

ESSA: Changing Landscape



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Legislative Updates



Appropriations

- Fiscal year 2019 education funding
 - Legislation passed on time in September
 - Increases (again!) for most education programs



Moving forward...

Sequestration is still alive!

- Budget Control Act of 2011
 - Imposed budget caps, mandatory cuts to federal spending
 - Amended since 2011 to raise caps but extends sequestration
- February 2018 bipartisan budget deal raises caps again
 - More funding for education
- Only a two-year deal → spending cuts in 2020?



Moving forward...

- President tells federal agency leaders to cut 5% next year
- Will Congress be on board?
 - President proposed cutting 5% from ED for FY 2019
 - Instead, Congress increased ED funding by \$581 million





Moving forward...

- President's FY 2020 budget request?
 - “Deadline” for submission to Congress: February 7th
 - Delayed until March
 - Many employees responsible for budget request furloughed during government shutdown
 - Focus on finalizing FY 2019 appropriations
 - Delayed budget = delayed Congressional appropriations?

116th Congress... What's New?

- Split Congress
 - House – Democratic majority
 - Senate – Republican majority
- New leadership on House Congressional Committees
- Speaker of the House: Nancy Pelosi (R-CA)
- New legislative priorities for the House of Representatives



New Policy Priorities

With Democratic majority...

- Stepped up oversight of ED
 - Secretary DeVos in the hot seat
 - ESSA
 - For-profit sector
- More money for upgrading schools
- Higher Education Act reauthorization
- Increased access to preschool and child care
- Limit use of federal funds for firearms



New Policy Priorities

BUT... With Republican-controlled Senate, how much can be accomplished?

Could help lay the groundwork for major issues in 2020 Presidential election



Administration Updates

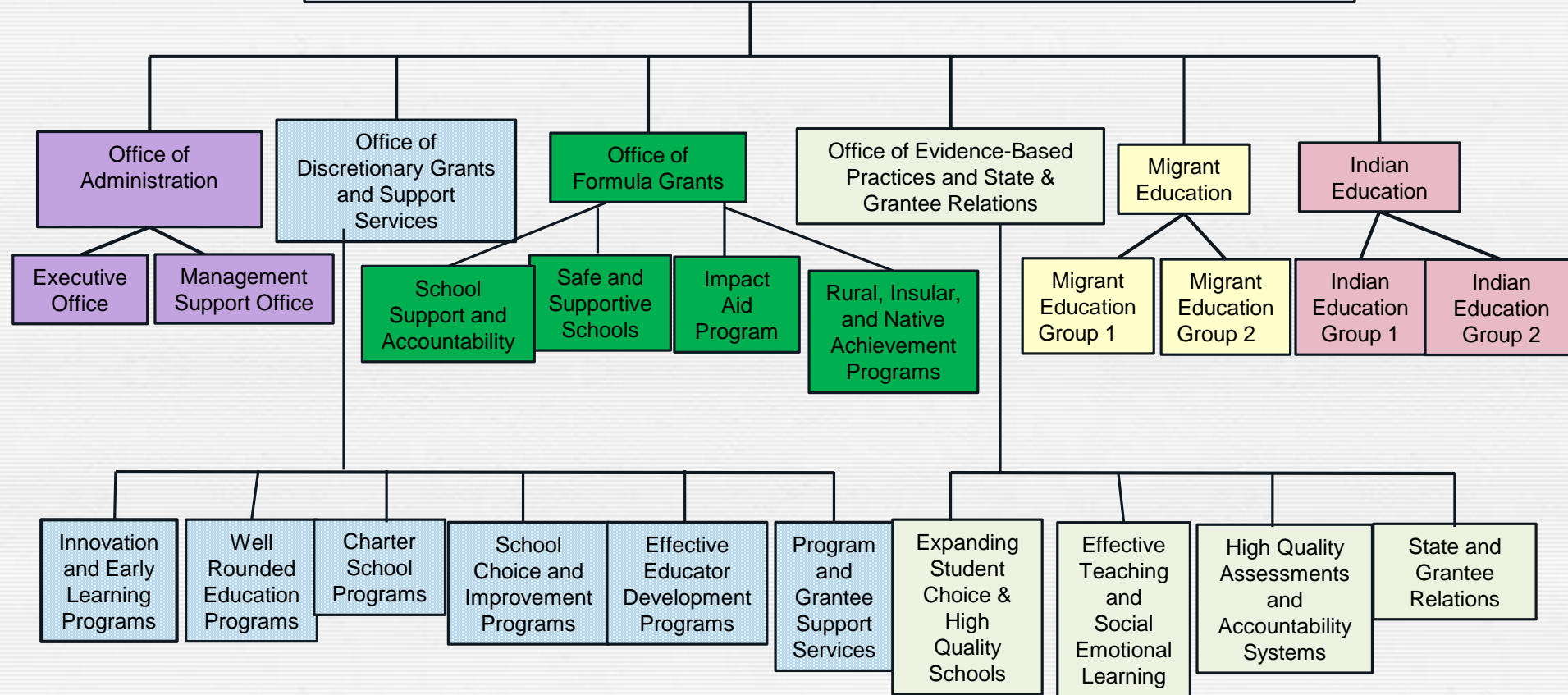


OESE Reorganization

- Letter sent to Chief State School Officers end of January outlining changes to OESE
 - Consolidation of OESE and Office of Innovation and Improvement
 - Changes effective immediately but will take time to fully transition
 - Continue to use current points of contact for assistance; cc your Office of State Support inbox (oss.Arizona@ed.gov)

OESE ORGANIZATIONAL CHART

Office of the Assistant Secretary



■ ESSA Regulations??

- After ESSA accountability regs rescinded → NCLB regs reinstated
 - Many parts not applicable under ESSA (HQT, AYP, etc.)
 - ED working to clean up NCLB regs based on ESSA changes
- August 2018: ED rescinded portions of Title I-A, I-B, and I-C regs

<https://www2.ed.gov/policy/elsec/leg/essa/essaregulationrescissions.pdf>

ESSA Title III Guidance Addendum

- Issued by ED in January 2019
- Reminds States of requirement to establish EL entrance/exit procedures and identification timeline
 - Cannot use Title III funds for identification
 - If EL has disability that precludes assessment in one or more domain, can be exited based on proficient score on remaining domains
 - Exited students may still receive language services (be sure to not exit prematurely)
- For reporting on former ELs, if State uses multiple measures to assess EL status, SEA must only include those students who meet all standardized, statewide exit procedures and no longer receive services, not all students receiving proficient on ELP assessment

➤ ESSA Flexibility Guide

- Issued by ED in October 2018
- Highlights areas where States/districts have flexibility under ESSA
 - e.g. direct student services optional set-aside, consolidated State (or LEA) admin funds, waiver authority, transferability, etc.
- ED to revive Ed-Flex program for 18-19 school year
 - Info on application process forthcoming

<https://www2.ed.gov/policy/elsec/leg/essa/essa-flexibilities-document-for-publication.pdf>

➤ Letter re: Title I Homeless Student Reservation

- July 2018 letter clarifies ESSA changes to Title I-A LEA homeless student reservation (Section 1113(c)(3))
- Key change:
 - NCLB limited funds to homeless students in non-Title I schools
 - ESSA generally requires funds to support homeless students regardless of Title I status
- LEA is not required to reserve a specific amount (may use a needs assessment for determination)

<https://www2.ed.gov/policy/elsec/leg/essa/letterforessatitleialeahomelesssetaside.pdf>

FERPA Updates on School Safety

- ED issued new FAQ document this month:
https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs_2-5-19_0.pdf
 - Focuses on balance between school safety and privacy concerns
 - Allows for schools to share some personally identifiable information from student records to law enforcement officials if certain circumstances are met.
 - Such disclosures must be included in school's annual FERPA notice to parents.

FERPA Updates (cont.)

- Disclosure to law enforcement officials could be allowable under the “school officials” exception under 34 CFR § 99.31(a)(1) if such officials:
 - Perform an institutional service or function for which the school or district would otherwise use employees;
 - Are under the “direct control” of the school or district with respect to the use and maintenance of the education records;
 - Are subject to FERPA’s use and re-disclosure requirements in 34 CFR § 99.33(a); and
 - Meet the criteria specified in the school or district’s annual notification of FERPA rights for being school officials with legitimate educational interests in the education records.

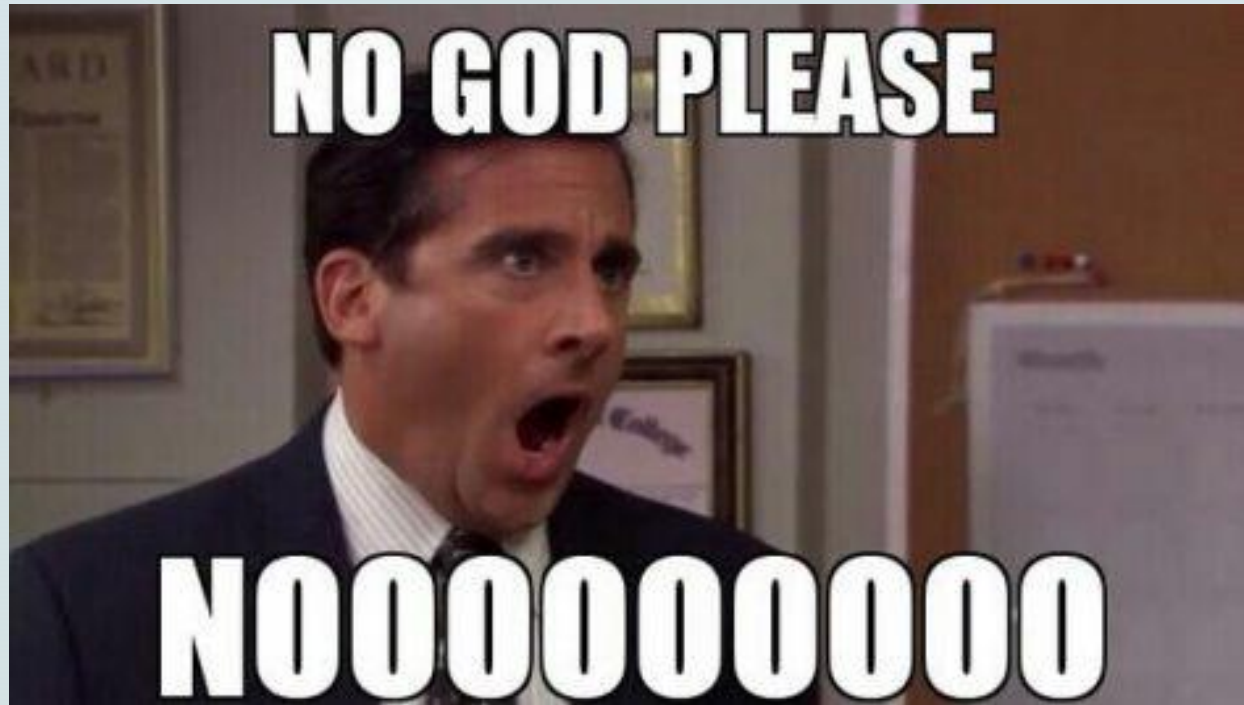


ESSA Title I, A Supplement, Not Supplant Guidance

NEW Guidance Draft Released: January
25, 2019

Open for Public Comment

ESSA Supplement Not Supplant



■ ESSA Title I, A SNS Sec. 1118(b)

Standard: Federal funds must be used to supplement and in no case supplant state, and local resources

Title I, A SNS

Sec. 1118(b)(1)-(2)

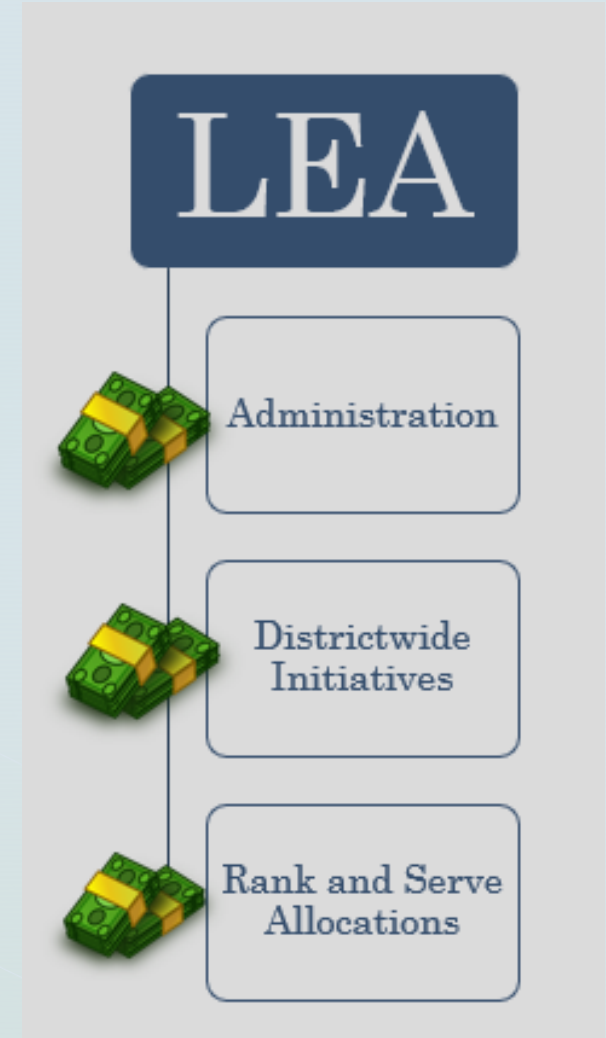
Test: The LEA shall demonstrate that the methodology used to allocate State and local funds to Title I schools ensures that the school receives all the State and local funds it would otherwise receive if it were not receiving Title I funds.

- **The presumptions of supplanting do not apply to Title I, A at the school-level!**

ESSA Title I, A SNS Sec. 1118(b) (cont.)

Methodology 2 Part Test!

- School-level expenditures
 - Methodology for allocating funds – if neutral with regard to Title I status, then schools are in fact meeting supplement not supplant.
- District-level expenditures
 - Districtwide initiatives must be expended in a way that ensures all applicable schools receive the same amount of state/local funding on a neutral basis with respect to Title I status.



ESSA's Other SNS Tests

All Other ESSA Titles

2 CFR 200, Subpart F Compliance Supp.

Auditors presume supplanting occurs if federal funds were used to provide services . . .

1. Required to be made available under other federal, state, or local laws
2. Provided with non-federal funds in prior year
3. ~~Provided services to Title I schools and the same services were provided to non-Title I schools.~~

➤ Presumption Rebutted! (sometimes)

- If SEA or LEA demonstrates it would not have provided services if the federal funds were not available.
- NO non-federal resources available this year!



Applicability to I,C and I, D?

- I,C Section 1304(c)(2) cross-references to 1118(b).
 - No alternative, only Title I section.
- 1,D cross-reference but has its own SNS section as well.
 - Can use either?
 - Could State dictate which SNS is used?

■ Which State/local funds?

“all the State and local funds it would otherwise receive”

- Only on the State and local funds each school is allocated from its LEA.
 - At LEA discretion (re: which funds)
- Because many LEAs do not allocate all State and local funds to schools, there may naturally be some State and local funds that are not subject to the compliance demonstration.
- For State and local funds that an LEA does not allocate to schools, the LEA is required to conduct activities supported by such funds in a manner that does not take into account a school's Title I status.

SNS Guidance Q&A 4

What about State/local funds not allocated to schools?

There is no similar compliance test for State and local funds reserved for districtwide activities.

- However, because the general SNS requirement applies to all State and local funds, an LEA must conduct districtwide activities supported by such funds in a manner that does not take into account a school's Title I status.
- For example, the LEA reserves the State and local funds for a social worker at the district level. The LEA deploys the social worker to different schools throughout the school year on an as-needed basis. Although the State and local funding for such a social worker is not allocated to a school, and therefore is not subject to the compliance demonstration, access to or assignment of the social worker must be Title I neutral in order to comply with the general SNS requirement.

▀ Title I SNS Exceptions

- Exclusion of Funds:
 - SEA or LEA may exclude supplemental state or local funds used for program that meets *intent and purposes* of Title I Part A (Sec. 1118(d)). SNS Guidance Q&A Section VII.
- Excluded from SNS Methodology Test:
 - Single School LEAs
 - A grade span with a single school (i.e., no methodology is required for the single school grade span); or
 - Only Title I schools.
 - *Could the State require that SNS apply in districts with all Title I schools? - Unclear*

SNS Guidance Q&A 2

➤ New Q&A from SNS Guidance

- Can Title I schools receive more State/local funds than non-Title I schools?
 - Yes. SNS Guidance Q&A 6
- Can different methodologies be used?
 - Yes. An LEA might use a different methodology for allocating State and local funds to high schools than it uses to allocate such funds to elementary schools. SNS Guidance Q&A 7
- Can a different methodology be used for charter schools?
 - Yes. An LEA may allocate State and local funds to charter schools within the LEA using a separate methodology from that through which it allocates State and local funds to non-charter schools, consistent with any/all applicable State charter school laws. For example, some LEAs allocate State and local funds to charter schools to cover facility costs but do not allocate such funds to traditional public schools. SNS Guidance Q&A 12

Methodology Flexibilities

- As long as the methodology is neutral, LEAs may consider:
 - Whether to use a single districtwide methodology or a variable methodology/multiple methodologies based on grade [span] or school type;
 - How the methodology may vary or scale based on student enrollment size; or
 - How the methodology may account for schools in need of additional funds to serve high concentrations of children with disabilities, English learners, or other such groups of students the LEA determines require additional support.

■ Must the State approve the methodology?

- No. However, the State must monitor compliance
 - Includes a compliant methodology
- State may request to review the methodology as part of its monitoring process.
 - Could include requesting methodology in application.
 - EDGAR 76.730/76.731; UGG 20.336 – Record Retention and Access to Records

SNS Guidance Q&A 22.

Methodology Examples

Distribution of non-Federal resources based on characteristics of students ("weighted per pupil" funding formula):

- Allocation/student = \$7,000
- Additional allocation/student from a low-income family = \$250
- Additional allocation/English Learner = \$500
- Additional allocation/student with a disability = \$1,500
- Additional allocation/preschool student = \$8,500

Methodology Examples

Distribution of non-Federal resources based on enrollment and grade level:

- Elementary Schools - \$4,300 per student (grades K-8)
- Secondary Schools - \$4,200 per student (grades 9-12)
- Professional development (PD) - \$20 per student plus an additional \$500 per building
- Technology and supplies - \$50 per student plus an additional \$400 per building
- Additional costs (lunch, library supplies, athletic supplies, utility costs, transportation etc.) \$1,408 per student districtwide

Methodology Examples

Distribution of non-Federal funds based on student enrollment:

- 1 Principal
- 1 Assistant Principal per 400 students
- 1 School Counselor per 250 students
- 1 School Resource Officer per 250 students
- Teachers based on State class size requirements (Funds are calculated based on the average salary for that position within the district)
- Technology/ Supplies: \$25,000 per 100 students
- Professional Development: \$10,000 per building
- Additional Necessary Costs: \$1,500 per student

Allocation v. Expenditure of Funds

If funds are allocated for teachers or for supplies, does this mean funds have to be used for that specific purpose?

- No – unless the State or LEA require otherwise!

➤ Continuously Update SNS Methodology?

Must an LEA adjust its allocation of State and local resources to account for changes during the school year that might result in the LEA's non-compliance?

- No. It an annual allocation of State and local funds to demonstrate compliance.
- Accordingly, an LEA makes this demonstration at only one point during the year and is not required to continuously demonstrate compliance throughout the school year.

SNS Guidance Q&A 13.

■ Last Minute Changes

- Will last minute changes before the start of school affect compliance?
 - No. Last-minute changes in resources allocation that often occur prior to the beginning of the school should not affect an LEA's compliance.
 - Example: employee transfers or resigns prior to beginning of school year. The LEA may replace that employee as long as the school's Title I status is not a factor.
 - Were and LEA to not allocate a resource because a school is a Title I school, it would not be compliant.

SNS Guidance Q&A 14.

Evidence of Compliance?

Must an LEA maintain documentation to demonstrate that the LEA allocated State and local funds to schools in accordance with its methodology?

- Yes. Under 34 C.F.R. §§ 76.730-76.731, an LEA must keep records to show compliance with program requirements and facilitate an effective audit.
- An LEA must maintain documentation necessary to demonstrate that its methodology results in each Title I school in the LEA receiving all of the State and local funds it would otherwise receive if it were not receiving Title I, Part A funds.

SNS Guidance Q&A 18.

■ SNS is NOT an Expenditure Test.

SNS is based on a methodology by which State and local funds are *allocated* to schools.

Report Cards – actual per-pupil expenditure reporting of Federal, State and local funds, disaggregated by source of funds.

- Retrospective analysis of how much was spent by each school.
- This is not a methodology and therefore, can not be used for SNS compliance.
- Expenditures as Risk Assessment?
 - States considering using expenditure data on report card to see if title I school state/local spending is less than their non-title I counterparts.
- Question 11.

Does this mean all costs are allowable?

- NO!!
- Keep in mind just because a cost is not a supplanting issue does not make it automatically allowable!
- All costs must be necessary, reasonable and allocable!
 - Must be included in your district/schoolwide/targeted assistance plan!



Students with Disabilities and EL Students

ESEA 1118(b)(1)-(2) and 1114(a)(2)(B) require that a Title I school receive the State and local funds necessary to provide services required by law for children with disabilities and English learners (EL).

- Examples of services required by law.... Include services in an IEP necessary for a child with disabilities to receive a free appropriate public education.
- We do not believe this is meant to limit IDEA allowability.
- Meant to make clear that State/local funds must cover state/local requirements and OCR requirements.

SNS Guidance Q&A 16.

➤ SNS Noncompliance?

- What happens if the LEA does not meet the methodology test?
- What happens if the LEA refuses to change its methodology?







SNS Pop Quiz Question 1

Please visit <http://bruman2.participoll.com/>

Last year, an LEA implemented a Title I district-wide summer camp initiative for its Title I schools only. It was so successful that this year they will continue the program but expand it to include the non-Title I schools using state funds.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





SNS Pop Quiz Question 2

Please visit <http://bruman2.participoll.com/>

Marlboro Middle School has been paying for a digital learning program with its local funds but it now wants to use those funds on other initiatives so the school decides to pay for it next school year with Title IV, A funds.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





SNS Pop Quiz Question 3

Please visit <http://bruman2.participoll.com/>

Homer Middle School was just cited for having 3 doors that do not meet fire code. Since it is a Title I schoolwide school, Homer Middle wants to use its Title I funds to fix the doors.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





SNS Pop Quiz Question 4

Please visit <http://bruman2.participoll.com/>

Robertsville Elementary School, a schoolwide school, paid for a math enrichment software program last year using State funds. This year the school wants to use its Title I funds to pay for the program.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





SNS Pop Quiz Question 5

Please visit <http://bruman2.participoll.com/>

Morganville Elementary, a targeted assistance school, heard about that great math enrichment software program and now wants to purchase it to use for all students using its Title I funds.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





SNS Pop Quiz Question 6

Please visit <http://bruman2.participoll.com/>

Last year the LEA implemented a State-funded professional development series on the importance of STEM programs. This year, the District has Title II funds available so plans to use their Title II funds on the professional development series.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





SNS Pop Quiz Question 7

Please visit <http://bruman2.participoll.com/>

Winters Elementary School, a targeted assistance school, wants to purchase science enrichment workbooks for students. It charges the workbooks 80% to its State funds and 20% to Title I, A funds since 20% of the students are Title I students.

Is this allowable?

- a. Yes
- b. No
- c. I don't know





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