

Fall Forum 2023
Bracing For Significant Regulatory Changes

SERVICE SPECIAL POPULATIONS (K-12)



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TOPICS TO BE COVERED

- ✓ Monitoring Findings and Performance Reviews
- ✓ Title III-Part A (English Learners)
- ✓ Title I-Part C (Migrant Students)
- ✓ McKinney Vento (Homeless Students)
- ✓ Title I-Part D (Neglected or Delinquent Children)
- ✓ Title IV-Part B (21st Century Community Learning Centers)

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PERFORMANCE REVIEWS AND CONSOLIDATED REPORTS

<https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/performance-review/>

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CONSOLIDATED REPORTS


- Review financial management, cross-cutting requirements, and programmatic requirements across key programs that SEAs administer
- Indicators:
 - "met requirements with commendation,"
 - "met requirements,"
 - "met requirements with recommendations,"
 - and "action required."



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TITLE III-PART A (ENGLISH LEARNERS)

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ENGLISH LEARNERS – USE OF FUNDS

Required Activities

- Increase English language proficiency of English learners
- Effective professional development (including teachers in classroom settings that are not the settings of language instruction educational programs)
- Provide and implement other effective activities and strategies that enhance or supplement language instruction educational programs for English learners.
 - e.g., parent, family, and community engagement activities

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ENGLISH LEARNERS – USES OF FUNDS

Authorized subgrantee activities

- Upgrading program objectives and effective instructional strategies
- Improving the instructional program for English learners
- Developing and implementing effective preschool, elementary school, or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

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ENGLISH LEARNERS – USES OF FUNDS (CONT.)

- Improving language proficiency and academic achievement of English learners.
- Providing community participation programs, family literacy services, and parent and family outreach and training activities to English learners and their families
- Offering early college high school or dual or concurrent enrollment programs or courses designed to help English learners achieve success in postsecondary education.
- Carrying out other activities that are consistent with the purposes of this section.


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FLORIDA - CONSOLIDATED PERFORMANCE REVIEW (2023)

- **Supplement, not supplant rules** (ESEA section 3115(g))
- "LEA used its immigrant subgrant funds to contract with a language line to provide interpretation and translation services [...] and to translate the LEA's Parent Guide and other [...]"
- Remember civil rights laws!
 - "SEAs and LEAs have an obligation to help ELs overcome language barriers and ensure those students can participate meaningfully in an LEA's educational programs."




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FLORIDA - CONSOLIDATED PERFORMANCE REVIEW (2023)

- **Parental Notification** (ESEA section 1112(e)(3)(A)-(B))
- LEA must provide notification to parents of ELs that contains specific information:
 - Understandable, uniform format, to extent practical language that parents can understand
 - Include parental rights, in writing
- Verbal notifications about participation during "ELL Committee" meetings, but NO written notification
- What about parents that do not attend the meetings?



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TITLE I-PART C MIGRANT STUDENTS

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CRITERIA FOR DETERMINING ALLOWABLE USE OF MEP FUNDS FOR AN ACTIVITY OR SERVICE

1. Does the activity or service address a need identified in the MEP statewide comprehensive needs assessment (CNA)? Is the activity or service aligned to the strategies in the MEP statewide service delivery plan (SSDP)?
2. Are the funds being used to meet the identified needs that result from the children's migratory lifestyle and to permit the children to participate effectively in school?
3. Does the activity or service supplement, and not supplant, non-Federal funds?
4. Is the need already addressed by service available from other programs?
5. Are the costs reasonable and necessary, and allocable (i.e., chargeable) to the MEP relative to the benefit received?


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IDENTIFICATION & RECRUITMENT

- Follow state and local health directives (examples):
 - Conduct interviews remotely to complete COE
 - Proceed with eligibility determination, even without interviewee signature
 - Standardized Note to file on why signature was not obtained
 - Recruiter/SEA Reviewer signature still required
 - May use electronic signatures




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RE-INTERVIEWING

- No changes to re-interviewing/annual validation of eligibility determinations
 - 34 CFR 200.89(b)(2)
- Regulations already provide flexibility to use alternatives to face-to-face re-interviews
 - COVID-19 valid reason in person
 - re-interviews are "impractical"
- State's Re-interview guidance



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MAINE - CONSOLIDATED PERFORMANCE REVIEW (2023)

- Provision of Services—Comprehensive Needs Assessment (CNA)**
- The SEA's written State plan must be based on a **current** statewide CNA.
 - ESEA §§ 1306(a), 1304(b)(1), 1304(b)(6), 1304(c)(4), 1304(c)(6), 1304(d), and 1304(e) EDGAR 34 CFR § 200.83
- No evidence that a Statewide CNA was performed after spring 2017.

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MAINE - CONSOLIDATED PERFORMANCE REVIEW (2023)

- **MSIX – Data Exchange**
- ESEA §§ 1304(b)(3) and 1308(b)(2); EDGAR 34 C.F.R. § 200.85
- MDOE is not using the most up-to-date MSIX MDE List (v. 11, approved October 2019) to report assessment
- OME reviewers concluded that MDOE is not submitting complete data to MSIX.

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CHANGE IN DATA SOURCE - MSIX


- Starting with fiscal year 2023 allocations, [ED changed the data source it uses](#) to calculate State allocations for the Migrant Education Program (MEP).
- This change began with the 2021–22 performance reporting period, the data extracted from MSIX in mid-December 2022.

REMEMBER

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MCKINNEY VENTO (HOMELESS STUDENTS)

EDUCATION FOR HOMELESS CHILDREN AND YOUTH (EHCY)

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MCKINNEY VENTO (HOMELESS STUDENTS)

In general, LEAs must:

- continue a homeless child's or youth's education in the school of origin for the duration of homelessness and for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or
- enroll the homeless child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend [42 U.S.C. § 11432(g)(3)(A)].



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MCKINNEY VENTO (HOMELESS STUDENTS)

School stability provisions require LEAs to:

- Child's school of origin is in their best interest,
- consider student-centered factors:
 - impact of mobility on achievement, education, health, and safety of homeless children and youths, priority to child's request
- provide a written explanation of the reasons for the LEA's decision
 - including right to appeal, to the parent or guardian of a homeless student or to an unaccompanied homeless youth,
- the local liaison assists in placement or enrollment decisions, gives priority to the views of the youth, and provides notice of the right to appeal

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STANDARDS AND INDICATORS FOR QUALITY LEA MCKINNEY-VENTO PROGRAMS (2017)

- All homeless students participate fully in school.
 - Percent of homeless students chronically absent compared to the overall rate of students chronically absent
- All homeless students show academic progress
 - Percent of homeless students who achieve academic proficiency compared to the proficiency rate for all students in the LEA
- The LEA identifies all homeless children and youth through outreach, including outreach to specific subgroups including preschool-aged children, unaccompanied homeless youth, out of school youth, and migratory children and youth
 - Percent of homeless children and youth identified by the LEA during a school year compared with the percent poverty in the school district or community

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KEEP KEY DOCUMENTS ON HAND

- LEA and State dispute resolution policies;
- LEA policies related to the enrollment and education of homeless children and youth;
- memoranda and communications from the State Coordinator;
- LEA's McKinney-Vento subgrant proposal;
- homeless education program monitoring reports;
- barrier tracking logs (phone and e-mail);
- LEA data on homeless children and youth; and
- community organization contacts for homeless families.

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ARP HCY GRANTS

- ARP created a separate set-aside for homeless children and youth; ED awarded it in two rounds: ARP Homeless I and II
- How is ARP HCY different from McKinney Vento?
 - ARP HCY is allocated by formula
 - ARP HCY period of availability ends Sept 30, 2024
 - ARP HCY has no supplement not supplant requirement
 - States may reserve up to 25% for State activities (consistent with McKinney Vento), inclusive of admin/indirect

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MICHIGAN – PROGRAM MONITOR REPORT (2023)

- **SEA Monitoring and Evaluation**
- SEA must monitor LEAs.
 - McKinney-Vento Act § 722(f)(5); 2 C.F.R. §§ 200.329, 200.332(d)
- MDE did not conduct program-specific monitoring for EHCY and ARP-HCY for FY 2023.
- "While MDE's closeout of 865 LEA self-assessments from 2020 required a great deal of effort, as did the document and desk review for selected LEAs in FY 2022, there was no evidence that programmatic monitoring of LEAs for both EHCY and ARP- HCY program requirements occurred during FY 2023"

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MICHIGAN – PROGRAM MONITOR REPORT (2023)

- **SEA and LEA Performance Evaluation**
- Data submitted highlighted issues in underperformance in chronic absenteeism and graduation rates.
- Recommendation:
 - Use data to develop and provide targeted trainings LEA staff responsible for collecting and reporting homeless program data to improve the program and services offered.

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ARIZONA – PROGRAM MONITOR REPORT (2023)

- **SEA fiscal oversight**
- “On July 9, 2021, the Department promulgated a rule for ARP-HCY that specified the formula for distributing ARP Homeless II funds to LEAs. Under this rule, SEAs must allocate at least 75 percent of ARP-Homeless II funds to LEAs following the required formula.”
- Arizona had not finalized its ARP Homeless II allocations

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SOUTH CAROLINA – PROGRAM MONITOR REPORT (2023)

- **SEA Monitoring and Evaluation**
- SEA must monitor LEAs.
 - McKinney-Vento Act § 722(f)(5); 2 C.F.R. §§ 200.329, 200.332(d)
- SCDOE did not monitor since 2019 “and has not monitored ARP Homeless I and II subgrantees”

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SOUTH CAROLINA – PROGRAM MONITOR REPORT (2023)

- **SEA Fiscal Oversight Title I, Part A Homeless Set-Aside**
- Some LEAs did not reserve any funds
- Some LEAs have reserved the **same** amount over multiple years even if their student counts changed
- In one district, the set-aside were used for transportation (not allowable under Title I-A homeless set-aside).

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**TITLE I-PART D
(NEGLECTED OR
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CHILDREN)**

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TITLE I-PART D (NEGLECTED OR DELINQUENT CHILDREN)

- Subpart 1 (SAs)
 - supplementary education services for children and youth in State-run neglected and delinquent institutions, community day programs, and adult correctional institutions, so that these children and youth can make successful transitions from institutionalization to further schooling school or employment.
- Subpart 2 (LEAs)
 - the SEA awards subgrants to LEAs with high numbers or percentages of children and youth residing in locally operated correctional facilities for children and youth. Funds may be used to support education programs and transition activities in such facilities, as well as drop-out prevention programs for at-risk youth in schools within the LEA.

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TITLE I-PART D (NEGLECTED OR DELINQUENT CHILDREN)

- How does the SEA ensure that it meets the following State plan requirements:
 - The SEA assists in the transition of children and youth from correctional facilities to locally operated programs (§1414(a)(1)(B)); and
 - The SEA assesses the effectiveness of the program in improving the academic, career, and technical skills of children in the program by using the program objectives and outcomes it has established (§1414(a)(2)(A))

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TITLE I-PART D (NEGLECTED OR DELINQUENT CHILDREN)

Allowable Uses – LEAs

- programs to children and youth returning to local schools from correctional facilities (transition back)
- dropout prevention programs
- coordination of health and social services (day care, drug and alcohol counseling, and mental health services)
- special programs
 - (career and technical education, special education, career counseling, curriculum-based youth entrepreneurship education)
- programs for at-risk Indian-tribes children and youth
- pay for success initiatives
- mentoring and peer mediation programs

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TITLE I-PART D (NEGLECTED OR DELINQUENT CHILDREN)

Parental Involvement:

- In its application, an SA must assure that it will work with parents to secure their assistance in improving their children's and youth's educational achievement and, as appropriate, preventing further involvement in delinquent activities.


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ALABAMA - PROGRAM MONITORING REPORT (2023)

- **Subgranting to eligible LEAs; ESEA § 1422**
- LEA did not have a facility within its boundaries that met the definition of a "locally operated correctional facility" under 34 C.F.R. § 200.90(c).
- "Specifically, the facility forming the basis for the LEA's eligibility does not serve delinquent children and youth, which must be 'adjudicated to be delinquent or in need of supervision' consistent with ESEA section 1432(4)(B):"



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ALABAMA - PROGRAM MONITORING REPORT (2023)

- **Program Requirements: Agreements; ESEA § 1425**
- an LEA must enter into a formal agreement with each correctional facility receiving services
- "In each of the LEAs that were interviewed during this monitoring process, the staff stated they were unaware of the need to have an agreement. In addition, SEA staff responded that they were also not aware of this requirement"

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ALABAMA - PROGRAM MONITORING REPORT (2023)

- **Annual Count of Students; ESEA §§ 1124(c)(1)(B), (4)(B); 1402(b); 1432(1), (3), and (4)**
- Children who reside in a facility to be reported as part of the delinquent count for an LEA, the facility must be a residential facility for children who have been adjudicated to be delinquent or in need of supervision.
- Error in children and youth reported as "delinquent"

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TITLE IV, PART B
21ST CENTURY COMMUNITY
LEARNING CENTERS (CCLC)

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NEW GUIDANCE!

- Updated October 19, 2023!
- <https://oese.ed.gov/files/2023/10/21st-cclc-non-reg-draft-guidance-updated-10-19-2023.pdf>
- Covers
 - State allocations and State responsibilities (fiscal flexibilities, transferability and consolidation of funds)
 - State competitive grant process and allowable local uses of funds,
 - information on State and local evaluation and monitoring requirements.
 - updated language to reflect changes in the law, such as the move from "scientifically based research" to "evidence-based interventions."


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CALIFORNIA - PROGRAM MONITORING REPORT (2023)

- **Monitoring travel safety; §4204(b)(2)(A)(ii)**
- CDE's monitoring instrument has section "Safe Access to Facilities" that does not address transportation.
- Required Action Within 60 business days from the date of this report, CDE must submit a plan and timeline for how it will revise its monitoring protocol to monitor students travel safely




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CALIFORNIA - PROGRAM MONITORING REPORT (2023)

- Preliminary grant for after-funding life; §4204(b)(2)(K)
- CDE's monitoring instrument did not include questions on sustainability.
- CDE must monitor sustainability, not just provide technical assistance on it



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FLORIDA - PROGRAM MONITORING REPORT (2023)

- SEA uses not more than 5 percent of its annual allocation for activities to support subgrantees
- FDOE contracts with University of South Florida for tech assistance, data collection, and monitoring
- "Costs associated with the peer review process and awarding funds to eligible entities are not allowable under the 5 percent set aside for State activities; however, costs for these activities are allowable under the 2 percent set aside for administration."

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D.C. - PROGRAM MONITORING REPORT (2023)


- Met requirements in almost all areas!
- Applicant establishes plan for expanded learning program (ELP); §4204(a)(2)(A)(B)(C)
 - OSSE submitted a screenshot of the "expanded learning time" section from its most recent request for applications (RFA) to explain its use of 21st CCLC funds for expanded learning time; however, under §4204(a)(2) the term is expanded learning program.
 - Recommendation The Department recommends that OSSE update the language from expanded learning time to expanded learning program in its RFA and other related documentation

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GENERAL DISCUSSION QUESTIONS




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Can I use federal grant funds to pay for backpacks, clothes, sports uniforms, band instruments, etc. for eligible students?




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If on a field trip, can I use grant funds to pay for lunches for eligible students?




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If the district offers a summer school program for remedial classes, can federal programs be charged according to eligible students participating in the program?




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What are the supplement not supplant requirements under each of these programs?



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