

Department of Education Dear Colleague on the 2016-2017 School Year

On January 28, 2016, the U.S. Department of Education sent a Dear Colleague letter to Chief State School Officers designed to ensure an orderly transition to ESSA. The letter addresses flexibilities available to States in the 2016-2017 school year.

General Rule – Use of FY 2016 FORMULA FUNDS in the 2016-2017 School Year

Under the ESSA transition provisions, as clarified by the FY 2016 Consolidated Appropriations Act:

- FY 2016 formula grant funds will be awarded and administered in accordance with requirements from NCLB and not awarded according to new ESSA provisions.
- Accordingly, formula grant allocations to States and LEAs will be made in FY 2016, for the 2016-2017 school year, in the same manner and using the same allocation formulas as for the 2015-2016 school year.
- In addition, formula grant recipients will continue to operate in the 2016-2017 school year under the plans, procedures, and requirements that are in place for the 2015-2016 school year.

Exceptions – Ensuring an Orderly Transition to the ESSA in the 2016-2017 School Year

For the 2016-2017 school year, there are certain exceptions to the general rule regarding formula funds related to: school and LEA interventions and supports; interventions for English learners; and additional information regarding the orderly transition from NCLB provisions that are not in the ESSA.

1. School Interventions and Supports in the 2016-2017 School Year

States operating under ESEA Flexibility have the option to choose between (1) freezing their existing priority and focus school lists as of December 10, 2015, for use in the 2016-2017 school year or (2) refreshing their lists by March 1, 2016.

To ensure that LEAs in States that are implementing ESEA flexibility in the 2015-2016 school year are able to comply with the ESSA transition requirement to continue to implement interventions applicable to priority and focus schools during the 2016-2017 school year, the Department will not require those States or LEAs to comply with the following requirements under ESEA if they impede a priority or focus school from being able to continue to implement appropriate interventions in 2016-2017:

- SEA requirement to distribute at least 95% of funds it reserves for LEAs for use for school improvement, corrective action or restructuring (section 1003(a));
- 40% poverty rate for schoolwide programs (section 1114(a)(1));
- Limitations on amount of funds LEAs can transfer between programs (section 6213(b));

- Permit an LEA that fails to make AYP to continue to receive a Small, Rural School Achievement grant (section 6224(e)); and
- LEA requirement to rank and serve eligible schools according to poverty (section 1113(a)(3)-(4) and (c)(1)).

For States not operating under ESEA flexibility in school year 2015-2016, ESSA requires a school or LEA that was identified in 2015-2016 by the State as in need of improvement, corrective action, or restructuring under NCLB to continue to implement the same interventions in the 2016-2017 school year.

- During the 2016-2017 school year, these States may, but are not required to, ensure that LEAs are providing supplemental educational services (SES), public school choice and the related notice to parents for the 2016-2017 school year.
- If these States choose not to require that their LEAs provide SES and public school choice in the 2016-2017 school year, they must develop and implement a one-year transition plan for ensuring that their LEAs provide alternative supports for the students eligible for SES.

2. LEA Interventions and Supports for English Learners in the 2016-2017 School Year

States will not be required to hold LEAs accountable for their performance against Annual Measurable Achievement Objectives (AMAOs) under Title III for the 2014-2015 and 2015-2016 school years.

- Accordingly, States must freeze district accountability under Title III based on the most recent AMAO calculations, and continue to provide those LEAs with the corresponding supports and interventions in the remaining months of the 2015-2016 school year and the 2016-2017 school year.

3. Requirements Discontinued from NCLB

States are not required to implement the following provisions from NCLB in the 2016-2017 school year:

- Requirement that all teachers of core academic subjects be “highly qualified” (section 1119);
- Requirement for improvement plans for LEAs that are not making progress toward all teachers being “highly qualified” (section 2141); and
- Requirements related to state supports and recognition (section 1117).