Use of Title II, Part A Funds to Supplement LEA Activities
Relating to Educator Evaluation Systems

Title II-A is responsible for supporting increased student academic achievement by promoting strategies that will positively impact teacher and principal effectiveness. All expenditures must adhere to the following Title II-A priorities:

- Improve the effectiveness of teachers and principals,
- Achieve equitable distribution of effective teachers and principals,
- Support targeted professional development based on identified needs.

**Allowable Activities**
Federal funds can support activities related to educator evaluation systems. These activities still must meet the allowable use of funds requirements outlined in the USDE Title IIA Non-Regulatory Guidance section E-1 and be based on the LEA’s needs assessment. Activities could include:

- Content or instructionally focused professional development for teachers and administrators to assist them in improving areas of weakness identified by the LEA’s educator evaluation system
- Professional development to assist teachers in using data, including educator evaluation data, to improve instruction and student achievement
- Monetary incentives associated with earning high educator effectiveness ratings
- Initial and on-going professional development for evaluators on the aligned LEA evaluation system (tools and processes) to ensure fidelity of implementation and inter-rater reliability. Districts must ensure that observations/evaluations are part of a comprehensive system to improve the quality of teachers.
- Professional development (to support awareness and implementation) for teachers, paraprofessionals, principals and superintendents on the aligned LEA evaluation system including the tools and processes to be utilized
- Purchase and/or development of data systems for collecting data on educator performance

**Non-Allowable Activities**
Based on the USDE Title IIA Non-Regulatory Guidance, these educator evaluation system SEA/LEA activities would not be allowable:

- Activities/trainings/meetings regarding developing the educator evaluation system
- Activities/trainings/meetings regarding dissemination and communication of information about the educator evaluation system
- Purchase and/or development of data systems for collecting data on student performance

**Supplement, Not Supplant**
There is a federal provision of supplement, not supplant in ESEA: *Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart(s) [Title I, Part A (section 1120A (b); Title II, Part A (section 2113(f), 2123(b); and Title VI, Part B (section 6232) of the ESEA].*
**Supplement, Not Supplant Tests**

To determine whether a fiscal expenditure supplements and does not supplant, school districts must run the following tests:

- **Test I:** Required – Is the program or activity that the district wants to fund with ESEA funds required under state, local, or another federal law? If it is, then it is supplanting. The ability of an SEA or LEA to use Title II, Part A funds to carry out activities mandated by a State depends upon whether non-Federal funds are available to carry out those activities. Presumably, in the absence of Title II, Part A funds, the SEA or LEA would use State or local funds to implement any laws enacted by the State legislature or rules mandated by the State Board of Education or the SEA. If that is the case, using Title II, Part A funds for those activities would violate the non-supplanting requirement, because the SEA or LEA would be using Federal funds for activities that it would otherwise support with other funds.

- **Test II:** Equivalency – Were state or local funds used in the past to pay for this program or activity? If they were, it is supplanting.

In 2012, Oregon received a conditional ESEA waiver from the U.S. Department of Education (USDE). In order to receive the waiver, states were required to develop guidelines for local evaluation and support systems. As a result, districts have to design their local evaluation systems aligned to state guidelines. This means that Oregon now has both state (SB 290) and federal (ESEA Waiver) requirements for evaluation systems.

An LEA that is using Title II, Part A funds to implement activities related to elements of its SEA’s flexibility request that are required by State law or regulations would not violate the “required by law” presumption of supplanting. Assuming that the particular expenditure falls under one of the allowable uses of Title II, Part A program funds, an LEA may use those funds to implement portions of the educator evaluation system whose costs are allocable to Title II, Part A, even though the evaluation system is required by State law. Test II, however, still applies. If the LEA was using State or local funds to pay for an activity prior to Flexibility, they may not now transfer that activity to Title II, Part A.

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