (the date the school's LEA collects NSLP data for non-CEP schools), 60 percent of a CEP school's students are directly certified and then on April 1, 2019, 62.5 percent of a CEP school's students are directly certified, the school's poverty percentage for Title I within-district allocations would be 96 percent (60.0 percent x the 1.6 multiplier) whereas its USDA NSLP reimbursement at the free rate would be 100 percent (62.5 percent x the 1.6 multiplier).

In following any of the above options, if an LEA uses the identified students' count from an earlier year within the permitted four-year period for NSLP reimbursement for CEP schools, the LEA would not be required to change the poverty percentages of the CEP schools during this time period for Title I purposes unless the LEA were to use a different poverty measure to allocate Title I funds. (ESEA section 1113(a)(5)(A)). During this time the poverty percentages of the non-CEP schools for Title I purposes will likely change due to the availability of updated household application and identified students' data.

APPENDIX B: QUESTIONS AND ANSWERS ABOUT WITHIN-DISTRICT ALLOCATIONS AND NEWLY OPENED OR SIGNIFICANTLY EXPANDED CHARTER SCHOOLS

NOTE: These question and responses are reprinted, with minor updates for dates and citations, from relevant sections of the Department's How Does a State or Local Educational Agency Allocate Funds to Charter Schools That are Opening for the First Time or Significantly Expanding Their Enrollment (December 2000), available at: www2.ed.gov/policy/elsec/guid/cschools/cguidedec2000.pdf. The question number from the original guidance is provided in parentheses for the reader's awareness.

Does an LEA have flexibility in obtaining poverty data for charter schools that are opening for the first time or significantly expanding their enrollment? (Question 55)

Yes. The following are examples of how an LEA may exercise flexibility in obtaining poverty data for new or expanding charter schools. (ESEA section 4306 and 34 C.F.R part 76, subpart H):

(a) If enrollment and poverty data for a new or expanding charter school are not available at the same time that such data are collected for other public schools within the LEA (e.g., the charter school has not yet opened or expanded), an LEA may use the same data collected at a different time of the year to determine the charter school's eligibility for, and allocation of, Title I funds. For example, an LEA that uses enrollment and free-lunch data collected in October 2019 to determine allocations for the 2020-2021 school year may use charter school data collected at a later date to determine the public charter school's Title I eligibility and allocation.

(b) If an LEA uses poverty data that are not available for a charter school, such as FRPL data, the LEA has several options:

(1) The LEA may use poverty data for children attending a new or expanding charter school that are from a different source than the data it uses for other public schools within the LEA, so long as the income level for both sources is generally the same. For example, charter school officials may be able to produce an equivalent count of children eligible for free and reduced-price lunches using sources of poverty data other than FRPL data, such as a survey of parents or State programs under Title IV of the Social Security Act;

(2) If complete actual data are not available, the LEA may extrapolate the number of children from low-income families in a new or expanding charter school from actual data on a representative sample of children in the charter school. The sample size should be large enough to draw a reasonable conclusion that the poverty estimate is accurate; or

(3) The LEA may obtain the number of children from low-income families in a new or expanding charter school by correlating sources of data–that is, by determining the proportional relationship between two sources of data on children from low-income families in regular public schools and applying that ratio to a known source of data on children from low-income families in a charter school.

What if enrollment and poverty data for a charter school that is opening for the first time or significantly expanding its enrollment are not available in time to be factored into the LEA's allocation process? (Question 56)

Newly opening or significantly expanding charter schools typically are not in a position to identify their poverty children until on or near the date when the school actually opens or expands. To accommodate this situation and ensure that charter schools receive the proportionate amount of Title I funds for which they are eligible based on the poverty data described in the previous question within the time periods specified in 34 C.F.R. § 76.792, an LEA has several options:

(a) The LEA may reserve an amount off the top of its Title I allocation that it believes will be sufficient to fund eligible charter schools that are opening for the first time or significantly expanding their enrollment. Once a charter school has opened or expanded, and the actual data are available, the LEA would determine whether the charter school is eligible and ranks sufficiently high to receive Title I funds. The LEA would allocate the appropriate amount of the reserved Title I funds to the qualifying charter school in accordance with the LEA's Title I allocation procedures;

(b) The LEA may distribute an appropriate amount available from Title I *carryover funds* to a charter school that is opening for the first time or significantly expanding its enrollment; or

(c) The LEA may apply to the SEA for Title I funds available for reallocation under section 1126(c) of the ESEA to serve a charter school that is opening for the first time or significantly expanding its enrollment.