

GUIDANCE

IDENTIFICATION AND SELECTION OF PUBLIC ATTENDANCE AREAS AND
ALLOCATION OF TITLE I FUNDS TO THOSE AREAS AND SCHOOLS



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INTRODUCTION

This guidance outlines how local educational agencies (LEAs) identify eligible Title I school attendance areas and schools and allocate funds to those attendance areas and schools. This guidance reflects the requirements in Title I, Part A, section 1113 of the Elementary and Secondary Education Act (ESEA), as amended by Every Student Succeeds Act (ESSA).

Although this document outlines specific steps in the allocation process and provides examples illustrating how certain procedures may be carried out, the examples provided should not be regarded as exhaustive or limiting. LEAs may develop alternative approaches that are consistent with the Title I statute but are more in keeping with their needs and circumstances. A more in-depth consideration of these topics is offered in the recently released 2022 Guidance entitled, “[WITHIN-DISTRICT ALLOCATIONS UNDER TITLE I, PART A OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED.](#)”

Identification and Selection of Local Education Agencies (LEAs) and Charter School Attendance Areas and Allocation of Title I Funds

General Selection Requirements

1. An LEA must rank all its school attendance areas (the geographic area from which a public school draws its children) according to their percentage of poverty.
 - An LEA must use the same measure of poverty for:
 - Identifying eligible school attendance areas.
 - Determining the ranking of each area.
 - Determining the allocation for each area.
 - An LEA must rank school attendance areas based on the percentage (not the number) of low-income children counted.
 - The LEA must select a poverty measure from the following options:
 - Children ages 5-17 in poverty as counted in the most recent census data approved by the Secretary.
 - Children eligible for free and reduced-priced lunches under the Richard B. Russell National School Lunch Act.
 - Children in families receiving assistance under the State program funded under Title IV, Part A of the Social Security Act (Temporary Assistance for Needy Families).
 - Children eligible to receive medical assistance under the Medicaid program.
 - A composite of any of the above measures.
2. An LEA must determine the time frame from which its data is drawn.
 - To determine the appropriate percentage of poverty assigned to an area, an LEA must consider the timeframe from which its data is drawn. In general, an LEA uses the most recently available data, which will be from the previous school year in most cases.

- For example, with respect to Title I school allocations for the 2020-2021 school year, an LEA that uses FRPL data generally would have used data collected during the 2019-2020 school year.
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 - COVID-19 has resulted in exceptions, as the Department describes in its Fact Sheet “Successfully Implementing State-Administered Programs in ESEA without Complete National School Lunch Program Data from School Years 2020-2021 and 2021-2022” (available at: <https://oese.ed.gov/files/2022/01/ED-USDA-Fact-Sheet-Revised-1-12-2022.pdf>).
- Year of data exception for newly opened and significantly expanded charter schools
 - Section 4306 of the ESEA and 34 C.F.R. part 76, subpart H provide an exception for a charter school that newly opens or significantly expands its enrollment by November 1 of the current school year and provides written notice to its LEA pursuant to 34 C.F.R. § 76.788(a) at least 120 days in advance of the opening or expansion.
 - Specifically, the LEA must determine such a school’s Title I allocation based on current year data and provide the school its allocation within five months of the school’s opening or expansion. (ESEA section 4306(a); 34 C.F.R. §76.792(a)).
 - Thus, for the 2020-2021 school year, an LEA would determine a newly opened or significantly expanded charter school’s final Title I allocation based on poverty data collected in the 2020-2021 school year. In addition, for each charter school opening or significantly expanding its enrollment:
 - After November 1 but before February 1 of an academic year, an LEA must ensure that the charter school receives at least a pro rata portion of its Title I allocation on or before the date the LEA allocates funds to other public schools for the succeeding year. (ESEA section 4306(b)(2); 34 C.F.R. §§ 76.792(b), 76.793(b)(1)).
 - On or after February 1, an LEA may choose to provide the charter school with a pro rata portion of its Title I allocation. (34 C.F.R. § 76.792(c)).
3. After an LEA has ranked its school attendance areas by poverty, the LEA must first serve, in rank order of poverty, its areas above 75 percent poverty, including any middle schools or high schools.
 4. An LEA may lower the poverty threshold to 50 percent for high schools served by the LEA. An LEA may, but is not required to, continue to serve (in rank order of poverty) high schools with

poverty percentages between 50 percent and 75 percent before it either serves other schools with a poverty percentage of 75 percent or below or begins to rank and serve schools by grade span. In other words, an LEA **may** serve high schools with 50 percent or more poverty before it serves any elementary or middle schools with a poverty percentage at or below 75 percent.

5. Only after an LEA has served all its areas with a poverty rate above 75 percent may the LEA serve lower-ranked areas. The LEA has the option to (1) continue with the district-wide ranking or (2) rank remaining areas by grade span groupings.
 - The same district-wide poverty average must be used if the LEA selects option (1).
 - If an LEA has no school attendance areas above 75 percent poverty, the LEA may rank district-wide or by grade span groupings.

Grade Span Grouping

- For ranking by grade span groupings, the LEA may use (1) the district-wide poverty average or (2) the district-wide grade span poverty averages for the relevant grade span grouping.
 - An LEA's organization of its schools defines its grade span groupings. For example, if an LEA has elementary schools serving all elementary grades, middle schools, and high schools, the grade span groupings would be grades K-5, 6-8, and 9-12.
 - To the extent an LEA has schools that overlap grade spans (e.g., K-5, K-8, 6-8), the LEA should include a school in the grade span in which it is most appropriate.
6. An LEA with an enrollment of fewer than 1,000 students is not required to rank its school attendance areas. Such an LEA may use other criteria, such as academic performance or the grade span of its schools to determine which of its schools receive Title I funds, or it may choose to allocate Title I funds to all its schools.

LEA Discretion in Selecting Participating Areas and Schools

An LEA may--

- Designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families--i.e., the "35 percent rule."
- Use Part A funds in a school that does not serve an eligible school attendance area if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of the LEA.
- Elect not to serve an eligible school attendance area or school that has a higher percentage of children from low-income families (than a school that is served) if --
 - The school meets the Title I Comparability requirements;
 - The school is receiving supplemental funds from other State or local sources equal to the amount of Title I funds that would have been generated and that are spent according to the requirements of Sections 1114 or 1115; and
 - The funds expended from such other sources equal or exceed the amount that would be provided under Title I, Part A.
- For one additional year only, designate and serve a school attendance area or school that is no longer eligible but was eligible and served in the preceding year.

Allocating Title I Funds to Participating Areas and Schools

1. An LEA must allocate Part A funds to participating school attendance areas or schools, in rank order, based on the total number of children from low-income families in each area or school.
2. If an LEA serves any areas or schools below 35 percent poverty, the LEA must allocate to all its participating schools an amount for each low-income child in each participating school that is **at least 125 percent** of the LEA's allocation per low-income child.
 - An LEA's allocation per low-income child is the total LEA allocation under Title I, Part A, subpart 2 divided by the number of low-income children in the LEA as determined using the poverty measure selected by the LEA to identify eligible school attendance areas. The LEA then multiplies this per-child amount by 125 percent.

- An LEA calculates 125 percent of its allocation per low-income child before the LEA reserves any funds.
 - An LEA must allocate at least this amount for each low-income child in every school the LEA serves, not just for those schools below 35 percent poverty.
 - If remaining funds are not sufficient to fully fund the next ranked eligible school attendance area or school, the LEA may serve the area or school if it determines the funds are sufficient to enable children to make adequate progress toward meeting the State's challenging performance standards.
3. An LEA serving only areas or schools **at or above 35** percent poverty must allocate funds in rank order, based on the total number of low-income children in each area or school but is not required to allocate 125 percent of the LEA's allocation per low-income child. However, in determining what per-child amount to allocate, the LEA should bear in mind the purpose of such funding--to enable children who are most at risk of not meeting the State's challenging student academic achievement standards. The per-child allocation amount must be large enough to provide a reasonable assurance that a school can operate a Title I program of sufficient quality to achieve that purpose.
 4. An LEA is **not** required to allocate the same per-child amount to each area or school. However, **the LEA must allocate a higher per-child amount to areas or schools with higher poverty rates than it allocates to areas or schools with lower poverty rates.**
 5. An LEA that opts to serve schools below 75 percent poverty using grade span groupings may determine different per-child amounts for different grade spans so long as those amounts do not exceed the amount allocated to any area or school above 75 percent poverty. Per-child amounts within grade spans may also vary so long as the LEA allocates higher per-child amounts to areas or schools with higher poverty rates than it allocates to areas or schools with lower poverty rates.

QUESTIONS AND ANSWERS

Q 1. *If an LEA applies the "35 percent rule," must all school attendance areas with at least 35 percent poverty be served?*

A 1. No. However, school attendance areas to be served must be selected in rank order.

Q 2. *Section 1113(b)(1)(D)(ii) allows an LEA to skip an eligible school attendance area or school that has a higher percentage of poverty if the area or school is receiving supplemental funds from other State or local sources that are "spent according to the requirements of section 1114 or 1115." What is meant by "according to the requirements of section 1114 or 1115?"*

A 2. A supplemental State or local program meets the requirements of Section 1114 if the program either----

- Is implemented in a school that meets the minimum 40 percent poverty threshold required to operate a schoolwide program;
- Is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the State's challenging academic achievement standards that all students are expected to meet;
- Is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards; and
- Uses the State's assessment system to review the effectiveness of the program;

OR

A supplemental State or local program meets the requirements of Section 1115 if the program---

- Serves only children who are failing, or most at risk of failing, to meet the State's challenging student academic achievement standards;
- Provides supplementary services designed to meet the special educational needs of the children who are participating in the program to support their achievement toward meeting the State's student academic achievement standards; and
- Uses the State's assessment system to review the effectiveness of the program;

Q 3. *May an LEA allocate a greater per-pupil amount, for example, to schoolwide program schools than to targeted assistance schools since schoolwide programs serve all children in the school?*

A 3. The Title I statute requires allocations to be based on the total number of low-income children in a school attendance area or school. Therefore, poverty is the only factor on which an LEA may determine funding. In other words, an LEA may not allocate funds based on the instructional model, educational need, or any other non-poverty factor. Because Part A places the responsibility for selecting participants and designing programs on schools rather than on the LEA, the LEA will not necessarily be in a position to know in advance the instructional model or educational need when determining allocations.

Q 4. *May an LEA reserve funds from its Part A allocation before distributing funds to school attendance areas?*

A 4. Yes. Before allocating funds, an LEA must reserve funds to--

- Provide services to eligible homeless children, including providing educationally related support services to children in shelters and other locations where homeless children may live;
- Provide services to children in local institutions for neglected children; and
- Meet the requirements for parent and family engagement. An LEA that receives more than \$500,000 under Title I, Part A must reserve at least 1 percent of its allocation for parent and family engagement activities. The LEA must distribute not less than 90 percent of the amount reserved for parent and family engagement to schools receiving Title I services.

In addition, LEAs may reserve funds to—

- Provide, where appropriate under section 1113(c)(4) of the Title I statute, not more than 5 percent of those funds received by the local educational agency under subpart 2, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) for the purpose of attracting and retaining qualified and effective teachers.

- Conduct other authorized activities, such as program-related administrative costs, preschool programs, summer school and other expanded learning time opportunities, professional development, school improvement, and coordinated services.

Because the reservation of funds by an LEA will reduce the funds available for distribution to participating areas and schools, the LEA must consult with teachers, pupil services personnel (where appropriate), principals, and parents of children in participating schools in determining, as part of its LEA plan, what reservations are needed.

Q 5. *May an LEA reserve funds off the top of its Title I allocation before it allocates funds for equitable services?*

A 5. No. An LEA must determine the amount of funds available for providing equitable services prior to any expenditures or transfers of funds. This includes all reservations previously taken “off the top” of an LEA’s Title I allocation, including reservations for administration, parental involvement, and district-wide initiatives.

Q 6. *Is there a maximum amount that an LEA may reserve?*

A 6. No. An LEA must bear in mind, however, that the primary goal of Part A funding is to enable participating children to make adequate progress toward meeting the challenging student achievement standards that all children are expected to meet.

Q 7. *May an LEA consider variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to school attendance areas?*

A 7. Yes, this is an allowable option for the LEA. The statute requires that Part A funds be allocated to school attendance areas and schools based on the number of children from low-income families in each area or school. This provision assumes, for example, that two schools with the same number of low-income children need similar amounts of funds to provide comparable educational programs to participating children. An inequity may occur, however, if schools with similar allocations offering similar instructional programs need to spend different amounts because of the salary and fringe benefit costs of the staff providing the instruction. To address this situation, an LEA may consider variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to school attendance areas or schools. The LEA would pay the differential salary and fringe benefit costs from its administrative funds taken off the top of the LEA's allocation. This policy would have to be applied consistently to staff serving both public and private school children throughout the LEA.

Q 8. How may preschool children be served under Part A?

A 8. There are several ways in which preschool children may be served under Part A. For example, a participating school may use part of its Part A funds to operate a preschool program. An LEA may also reserve an amount from the LEA's total allocation to operate a Part A preschool program for eligible children in the district as a whole or for a portion of the district.

Q 9. Is there any flexibility in how an LEA may count children from low-income families in middle and high schools?

A 9. Of the four measures of poverty the statute permits an LEA to use for identifying eligible school attendance areas and allocating funds to those areas, eligibility for free or reduced price lunch is by far the measure most frequently used. Yet, we know from experience that high school and middle school students are less likely to participate in free and reduced-price lunch programs than elementary school students are. Hence, those schools often may not be identified as eligible for Title I services or, if eligible, may not receive as high an allocation as their actual poverty rate would require. To address the situation, an LEA may use comparable data collected through alternative means such as a survey. Also, an LEA may use the “feeder pattern” concept. This concept allows the LEA to project the number of low-income children in a middle school or high school based on the average poverty rate of the elementary school attendance areas that feed into that school.

<u>DISTRICT</u>	<u>ENROLLMENT</u>	<u>LOW-INCOME #</u>
(Elementary)		
School A	568	364
School B	329	163
School C	588	262
School D	<u>836</u>	<u>277</u>
Total	2,321	1,066
(High School)	2,000	918 (Estimated)

Calculate average percentage of poverty for the four elementary school attendance areas by dividing the total number of low-income children by the total enrollment (1,066 ÷ 2,321). The average percentage of poverty is 45.92%.

Because these four elementary schools feed into the high school, the poverty percentage of the high school is projected to be 45.92%.

To calculate the number of low-income students in high school, multiply the total school enrollment by the average percentage of poverty for the four elementary feeder schools (2,000 x 45.92%). **This is the number used for allocating Title I funds to the high school.**

EXAMPLE OF FEEDER PATTERN

<u>DISTRICT</u>	<u>ENROLLMENT</u>	<u>LOW-INCOME #</u>
(Elementary)		
School A (1)	512	360
School B (1)	322	142
School C (2)	450	100
School D (1)	376	201
School E (2)	504	221
School F (2)	610	307
School G (1)	<u>416</u>	<u>202</u>
Total	3,190	1,533
(Middle School 1)	1,599	890

Calculate average percentage of poverty for elementary attendance areas A, B, D, and G by dividing the total number of low-income children in schools A, B, D, and G by the total enrollment of schools A, B, D, and G ($905 \div 1,626$). The average percentage of poverty is 55.66%.

Because these four elementary schools feed into Middle School 1, the poverty percentage of Middle School 1 is projected as 55.66%

To calculate the number of low-income students in Middle School 1, multiply the total school enrollment by the average percentage of poverty for the four elementary feeder schools ($1,599 \times 55.66\%$). **This is the number used for allocating Title I funds to Middle School 1.**

(Middle School 2)	1,325	532
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Calculate average percentage of poverty for elementary attendance areas C, E, and F by dividing the total number of low-income children in schools C, E, and F by the total

enrollment of schools C, E, and F ($628 \div 1,564$). The average percentage of poverty is 40.15%.

Because these three elementary schools feed into Middle School 2, the poverty percentage of Middle School 2 is projected as 40.15%.

To calculate the number of low-income students in Middle School 2, multiply the total school enrollment by the average percentage of poverty for the three elementary feeder schools ($1,325 \times 40.15\%$). **This is the number used for allocating Title I funds to Middle School 2.**

FEEDER PATTERN EXAMPLE (CONTINUED)

<u>DISTRICT</u>	<u>ENROLLMENT</u>	<u>LOW-INCOME #</u>
(High School)	3,000	1,422

Calculate average percentage of poverty for all elementary attendance areas by dividing the total number of low-income children by the total enrollment ($1,533 \div 3,190$). The average percentage of poverty is projected as 48.06%.

Because all elementary schools eventually feed into the high school, the poverty percentage of the high school is also 48.06%.

To calculate the number of low-income students in the high school, multiply the total school enrollment by the average percentage of poverty for all the elementary feeder schools ($3,000 \times 48.06\%$). **This is the number used for allocating Title I funds to the high school.**

When an LEA elects to use the feeder pattern, the LEA--

- Determines the district-wide average of poverty based on all the schools for which the district is using actual poverty data; and
- Uses this district-wide average to rank all the attendance areas or schools in the district.

If an LEA serves attendance areas or schools below a 35 percent poverty rate, the district's allocation per low-income child must be based on the actual number of low-income children in the feeder schools, and the projected number in the feeder pattern receiving schools.

Q 10. How does an LEA handle unspent funds from the previous year that are carried over into the next when allocating funds to public school attendance areas?

A 10. Although an LEA may not use carryover funds to provide services in an ineligible school, an LEA has considerable discretion in handling carryover funds. Some of these options include:

- Add carryover funds to the LEA's subsequent year's allocation and distribute them to participating areas and schools in accordance with allocation procedures that ensure equitable participation of non-public school children.
- Designate carryover funds for activities that could best benefit from additional funding. (Examples: parental and family engagement activities; highest poverty schools)

An LEA may not carry over more than 15 percent of its allocation from one year to the next.¹ NYSED may waive the percentage limitation once every three years, if it determines that the request of an LEA is reasonable and necessary or if supplemental appropriations become available. If an LEA transfers the use of funds from another ESSA program into Title I, Part A, then the additional amount transferred is added to the LEA's Title I, Part A allocation and the combined amount becomes the base for calculating the 15% carryover limitation.

¹ This percentage limitation does not apply to an LEA that receives less than \$50,000.