



Fall Forum 2023
Bracing For Significant Regulatory Changes




ESEA HOT TOPICS

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AGENDA

- Fiscal Sustainability post-ESSER
 - Title I Funding
 - Fiscal Rules
 - ED Technical Assistance
- Title I Resource Allocation/Inequities
- Title I-A Alternate Assessment Cap
- CEP Changes and Title I-A
- Updated 21st Century CCLC Guidance (DRAFT)
- Prior Approval on PACs and PSCs
- ESEA Weapons Prohibition

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Fiscal Sustainability

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STIMULUS FUNDS SPENDING DEADLINES

Program	Obligation deadline	(Automatic) 120-day liquidation deadline	(Up to) 14-month liquidation extension
ESSER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
ESSER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP ESSER	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026
GEER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
GEER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
CRRSA EANS	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP EANS	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026

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APPROPRIATIONS OUTLOOK

Program	FY 2023 President's Proposal	FY 2023 Final	FY 2024 President's proposal	Percent change v. FY 2022
Title I-A	\$37,281	\$19,088	\$20,536	11.69%
Title I-C	\$376	\$376	\$376	--
Title II	\$2,149	\$2,190	\$2,190	--
Title III	\$1,075	\$890	\$1,195	34.3%
21 st Century	\$1,310	\$1,330	\$1,330	--
Title IV-A/SSAE	\$1,220	\$1,380	\$1,405	1.81%
IDEA Part B	\$16,259	\$14,194	\$16,259	14.55%
CTE State Grants	\$1,355	\$1,430	\$1,473	3.04%
AEFLA	\$739	\$729	\$759	4.11%
CCDBG	\$7,562	\$8,021	\$9,000	12.2%

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APPROPRIATIONS OUTLOOK

Program	FY 2023 Pres. Proposal	FY 2023 Final	FY 2024 Pres. proposal	House Bill	House bill vs. 2023 Final
Title I-A	\$37,281	\$19,088	\$20,536	\$3,682*	-80%
Title I-C	\$376	\$376	\$376	\$376	--
Title II	\$2,149	\$2,190	\$2,190	\$0	-100%
Title III	\$1,075	\$890	\$1,195	\$0	-100%
21st Century	\$1,310	\$1,330	\$1,330	\$1,330	--
Title IV-A/SSAE	\$1,220	\$1,380	\$1,405	\$1,380	--
IDEA Part B	\$16,259	\$14,194	\$16,259	\$14,194	--
CTE State Grants	\$1,355	\$1,430	\$1,473	\$1,430	--
AEFLA	\$739	\$729	\$759	\$729	--
CCDBG	\$7,562	\$8,021	\$9,000	\$8,021	--

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TWO POTENTIAL SHIFTS FOR ESEA FUNDING

- For the first time, appropriators (at least of one party) are signaling a willingness to cut funding for core formula programs
 - Including through rescission of prior year funds
- Willingness to shake up allocations within four Title I funding formulas
 - Proposed FY 2022 House appropriations bill would have increased only Targeted and EFIG formulas, not all four
 - Not adopted, but would result in States with higher percentages of identified students OR increased State contributions getting increases
- Overall willingness to rethink Title I / other formula funding?

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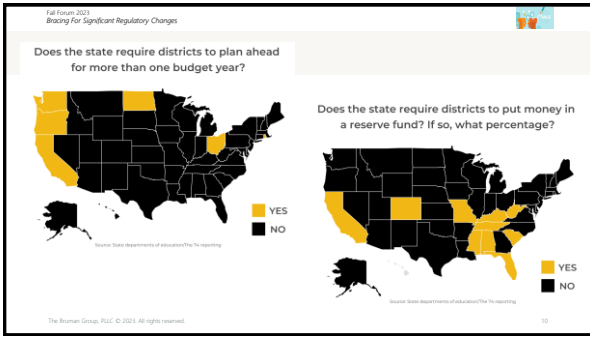
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FISCAL SUSTAINABILITY

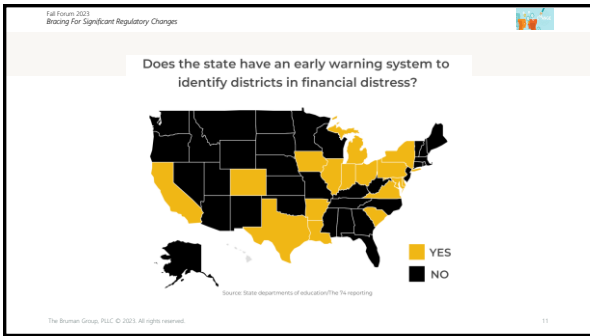
- When COVID-19 funds expire, other federal programs left to pick up responsibilities
 - Title !!!
- Regular year federal funding for education will not be increasing to fill the void from stimulus funds
- Only a handful of States have safeguards/planning requirements in place for fiscal emergencies

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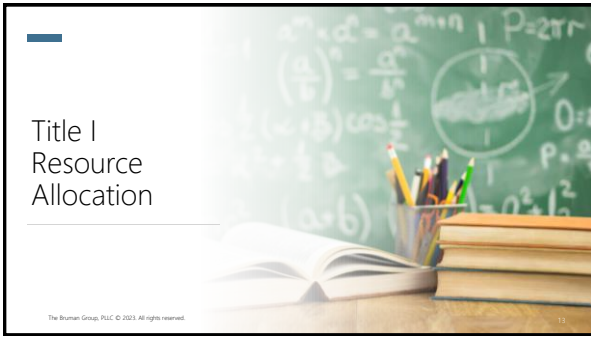
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FISCAL SUSTAINABILITY

- ED letter in August 2023 announced 13-month TA initiative
 - Strategic Planning for Continued Recovery**
- Invites every State to assemble a cross-functional team of SEA, LEA, and other leaders to:
- Engage with peers from across the country;
 - Collaborate with nationally recognized school finance experts, including experts in integrating Federal funding streams with State and local funding; and
 - Help you construct plans to sustain your highest-leverage recovery strategies beyond fall 2024.

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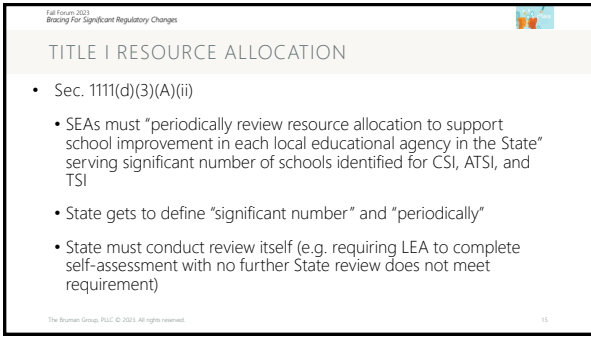
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TITLE I RESOURCE ALLOCATION



How many States know that they have a Title I resource allocation review process in place?

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TITLE I RESOURCE INEQUITIES

- Sec. 1111(d)(1)(B)(iv) and (2)(C)
 - Plans for CSI and ATSI must identify resource inequities to be addressed through plan implementation
 - May include inequities identified through State's resource allocation review, as well as review of LEA and school-level budgeting
 - CSI plans → developed by LEA in partnership with stakeholders; approved by school, LEA, and State
 - ATSI plans → developed by school in partnership with stakeholders; approved by the LEA

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TITLE I RESOURCE ALLOCATION

- [Letter from ED July 2023](#)
- Over the last year, ED piloted monitoring protocol for Title I resource allocation/inequities (9 States)
 - Based on monitoring pilot, ED compiled recommendations/resources for each requirement

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STATE RESOURCE ALLOCATION REVIEW RECS

1. Determine LEAs serving "significant" number of identified schools by using a threshold that includes a percentage and/or a number
2. Consider broad variety of factors to define "resources" that includes financial and nonfinancial resources from local, State, and federal sources
3. Align the timing for conducting a resource allocation review with the State's school identification timeline such that a review is being conducted at least every three years
4. Integrate the resource allocation review into existing processes for monitoring, school improvement, and budgeting
5. Compare financial and non-financial resource allocation data both across and within LEAs

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STATE RESOURCE ALLOCATION REVIEW RECS

6. Analyze State-identified resources alongside disaggregated student demographic info and outcome measures, including measures in the State's accountability system
7. Engage with diverse stakeholders such as LEA leaders, educators, community members, family members, students, and other education stakeholders during the resource allocation review process to support strong implementation
8. Provide the results of the review to the LEAs and work with them to take action to address the results of the review
9. Publicly post the results of the resource allocation review and tools the State used to conduct its review

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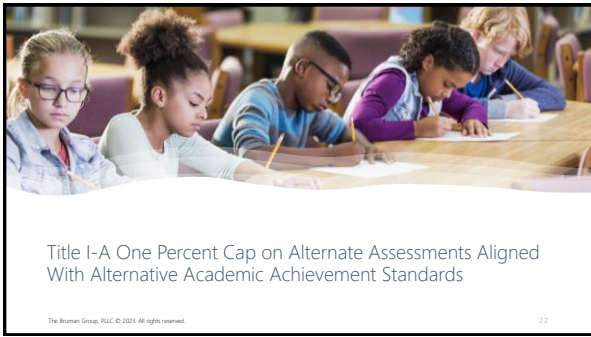
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RECS FOR STATES RE: IDENTIFYING RESOURCE INEQUITIES IN CSI/ATSI PLANS

1. Develop or update CSI and ATSI plan templates to explicitly include identification of resource inequities and how they will be addressed
2. Implement clear processes for reviewing CSI plans to ensure each plan meets all requirements, including identifying and addressing resource inequities, and develop guidance that encourages LEAs to mirror this State-level work in the review of ATSI plans
3. Provide guidance or technical assistance to LEAs and schools on identifying and addressing specific, measurable resource inequities
4. Support LEAs and schools in selecting, implementing, and evaluating specific strategies that address identified resource inequities within a CSI or ATSI plan

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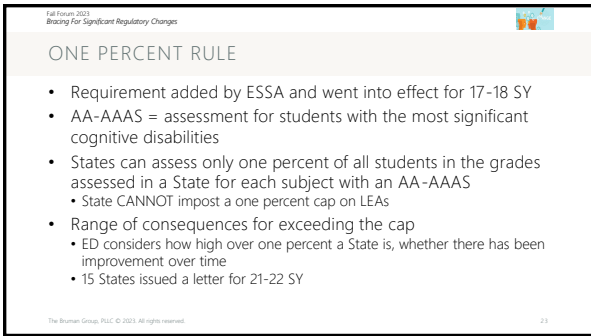


Title I-A One Percent Cap on Alternate Assessments Aligned With Alternative Academic Achievement Standards

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Fall 2021-2023
Briefing for Significant Regulatory Changes



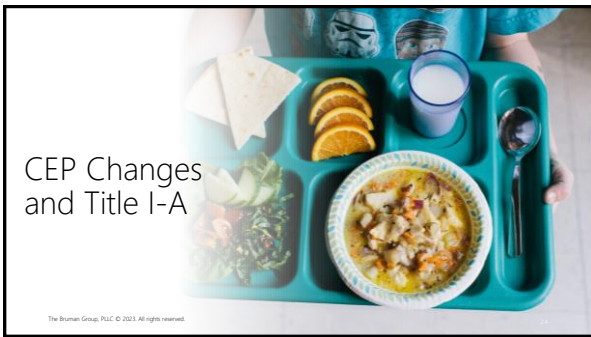
ONE PERCENT RULE

- Requirement added by ESSA and went into effect for 17-18 SY
- AA-AAAS = assessment for students with the most significant cognitive disabilities
- States can assess only one percent of all students in the grades assessed in a State for each subject with an AA-AAAS
 - State CANNOT impose a one percent cap on LEAs
- Range of consequences for exceeding the cap
 - ED considers how high over one percent a State is, whether there has been improvement over time
 - 15 States issued a letter for 21-22 SY

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CEP Changes and Title I-A

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CEP FINAL RULE

- What is CEP?
 - Allows eligible schools with certain poverty threshold to offer no-cost meals to all enrolled children without collecting household applications
- Effective October 26, 2023
- Lowers the minimum identified student percentage (ISP) from 40 percent to 25 percent
 - More schools will be eligible to participate in CEP
 - Newly eligible schools will not receive enough in reimbursement to cover all costs

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CEP IMPACT ON TITLE I-A

- Title I-A allocations to States/districts based on census-derived poverty data
- BUT allocations to each school building are most often based on FRPL data
 - Schools participating in CEP do not collect household applications for free and reduced-price lunch
 - Must use common poverty metric for rank and serve for districts with CEP and non-CEP schools → Direct cert?


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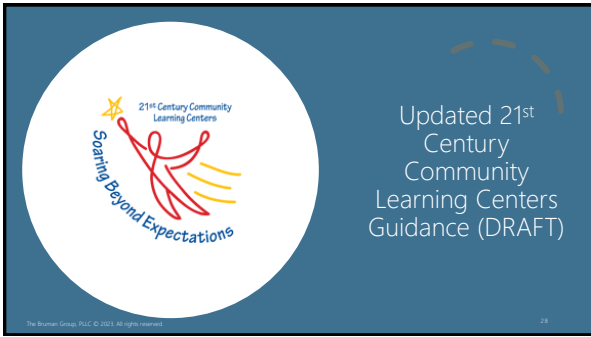
ESRA REAUTHORIZATION AND DATA CHANGES

- Senate considering reauthorization of Education Sciences Reform Act (ESRA) to instruct IES to study alternatives to FRPL for Title I purposes
- Timeline: 3-5 years before study results

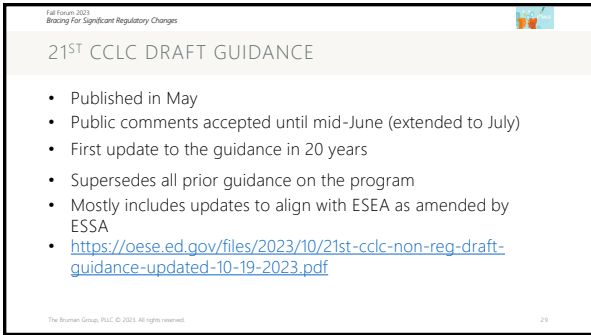


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ED Letter on
PACs and PSCs

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ED LETTER ON PRIOR APPROVAL/PARTICIPANT SUPPORT COSTS

- Issued December 2022
- Grants prior approval for SEAs to approve PACs for subgrantees
- AND pay PSCs of \$5,000 or less per participant per event
 - Under certain circumstances
 - Costs must be associated with formula grant programs in the SEAs ESEA consolidated state plan

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ED LETTER ON PRIOR APPROVAL/PARTICIPANT SUPPORT COSTS

- Applies under the following programs for the duration of the consolidated plan:
 - Title I-A
 - Title I-B
 - Title I-C
 - Title I-D
 - Title II-A
 - Title III-A
 - Title IV-A
 - Title IV-B
 - Title V-B Subpart 2
 - McKinney-Vento

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PRE-AWARD COSTS

- "The Department is granting prior approval for any PAC incurred by a subgrantee on or after the date that the SEA received the Federal award"
- Costs "incurred prior to the effective date of the Federal award or subaward directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal Award"
- PACs must be:
 - In anticipation of the federal subaward
 - Where such costs are necessary for efficient and timely performance of the program
- Otherwise would require prior approval from ED under 2 CFR 200.458

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PARTICIPANT SUPPORT COSTS

- "The Department is granting prior approval for any PSC that does not exceed a total cost of \$5,000 per individual participant or trainee per conference, training, or event"
- PSCs are "direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects" (2 CFR § 200.1)
- Otherwise allowable costs if they are necessary and reasonable for the performance of the award AND would require prior approval from ED

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ED LETTER ON PRIOR APPROVAL/PARTICIPANT SUPPORT COSTS

- SEA no longer required to submit individual requests for prior approval of qualifying PACs or PSCs to ED
- Does not preclude the SEA from requiring its subgrantees to request prior approval from the SEA for all PACs and PSCs
 - Or for PSCs that exceed an SEA-determined threshold below the threshold granted in this prior approval
- Does not apply to expenditures for equipment

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ED LETTER ON PRIOR APPROVAL/PARTICIPANT SUPPORT COSTS

"Please note that this prior approval does not mean that a particular PAC or PSC is deemed an allowable cost under an applicable program. That determination must be made by the grantee or subgrantee in accordance with applicable statutory and regulatory requirements of the program. Nor does this prior approval in any way diminish the responsibilities of your agency to monitor and ensure that the expenditure of program funds, including expenditures for PACs or PSCs, meet all applicable requirements of a program."

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ESEA
Weapons
Prohibition

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BIPARTISAN SAFER COMMUNITIES ACT

- Signed into law in June 2022
- Adds language in ESEA Sec. 8526:
 - No funds under ESEA may be used—
 - (7) for the provision to any person of a **dangerous weapon**, as defined in section 930(g)(2) of title 18, United States Code, **or training in the use of a dangerous weapon.**

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ESEA WEAPONS PROHIBITION

What does "dangerous weapon" mean for the context of ESEA prohibition?

"The term '**dangerous weapon**' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length."

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USING FUNDS FOR WEAPONS/TRAINING

C-21. May funds be used for school-based police officers, law enforcement, or school resource officers (SROs)?

Yes. If an LEA chooses to use funds for this purpose, as a recipient of Federal funds, LEAs must ensure school-based officers (e.g., law enforcement, security, or school resource officers and others with arresting powers), like all school employees or other individuals with whom a recipient contracts or otherwise exercises some control over, comply with Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, or disability.

[BSCA Stronger Connections FAQs](#)

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USING FUNDS FOR WEAPONS/TRAINING

D-1. May Stronger Connections funds be used to arm teachers or other individuals, or to provide training in the use of weapons?

No. Section 13401 of the BSCA amended Section 8526 of the ESEA to prohibit the use of ESEA funds, including those under Stronger Connections, to provide to any person a dangerous weapon or training in the use of a dangerous weapon.... Accordingly, funds may not be used, for example, to purchase a firearm or to train teachers to use a firearm.

[BSCA Stronger Connections FAQs](#)

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WEAPONS PURCHASES AND TRAINING

ED to a State: "under the plain language of the new prohibition on dangerous weapons, archery programs, hunting safety programs, and any other programs—such as wilderness safety courses—that provide, or provide training in the use of, items that are technically dangerous weapons may not be funded."

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CONGRESSIONAL RESPONSE

Cornyn/Tillis [letter](#) (7/10): "misinterpreted"... "exceeds its scope under the law"... "only meant to withhold funding from training school resource officers with 'dangerous weapons,' not enrichment programs for students."

House Education and Workforce [Committee letter](#) (8/3): "egregious, irresponsible overreach" ... "flies in the face of Congressional intent" ... "gross misinterpretation" ... "to advance a radical, Far-Left, anti-gun agenda."

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CONGRESSIONAL FIX

- Protecting Hunting Heritage and Education Act
- Signed into law October 6, 2023
- Amends the weapons prohibition in Sec. 8526 to add:
 - "except that this paragraph shall not apply to the use of funds under this Act for activities carried out under programs authorized by this Act that are otherwise permissible under such programs and that provide students with educational instruction or educational enrichment activities, such as archery, hunting, other shooting sports, or culinary arts."

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