



The Education Trust

Closing the gaps in opportunity and achievement, pre-K through college

February 22, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Secretary DeVos,

On behalf of The Education Trust, an organization dedicated to closing long-standing gaps in opportunity and achievement that separate low-income students and students of color from their peers, thank you for the opportunity to provide comments on the Department’s proposed guidance interpreting the “supplement, not supplant” provision of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015.

High poverty schools and districts remain significantly under-resourced across our country: They are shortchanged when it comes to [funding](#), a rigorous and well-rounded curriculum (including not just English and math, but science, social studies, the arts, etc.), opportunities to take and succeed in advanced coursework, effective and diverse teachers and principals, instructional time, access to school counselors, and much more. Each year, the federal government invests \$15 billion in Title I funding, money which is supposed to provide *supplemental* funding to those high-need schools to provide the additional resources and supports we know are critical to ensure success and close the opportunity gaps that too often push low-income students and students of color to the margins.

The “supplement, not supplant” provision – if meaningfully enforced – ensures that high poverty schools are actually able to use these federal funds to provide the extra resources and services they need to address the many challenges of concentrated poverty. It makes clear that funds provided by the federal government are to supplement state and local dollars, not to replace them, which would undermine Title I’s very purpose.

During the last several decades, the “supplement, not supplant” requirement was enforced through a series of presumptions focused on what services and supports were purchased using the Title I funds. For example, a school that used its Title I funds for a reading coach was presumed to be “supplanting” state and local dollars if that school had paid for its reading coach with state and local dollars the year before, or if other, non-Title I schools had reading coaches paid for with state and local funds. These presumptions, while not perfect, were at least a meaningful check on whether Title I funds were being used to truly provide *supplemental*, additional services for students attending high poverty schools, as intended.

When Congress, through the Every Student Succeeds Act of 2015, wrote that those presumptions were no longer to be used, they intended to provide a *better* way to enforce the “supplement, not supplant”



The Education Trust

Closing the gaps in opportunity and achievement, pre-K through college

requirement, not to remove meaning from the provision altogether. Otherwise, they would have simply removed the requirement from law.

And yet, the Department's proposed guidance offers no meaningful test of this critical civil rights provision of the law. The proposed guidance's only "test" of compliance is whether a district's budget (i.e., its "allocation methodology") is "Title I neutral," meaning simply that state and local funds are distributed to schools without explicit regard for a school's Title I status. A district could easily be in compliance with this interpretation of the law **while allocating fewer state and local dollars to every single Title I school in the district and using the federal Title I funds to fill that hole** (e.g. to "supplant" state and local dollars), so long as the district gave *any* reason for doing so that doesn't explicitly mention Title I.

Moreover, the proposed guidance does not even require districts to make public its methodology for allocating state and local funds. Without meaningful federal guardrails, transparency into districts' processes is especially critical. Without transparency, community advocates have no way of knowing whether schools that serve a high number of low-income students receive equitable access to resources within and across districts. Without this information, parents and community members are unable to be meaningful participants in district efforts to close opportunity and achievement gaps — including the school improvement process that the Every Student Succeeds Act requires.

The Department has a statutory obligation to ensure that the "supplement, not supplant" provision is carried out with fidelity and consistently across school districts and that students and teachers in high poverty schools are receiving the supplemental benefit of Title I funds. Therefore, we strongly urge the Department to return to the negotiated rulemaking process to reach a consensus-driven and meaningful compliance standard that ensures Title I schools within each district actually receive their fair share of state and local dollars so that federal funds can be used as intended: to provide additional services and support for students who most need them.

Thank you for your attention.

Sincerely,

Ary Amerikaner
Vice President for P12 Policy, Research, and Practice
The Education Trust