The U.S. Department of Education (USDE) recently updated its National School Lunch Program (NSLP) guidance regarding the successful implementation of State-administered programs in the Elementary and Secondary Education Act of 1965 (ESEA) without complete NSLP data from school years 2020-2021 and 2021-2022. As a result of COVID-19 related complications, many local educational agencies (LEAs) that chose to participate in U.S. Department of Agriculture (USDA) waivers will not have NSLP data from 2020-2021 and 2021-2022.

Certain ESEA/ESSA programs, such as Title I-A, Title II-A, and Title V-B, require data on the number of low-income students in a school or district. For Title I-A, many LEAs use NSLP data to make low-income determinations. The USDE guidance outlines flexibilities for State educational agencies (SEAs) and LEAs to account for missing 2020-2021 or 2021-2022 NSLP data by using alternate options on Title I and CEP (Community Eligibility Provision): [https://www2.ed.gov/programs/titleiparta/15-0011.doc](https://www2.ed.gov/programs/titleiparta/15-0011.doc).

<table>
<thead>
<tr>
<th>ESEA Program (Statutory or Regulatory Provision)</th>
<th>Activity / Description</th>
<th>If NSLP data from SY 2020-2021 or SY 2021-2022 are not available, then options include using:</th>
</tr>
</thead>
</table>
| **Title I**  
ESEA section 1117(c)(1); 34 C.F.R. §200.64(a)(3)(i) | Equitable services for private school students  
Option for an LEA, in consultation with appropriate private school officials, to use NSLP data to determine the number of private school children from low-income families | ➢ The same measure of poverty used to count public school children;  
➢ Comparable poverty data from a survey and allowing such survey results to be extrapolated if complete actual data are unavailable;  
➢ Comparable poverty data from a different source;  
➢ The application of the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area; or  
➢ An equated measure of low income correlated with the measure of low income used to count public school children. |
| **Title I**  
ESEA section 1113(a)(5)(a); 34 C.F.R. §200.78 | Within-LEA allocations for an LEA (Local Educational Agency) with an enrollment of at least 1,000  
Option for an LEA to use NSLP data to rank schools according to their percentage of public school students from low-income families | ➢ Medicaid or TANF data or a composite of data from these two sources from SY 2020-2021 for SY 2021-2022 within-LEA allocations or from SY 2021-2022 for SY 2022-2023 within-LEA allocations;  
➢ The best available NSLP data, which may be from SY 2019-2020;  
➢ NSLP data from SY 2020-2021 or SY 2021-2022 that may be accessible (e.g., counts of children identified through direct certification, which may be adjusted by 1.6 for within-LEA allocations to account for the lack of household applications[^1]);  
➢ A combination of the best available NSLP data from SYs 2019-2020, 2020-2021, and 2021-2022;  
➢ A composite of the NSLP, Medicaid, and TANF data listed in the previous bullets; or  
➢ Data from a poverty survey conducted by the SEA or LEA that replicate NSLP, Medicaid, or TANF data. |

[^1]: For more information on adjusting by 1.6, see the “Within-District Allocations” section in the following ED nonregulatory guidance.