

# Exploring Title I Portability

*A Comprehensive Guide to Relevant Provisions of the Title I Program of  
Education for Disadvantaged Children*



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# Executive Summary

## *This report provides:*

- A description of aspects of the current major features of the ESEA Title I program, as currently implemented, with special emphasis on those features that might be especially relevant to portable grant proposals.
- A description and analysis of legislative proposals that have been considered that would authorize the provision of Title I assistance in the form of portable grants, including issues raised by such proposals and possible ways to address them in future portable grant proposals.
- Review of arguments favoring, and concerns about, adoption of a portable Title I grant structure.
- Key design elements of Title I portable grants, with a focus on options for authorizing portable grants under Title I and legislative solutions to reduce barriers to Title I portability.

Title I, Part A, of the Elementary and Secondary Education Act (ESEA)—the largest federal K-12 education program with fiscal year (FY) 2018 funding of \$15.8 billion—authorizes aid to state education agencies (SEAs) to disburse to local education agencies (LEAs) for the education of disadvantaged children.<sup>1</sup>

As implemented, Title I grants are used to provide supplementary educational and related services to the lowest achieving pupils attending schools with concentrations of pupils from low-income families that are relatively low by national standards but relatively high in the context of the LEA (targeted assistance), and to all pupils attending schools with moderate to very high concentrations of pupils from low-income families (schoolwide programs).

Services (not funds) are also provided to educationally disadvantaged students who live in districts served by Title I-eligible public schools but who attend private schools (equitable services). Services to students in public and private schools may be provided at pre-kindergarten through high school levels, although a large majority of the pupils served are in kindergarten through grade 7.

Under current law and policy, Title I is very much a “school-based” program focused on directing funds to schools with relatively high percentages of students from low-income families. Once federal allocations are made to the states, most of the funds are allocated to individual schools. The great majority of these Title I schools, in which the vast majority of students are served, are schoolwide programs, under which Title I funds may be used to supplement the education of all students in the school.

Although Title I is intended to serve students disadvantaged by concentrated poverty, services are, in fact, spread so broadly that approximately 84% of all LEAs, 56% of all public schools, and 45% of all public school pupils nationwide participate in the program.<sup>2</sup> Because services are spread so broadly, and because of the increasing dominance of the schoolwide program mode of providing services, the national average Title I grant per student served is only \$605.

As currently implemented, Title I funds do not follow students if their parents choose to enroll them in a different school, no matter how low their family income or their educational achievement level, or how high the level of poverty concentration in their school or neighborhood.

As a result, there is interest in offering optional alternative methods of delivering Title I services by providing grants that are specific to individual high need students, and that are portable – transferrable to the eligible student’s school of choice,

including a district public school outside of the student's resident school district, a charter school, a private school, or to obtain supplementary instruction from a tutorial services provider.

**Proponents of the portable grant concept for Title I often make the following arguments:**

- Portable grants might offer eligible students a substantial opportunity to attend a more effective school or obtain more effective educational services.
- A portable grant format would be more compatible than the present program structure with the variety of school choice options available in many states/LEAs.
- A portable grant structure might be a way to reduce the imbalance between elementary and secondary students in providing Title I services.
- Portable grants might be a simpler and more effective way to provide equitable services to Title I eligible students attending private schools.

**Opponents to the portable grant concept for Title I often express a variety of concerns including:**

- The targeting of Title I funds on schools and pupils with the greatest need for assistance could be reduced depending on how portability was implemented.
- Concerns regarding economies of scale argue against dispersal of Title I grants among potentially all schools in a locality.
- Portable grants might either expand administrative burdens to more schools, or reduce accountability for use of Title I funds to meet the unique needs of disadvantaged pupils.
- Portable grant proposals would initiate a significant new form of federal support to parents who choose private schools, as well as tutorial services and other educational providers.

**Topics in this report include:**

- Making Title I funds portable while targeting high poverty states, LEAs, and schools.
- Possibly narrowed criteria for student eligibility under Title I portable grant proposals so that limited Title I funds are more impactful for eligible students served.
- Accountability for student performance under a Title I portable grant option.
- Possible administrative burden under Title I portable grant proposals.
- Concerns specific to the inclusion of religiously affiliated private schools in portable grant programs.
- Options to make portability attractive to states, including explicit authorization to combine Title I portable grants with state programs or tax authorities intended to expand school choice options.<sup>3</sup>



## Part I. Provisions of Title I Under Current Law and Policy That Are Relevant to Portable Grant Proposals

*Before exploring the possible approaches to Title I portability, as well as the strengths and weaknesses of each approach, it is important to understand the current structure of Title I and the laws and policies that dictate how its funds flow from the federal government down to the school-level. This section explains the complexity of today's Title I and details those aspects that are particularly relevant to portable grant proposals.*

### Allocation of Funds to States and LEAs

For the allocation of funds to states and LEAs, ESEA Title I has four separate formulas:

- Basic
- Concentration
- Targeted
- Education Finance Incentive Grant (EFIG)

While portions of each year's appropriation are allocated separately under these formulas, once these funds reach LEAs they are combined and used without distinction. One rationale for using four different formulas to allocate shares of the funds for a single program is that the formulas have distinct allocation patterns, intended to provide varying portions of allocated funds to different types of states and localities.

In addition, some of the formulas contain elements that are deemed to have incentive effects or to be significant symbolically in addition to their impact on allocation patterns—for example, the equity and effort factors in the EFIG formula (discussed below).

Finally, there is a historical explanation for the use of four different allocation formulas: the Targeted and EFIG formulas were initially proposed as replacements for the Basic plus Concentration Grant formulas. In other words, each of the Targeted and EFIG formulas was originally intended to be the sole Title I formula. However, as proposals were compromised in the legislative process, these formulas were ultimately established to supplement, but not replace, the Basic and Concentration Grant formulas.

Thus, under the current statute, appropriations for Title I equal to the FY 2001 level are to be allocated as Basic and Concentration Grants, while appropriations in excess of this level are to be allocated under the Targeted and EFIG formulas.<sup>4</sup> For fiscal year 2015, 45% of Title I appropriations were allocated under the Basic Grant formula, 9% under the Concentration Grant formula, and 23% each under the Targeted and EFIG formulas. The Title I allocation formula factors are summarized in Table A.

The current federal formulas for allocating Title I funds to LEAs are highly relevant to portable grant proposals for at least two reasons:

First, although they do so imperfectly – and sometimes in conflict with each other – the formulas are intended to focus funds on high poverty LEAs, and proponents of new portable grant proposals may want to maintain this emphasis in considering student-centered Title I grants, because of the significant relationship between concentrations of poverty and low student performance.

Second, portable grant proposals would typically make major changes to the ways in which Title I funds are allocated among schools, and often among LEAs as well. For example, making Title I grants portable would result in funds being shifted to schools to which students choose to transfer, or to tutorial services providers. In addition, some Title I portable grant proposals would distribute grants statewide in proportion to counts of students from poor families, and disregard elements of the current formulas that are intended to distribute higher grants per poor child to LEAs with higher percentages or numbers of such children.

**Table A. Summary of ESEA Title I Allocation Formula Factors**

Formula Factor	Basic Grants	Concentration Grants	Targeted Grants	Education Finance Incentive Grants
<b>Population Factor</b>	Children aged 5–17: (a) in poor families; (b) in institutions for neglected or delinquent children or in foster homes; and (c) in families receiving Temporary Assistance for Needy Families (TANF) payments above poverty income level for a family of four			
<b>Eligibility Threshold for LEAs</b>	10 or more formula children and a school-age child poverty rate of 2% or more	6,500 or more formula children or a school-age child poverty rate of 15% or more	10 or more formula children and a school-age child poverty rate of 5% or more	
<b>Weighting of Population Factor</b>	None		At all stages of the allocation process (federal to state to LEA), poor and other children counted in the formula are assigned weights on the basis of each LEA's school-age child poverty rate and number of poor school-age children	For allocation of funds within states only, poor and other children counted in the formula are assigned weights on the basis of each LEA's school-age child poverty rate and number of poor school-age children
<b>Expenditure Factor</b>	State average expenditures per pupil for public K–12 education, subject to a minimum of 80% and maximum of 120% of the national average, further multiplied by .40			Same as Basic Grants, except that the minimum is 85% and the maximum is 115% of the national average
<b>Minimum State Grant</b>	Up to 0.25% of total state grants, subject to a series of caps		Up to 0.35% of total state grants, subject to a series of caps	
<b>LEA Hold Harmless</b>	85–95% of the previous year grant, depending on the LEA's school-age child poverty rate, applicable only to LEAs meeting the formula's eligibility thresholds	Same as Basic Grants except that LEAs are eligible for the hold harmless for up to four years after they no longer meet the eligibility threshold	Same as Basic Grants	
<b>Stages in Grant Calculation Process</b>	Grants are calculated at the LEA level, subject to state minimum and LEA hold harmless provisions			Grants are first calculated for states overall, then state total grants are allocated to LEAs in a separate process, subject to hold harmless provisions
<b>Additional Formula Factors</b>	None			State effort and equity factors are applied in the calculation of state total grants

## General Characteristics of the Title I Allocation Formulas

### *Common elements of the four Title I allocation formulas*

**Population factor.** Each allocation formula has a population factor, which is the same in each of the four formulas. Throughout this paper, the term “formula children” will refer to the total number of children in the 3 categories described below – i.e., those counted for purposes of allocating funds to states and LEAs. The population factor comprises children aged 5-17 who are in:<sup>5</sup>

- Poor families, as estimated annually by the Census Bureau’s Small Area Income and Poverty Estimates (SAIPE) program and based on the Census Bureau’s standard poverty income thresholds (these constitute 98.2% of all formula children for FY 2015).<sup>6</sup>
- Certain institutions for neglected or delinquent children and youth or in certain foster homes (these constitute 2.8% of all formula children for FY 2015).
- Families receiving Temporary Assistance for Needy Families (TANF) payments above the poverty income level for a family of four (these constitute less than 0.1% of all formula children for FY 2015).

**Expenditure factor.** Under each of the four allocation formulas, the population factor is multiplied by an expenditure factor, which is based on state average expenditures per pupil (AEPP) for public K–12 education, subject to minimum and maximum levels. For all except the EFIG formula, the minimum AEPP is 80% and the maximum is 120% of the national average. For the EFIG formula, the minimum and maximum are 85% and 115% of the national average.<sup>7</sup> These amounts are further multiplied by a “federal share” of 0.4 to determine maximum amount authorized for each state’s grants.

Due to the expenditure factor, LEAs in high-spending states receive up to 50% more per child counted in the Title I formulas than LEAs in low-spending states. The rationale for this factor is that it reflects differences in the cost of providing public education and offers an incentive to increase state and local spending.

However, the expenditure factor has several weaknesses. It is a spending index that reflects ability and willingness to spend on public education as well as cost differences; it is not precisely targeted (i.e., it affects all LEAs in a state equally); and the incentive it may provide to increase state and local spending for public education is extremely small.

One effect of the expenditure factor is that states with relatively high-income levels generally receive higher grants per child from a poor family than states with relatively low-income levels.

**Hold-harmless provision.** Each of the formulas has a hold-harmless provision—a minimum annual grant level for LEAs that is calculated as a percentage of the previous year’s grant under each formula. Put another way, hold-harmless provisions preserve 85-95% of last year’s funding levels regardless of changes in the students counted under the allocation formulas or served.

**State minimum grant level.** The four Title I formulas include a state minimum grant level as well. In general, no state is to receive less than approximately 0.25% of total allocated Title I funds up to the FY 2001 appropriation level, and approximately 0.35% of funds above that level.

**LEA minimum eligibility threshold.** Finally, in order to be eligible for grants, each formula has a minimum eligibility threshold for LEAs, which is a *minimum number of poor and other formula children, or a minimum school-age child poverty rate*. The LEA minimum eligibility threshold varies by formula:

- **Basic, Targeted, and EFIG Formulas:** Ten formula children and a school-age child poverty rate of either 2% for

Basic Grants, or 5% for the Targeted and EFIG formulas.

- **Concentration Grants:** LEA eligibility threshold is 6,500 formula children or a 15% school-age child poverty rate.

With the partial exception of Concentration Grants, if an LEA does not meet the eligibility threshold, the hold-harmless provision does not apply. As a result, a number of LEAs have experienced large changes in their grants under some of these formulas from one year to the next, as their school-age child poverty rate declines from marginally above to marginally below 5%, the minimum poverty rate for eligibility for Targeted and EFIG Grants.<sup>8</sup>

Once initial calculations are performed for the Basic, Concentration, and Targeted Grant formulas, maximum grants are calculated by multiplying the population factor by the expenditure factor for all LEAs meeting the minimum eligibility thresholds. Under all four formulas, maximum amounts are reduced proportionally to the aggregate level of available funds, subject to LEA hold-harmless and state minimum grant provisions.

### *Distinctive Elements of the Targeted and EFIG Formulas*

In addition to the common elements listed above, the Targeted and EFIG Title I allocation formulas have the following unique features.

**Assigned weights.** For the Targeted formula, as well as the intrastate allocation of funds under the EFIG formula, the poor and other children counted in the formula are assigned weights on the basis of each LEA's school-age child poverty rate and number of poor school-age children. As a result, an LEA would receive higher grants per child counted in the formula if its poverty rate or number were higher.

Under the Targeted Grant formula, the weighting factors are applied in the same manner nationwide; poor and other formula children in LEAs with the highest poverty rates have a weight of up to four, and those in LEAs with the highest numbers of such children have a weight of up to three, compared to a weight of one for formula children in LEAs with the lowest poverty rate and number of such children.

In contrast, under the EFIG formula, the degree of targeting (in terms of the ratio of the highest to the lowest weight) varies depending on the value of each state's equity factor (described below). Under both formulas, the higher of its two weighted child counts (on the basis of numbers and percentages) is used in calculating grants for each LEA.<sup>9</sup>

The EFIG formula has two unique factors in addition to the population and expenditure factors.

**Equity factor.** The equity factor is based on a measure of the average disparity in expenditures per pupil among the LEAs of a state called the coefficient of variation (CV), which is expressed as a percentage of the state average expenditure per pupil. In the CV calculations for this formula, an extra weight (1.4 vs. 1.0) is applied to estimated counts of children from poor families. The implication of this is that an "ideal" state school finance system would provide 40% higher spending per student from a poor family compared to spending on other students, on average. In calculating grants, the equity factor is subtracted from 1.30. As a result, the lower a state's expenditure disparities among its LEAs, the lower its CV and equity factor, the higher its multiplier, and the higher its state total grant. Conversely, the greater a state's expenditure disparities among its LEAs, the higher its CV and equity factor, the lower its multiplier and the lower its state total grant.

**Effort factor.** The effort factor is based on a comparison of state expenditures per pupil for public K-12 education with state personal income per capita. This ratio for each state is further compared to the national average ratio, resulting in an index number that is greater than 1.0 for states where the ratio of expenditures per pupil for public K-12 education to personal income per capita is greater than average for the nation as a whole, and below 1.0 for states where the ratio is less



than average for the nation as a whole. Narrow bounds of 0.95 and 1.05 are placed on the resulting multiplier, so that its effect on state grants is quite limited, and the purpose it serves is mostly symbolic.

The EFIG formula also differs from the other formulas both in terms of its use of unique formula factors (equity and effort) and in being a two-stage formula. First, state total grants are calculated in proportion to each state's total population factor (unweighted) multiplied by its expenditure factor, by 1.3 minus its equity factor, and by its effort factor. Second, these state total grants are allocated to LEAs on the basis of a modified version of the formula child weighting scheme of the Targeted Grant formula, with the degree of targeting (the ratio of the weight applied to formula children in the highest poverty ranges compared to the weight for such children in the lowest poverty ranges) varying in three stages. The stage, or degree of targeting, used for substate allocation varies depending on each state's equity factor: the higher the equity factor (and therefore the greater the disparities in expenditures per pupil among a state's LEAs), the greater will be the degree of targeting on high-poverty LEAs in the intrastate allocation of EFIG funds.

### **LEAs Included in the Title I National Allocation Calculations**

The Title I allocation calculations discussed above, which are conducted by the U.S. Department of Education (ED), do not include all entities that are considered to be LEAs under the laws of many states.

The primary formula factor—children aged 5-17 in poor families—is estimated by the Census Bureau solely on the basis of places of residence. All of the estimated number of school-aged children residing within a geographic area are attributed to a single LEA, whether or not such children attend a public or private school, or no school at all, and whether or not the public school they attend is operated by a traditional, geographically-based LEA, a regional LEA providing certain types of education, a school in a different LEA, or a charter school that is treated as a separate LEA under state law.

Thus, only traditional, geographically-based LEAs are included in the Census Bureau estimates of school-aged children in poor families. State educational agencies (SEAs) must then adjust allocations calculated by ED on to shift shares of those grants to LEAs that are not included in ED's allocation procedures, including charter school LEAs.

### **Selection of Participating Schools and Allocation of Funds Among Them, Including Special Provisions for Allocating Title I Funds to Charter Schools**

#### ***Suballocation of LEA Grants to Schools in Traditional LEAs***

Currently, Title I is designed to provide grants to schools with comparatively high percentages of students from low-income families, not to individual students and not to LEAs (though LEAs do retain substantial discretion to control the use of a significant share of Title I grants at a central district level).<sup>10</sup>

To allocate Title I funds, LEAs must generally rank their public schools by their percentage of pupils from low-income families and serve them in rank order. LEAs may, however, choose to consider only schools serving selected grade levels (e.g., only elementary schools) in determining eligibility for grants, so long as all public schools with 75% or more of pupils from low-income families receive grants, to the extent that funds are available.<sup>11</sup> LEAs also have the option of setting school eligibility thresholds higher than the minimum in order to concentrate available funds on a smaller number of schools, and this is the practice especially in many large, urban LEAs.<sup>12</sup> All participating schools must generally have a percentage of children from low-income families that is higher than the LEA's average, or 35%, whichever of these two figures is lower.<sup>13</sup>

### *Determining the Percentage of Low-income Students in Each School*

Census data – used to determine the proportion of low-income students in a state or an LEA – are generally not available at the school- or attendance zone-level. Therefore, LEAs must use available proxies for low-income status.

The Title I statute allows LEAs to use the following low-income measures for school selection and allocations:

- Eligibility for free and reduced-price school lunches under the federal child nutrition programs
- Eligibility for Temporary Assistance to Needy Families (TANF)
- Eligibility for Medicaid
- Census poverty estimates (in the very rare instances where such estimates are available for individual schools or school attendance areas)<sup>14</sup>

According to the most recent relevant data, approximately 90% of LEAs receiving Title I funds use free and reduced-price lunch (FRPL) data — sometimes alone, sometimes in combination with other authorized criteria — to select Title I schools and allocate funds among them.<sup>15</sup> The income eligibility thresholds for free and reduced-price lunches are higher than the poverty levels used in the allocation formulas to states and LEAs: 130% of the poverty income threshold for free lunches (\$31,590), and 185% of poverty for reduced-price lunches (\$44,955).<sup>16</sup> Under this criteria, an average of 51.3% of students across the states are eligible to receive free or reduced price lunches.<sup>17</sup>

As a result of the current allocation process, many schools receiving Title I funds do not have high percentages of low-income students when considered from a national perspective. For example, according to the U.S. Department of Education’s “National Assessment of Title I” (2007), 23% of the nation’s public schools that are in the lowest quartile nationwide in terms of their percentage of students from low-income families (35% or below) receive Title I grants.

### *Serving Private Schools within the LEA*

The share of funds to be used by each recipient LEA to serve educationally disadvantaged pupils attending *private schools* is determined on the basis of the number of private school students from low-income families living in the residential areas served by Title I public schools. LEAs typically determine this number using free and reduced-price lunch data or one of a specified range of alternatives.<sup>18</sup>

In cases where a state or LEA deems itself to be unable to provide for Title I services to eligible private school students, or where the U.S. Secretary of Education determines that such services have been inadequate, the Secretary arranges for services to be provided via a “bypass” arrangement, under which the services are provided by a third-party entity. The relevant grant amounts are deducted from funds available for public schools in the state or LEA. Historically, such bypass arrangements have been implemented in the states of Missouri and Virginia, and at times in selected LEAs in other states.<sup>19</sup>

The percentage of pupils served under Title I who attend private schools has always been significantly below the percentage of all K-12 pupils who are enrolled in private schools. According to U.S. Department of Education estimates for the 2015-16 school year, only 0.8% of all pupils served under Title I attend private schools, while approximately 9.5% of all K-12 pupils attend private schools. Potential explanations for the low rate of private school pupil participation range from program structure,<sup>20</sup> to possibly lower rates of economic and educational disadvantage among private school pupils, to possible reluctance of public school officials to use Title I funds to serve private school pupils or reluctance of some private school officials to get involved in federal education programs.

### *Suballocation of LEA Grants to Charter Schools<sup>21</sup>*

Under current law, the allocation calculations by ED do not take into account charter schools that are treated under state law as separate LEAs, nor do they take into account LEAs that provide specialized services (such as vocational-technical education) to multiple traditional LEAs. Thus, the grants as calculated by ED must be adjusted to provide funds to eligible LEAs in these categories, all of which are referred to as “special LEAs.” These adjustments apply only to charter schools that are treated under state law as separate LEAs; charter schools that are not treated as separate LEAs under state law receive Title I grants in the same manner as other public schools within a traditional LEA.

ED’s policy guidance<sup>22</sup> describes two different methods for determining Title I grants to charter school and other special LEAs, one for states that are able to determine the sending LEAs in which charter school and other special LEA students reside, and a second policy to be used by states that do not have this information. Under both of these methods, SEAs must estimate the number of Census poverty children who enroll in a charter school LEA or other special LEA. As with the process of suballocating grants to schools within traditional LEAs, this is most often done with free and reduced-price school lunch (FRPL) counts.

Under the first method, each charter school or other special LEA is to report to the SEA its total enrollment as well as its enrollment of students from low-income families and identifies the traditional LEA in which each of these students resides. SEAs then use the ratio of FRPL students to Census poverty children in the specific LEA in which each charter school student from a low-income family resides to estimate the number of Census poverty children for each charter school or other special LEA. SEAs add to this Census poverty estimate for the charter school LEA the number of other children included in the national allocation formulas<sup>23</sup> to derive a total formula child count for each charter school LEA. For each such formula child, the charter school LEA receives an amount equal to the Title I grant per formula child associated with the sending LEA in which the child’s family resides, deducting an equivalent amount from the grant for the sending LEA.

Under the second method allowed under ED’s policy guidance, the enrollment data reported by charter schools and other special LEAs are again used to estimate the number of formula children for each special LEA, but in this case using the statewide average ratio of Census poverty and other formula children to FRPL students. These formula child counts for each special LEA are summed to determine the share of all formula children in the state who attend charter school and other special LEAs. But in this case, the grants to all traditional LEAs in the state are reduced by this percentage, not just the specific LEAs in which charter school students reside, and each special LEA receives a grant based on the statewide average Title I grant per formula child.

### **Recent Developments Regarding School Meals Data<sup>24</sup>**

As noted above, a large majority of LEAs use data on the number of students eligible for free and reduced-price lunch (FRPL) as the sole or primary factor in suballocating Title I grants to individual schools. Therefore, as options are considered for authorizing portable grants under Title I, it is important to understand recent changes in the federal school meals programs that impair the ability of states and LEAs to accurately determine the number of low-income students in individual schools.

The Healthy, Hunger-Free Kids Act of 2010 created a new option, known as the Community Eligibility Provision (CEP), for how schools can operate the National School Lunch and School Breakfast Programs of the U.S. Department of Agriculture. Under CEP, a school, group of schools, or an entire LEA may offer community eligibility if the number of children enrolled for free school meals without a paper application, referred to as “Identified Students,” is at least 40% of the total enrollment. Identified Students include those whose families participate in federal programs such as the Supplemental Nutrition Assistance Program (SNAP), TANF, or Head Start, where their incomes have already been evaluated, and those who are

identified through specified programs for homeless and migrant children. CEP is designed to provide access to school meals by students from low-income families and simplify administration of the school meal programs by eliminating the use of applications to collect family income information and the need to track children by eligibility category in the lunchroom. Community eligibility became available in all states beginning with the 2014-2015 school year.

When LEAs and schools implement CEP, FRPL data are no longer collected for students in the affected schools, and LEAs must use alternative methods for assessing the income level of students served by a school. ED has published policy guidance on the intersections between CEP and Title I programs that provides a wide range of options for states and LEAs to implement CEP in eligible schools.<sup>25</sup> Options include: counts of Identified Students (either alone, or multiplied by 1.6 to approximate the number of children who would be approved for free and reduced-price lunches); counts of students from low-income families based on state or local income surveys and Medicaid, TANF, Census (in rare cases where available); or composite data authorized under the ESEA statute.<sup>26</sup>

### Determining Which Students are Served at the School-level: Schoolwide Programs and Targeted Assistance Schools

Which students are served at the school-level depends on whether a Title I school is a schoolwide program or a targeted assistance program. Notably, regardless of program type, there is no direct connection between low family income and selection to be served by Title I.

- **Schoolwide programs:** Schools in which 40% or more of the pupils are from low-income families may operate schoolwide programs. Under a schoolwide program, Title I funds may be used to improve the performance of *all pupils* in a school, and there is no requirement to focus services on only the lowest achieving or poor pupils. The great majority of Title I schools, in which the vast majority of Title I students are served, are schoolwide programs.
- **Targeted assistance programs:** Title I services are focused on the lowest achieving individual pupils in the school, regardless of whether or not they are also poor. LEAs and schools have substantial discretion in annually selecting their lowest-achieving pupils who will receive Title I services in targeted assistance schools, as long as their methods are applied consistently to all pupils in the grades they select to serve. All participating private school pupils are served in targeted assistance programs — i.e., there are no *private* schoolwide programs, and all Title I services to private school students are provided by public school or third-party staff, with no Title I funds provided to the private school.

In a schoolwide program, at least 40% — and often a much higher percentage — of the pupils served by schoolwide programs are from low-income families. In a targeted assistance program, the lowest-achieving pupils are more likely to be from low-income families. Nevertheless, *many of the pupils served by Title I are not from low-income families.*

Further, given the more expansive income guidelines for FRPL in comparison to the federal poverty measure, many of the students counted as being from low-income families for purposes of school-level allocations are not among those included in Census poverty estimates used for allocations to states and LEAs. Therefore, at each major transition in the process of distributing Title I assistance — allocation to states/LEAs to allocation to schools to selection of pupils to be served — there is a significant disjuncture in the target population.

This is the inevitable result of a program that is structured around schools and uses poverty/low-income as a proxy for low achievement but avoids making low income an individual eligibility criterion.

## Uses of Title I funds at the school-level

Title I funds must be used to supplement, and not supplant, non-federal funds that would otherwise (i.e., in the absence of Title I) be available for the education of the pupils served by Title I.

Typical uses of Title I funds in schoolwide programs include the development and implementation of comprehensive strategies intended to improve achievement among all students, including the hiring of additional classroom teachers or aides.

In targeted assistance schools, common uses of Title I funds include the hiring of specialist teachers to provide additional instruction to eligible students outside their regular classroom (pull-out services), or the hiring of aides to work with eligible students in their regular classroom settings. Professional development for teachers and aides, and efforts to extend learning time (before-school, afterschool, and summer instruction), are major uses of Title I funds in both types of programs. Table B is a summary of school-level Title I programs.

Table B. Summary of School-Level Title I Programs <sup>27</sup>	
<b>Total number of public schools participating in Title I</b>	54,709 (56% of all public schools; 68% of all public elementary schools)
<b>Number of schools conducting schoolwide programs</b>	40,632 (74%)
<b>Number of schools conducting targeted assistance programs</b>	14,077 (26%)
<b>Estimated number of students receiving Title I services</b>	23.8 million
<b>Percentage of students served by Title I by program type</b>	94% in schoolwide programs 5% in targeted assistance programs 1% by programs in private schools
<b>Percentage of students served by Title I by school type</b>	Public school students: 45% Private school students: 4%

Theories as to why the rate of participation of private school students is so much lower than that of public school students are discussed in the “Requirements Applied to Private Schools Whose Students Participate in Title I” section. One clear and major reason is the contrast between schoolwide programs, in which all students are deemed to be served and that are only in public schools, and the targeted assistance school model that is the only one applicable to private schools.

Beyond this, explanations that have been offered include an assumed lower rate of educational and economic disadvantage among students in private schools, possible unwillingness of some private school authorities to participate in federal education programs, and possible unwillingness of some public school officials to share limited resources provided by Title I beyond the minimum required. Unfortunately, there is very little evidence available to evaluate the validity of these theories.

## Amounts Per Student

In part because of the growth in schoolwide programs, at which all pupils are assumed to be served, the level of Title I grants per pupil served is relatively low, with a current national annual estimate of \$605 per student served.

Yet even this amount is an overestimate, as it does not take into account the share of Title I funds that do not reach individual schools because they are used for non-instructional expenses at the state or LEA level. Combining LEA and



school-level expenditures for 2004–05 (the latest available data), 59% of Title I funds were used for salaries and benefits of instructional staff, 12% for instructional materials and equipment, 11% for administration, facilities, and transportation, 8% for professional development, and 10% for other instructional support expenditures.<sup>28</sup> If one assumes that all of these categories of expenditures except administration, facilities, and transportation directly improve student instruction, then the estimated grant for instructional services per student served would be \$538.

### *Variation Among States in Funding Per Student*

There is substantial variation among the states in the average level of Title I grants per student served. This results from a variety of factors, primarily variations in the amounts states receive per child counted in the Title I allocation formulas, along with state and local choices regarding how broadly to spread available funds among potentially eligible schools and the extent to which Title I services are provided through schoolwide vs. targeted assistance programs.

Table C shows the average Title I grant per pupil served for selected states, using the latest available data. As illustrated in Table C, states with relatively high poverty rates, such as Alabama or Mississippi, often spend substantially less per student served than states with relatively low poverty rates, such as Connecticut or Vermont.

**Table C. ESEA Title I Grants Per Student Served, Comparing FY 2015 (School Year 2015-16) State Allocations to 2013-14 Participation Data<sup>29</sup>**

STATE	School-Age Child Poverty Rate, FY 2015	Title I Allocation, FY 2015	Title I Participation, 2013-14 <sup>30</sup>	Allocation Per Participating Pupil
Alabama	25.2%	\$221,717,283	470,238	\$472
California	22.0%	\$1,684,685,737	3,518,869	\$479
Connecticut	13.1%	\$116,021,685	134,055	\$865
Florida	23.0%	\$775,553,867	1,297,347	\$598
Mississippi	31.7%	\$190,694,624	361,574	\$527
New York	21.7%	\$1,104,439,248	1,666,735	\$663
Vermont	13.0%	\$33,196,466	49,309	\$673

## **Requirements Applied to Participating Public Schools, States, and LEAs**

States, LEAs and schools receiving Title I grants have always had to meet a variety of federal requirements intended to establish accountability for appropriate and potentially effective use of these funds. Under the No Child Left Behind Act, that governed Title I programs between 2002 and 2015, these requirements were substantially expanded in scope and often became much more specific than in the past. Many of the requirements began to apply to *all public schools and LEAs in states that receive Title I grants*, not just LEAs and schools that directly participate in the program.

While the Every Student Succeeds Act (ESSA) of 2015 scales back these requirements in several respects, many of them still apply to all public schools and LEAs in states that receive Title I funds (a group that has always included all states since the program was initiated in 1965).

This section provides a very brief description of the current Title I accountability requirements (i.e., those under the ESSA).

### Requirements Related to Academic Standards, Assessments, and Performance<sup>31</sup>

- **Academic standards.** States receiving Title I grants must adopt challenging academic content standards and aligned academic achievement standards in reading, mathematics, science, and any other subject determined by the state. They are required to develop and administer reading and mathematics assessments in each of grades 3-8 and at least once in grades 9-12, and to develop and administer assessments in science in at least one of grades 3-5, 6-9, and 10-12.
- **Assessments.** Results under state assessments of reading and mathematics must be included in state accountability system determinations. For purposes of accountability determinations, data are to be disaggregated on the basis of specified student “subgroups,” including economically disadvantaged students, students in major racial and ethnic groups, students with disabilities, and students with limited English proficiency.
- **Goal setting.** States participating in Title I must establish long-term goals, including measures of interim progress toward those goals, for all students and for each student subgroup in the state.
- **Performance.** Participating states must develop systems and policies to differentiate public schools annually based on their performance on the required assessments and with respect to the long-term goals, both for all students and for each designated student subgroup. Comprehensive intervention and support must be provided to the lowest performing schools, and targeted support to other schools in which a subgroup of students is consistently underperforming.

### Requirements for Fiscal Accountability

While the program’s focus has shifted more toward outcome accountability in recent decades, Title I has always included a series of fiscal accountability requirements. These are intended to provide that Title I grants represent a net increase in the level of financial resources available to serve educationally disadvantaged pupils, and that they do not ultimately replace funds that states or LEAs would have provided in the absence of federal aid. At the same time, state and local education officials sometimes express concern about the administrative burdens associated with demonstrating that they meet these requirements.

There are three Title I fiscal accountability requirements; the first two of these are common to several federal education assistance programs, while the third is unique to Title I.

- **Maintenance of effort (MOE).** To meet the first requirement, recipient LEAs must provide, from state and local sources, a level of funding (either aggregate or per pupil) in the preceding year that is at least 90% as high as in the second preceding year. This is somewhat similar to the hold harmless provisions of Title I, but applies to state and local spending, not federal. Typically, LEAs have little difficulty meeting this MOE requirement, except in times of great financial distress.
- **Supplement, not supplant.** A second fiscal accountability requirement provides that Title I funds must be used to supplement, not supplant, state and local funds that would otherwise be available for the education of disadvantaged pupils in Title I participating schools. Under the ESSA, this requirement was modified to specify that schools participating in Title I must receive, from state and local sources, all of the funds they would otherwise receive if they were not participating in Title I.
- **Comparability.** The third, distinctive, fiscal requirement under Title I is comparability—services provided with

state and local funds in schools participating in Title I must be comparable to those in non-Title I schools of the same LEA.<sup>32</sup> An LEA may meet the comparability requirement by providing a written assurance that it has implemented an LEA-wide staff salary schedule, and policies to assure equivalence among schools in teachers and other staff plus curriculum materials and supplies. In calculating staff salaries, differentials associated with seniority (years of employment), a major source of school spending differences, need not be considered. Spending associated with unpredictable changes in enrollment or personnel assignments may be excluded, and expenditures for programs for limited English proficient pupils or pupils with disabilities, or state programs similar to Title I, need not be taken into account.

### Requirements Applied to Private Schools Whose Students Participate in Title I

The current Title I statute itself is silent with respect to accountability requirements applicable to private schools whose students participate in Title I programs.

A major reason for this is that Title I-funded educational services for private school students are not provided by the private schools themselves, but rather by public school staff, or in some cases third-party organizations. Current policy guidance from the U.S. Department of Education on Title I services to private school students<sup>33</sup> addresses accountability requirements regarding assessments and program performance, but only *very* briefly and broadly.

The guidance states that LEAs serving private school students under Title I must annually assess the academic performance of these students in the subjects in which they are provided instruction through Title I. The assessments may be the same as those used in the state's public schools or, if these are deemed to be inappropriate (for example, if they are poorly aligned with the curriculum of the private school), alternative assessments may be selected, through consultation between public and private school officials. The policy guidance further provides that “[E]very year the LEA and private school officials must consult on what constitutes annual progress for the Title I program... If the Title I program for the private school participants does not make the expected annual progress, the LEA must annually make modifications to the Title I program.”

A Title I portability proposal would have to clarify how these requirements would change – if at all – if Title I eligible students were permitted to use those funds to attend private schools.

# Part II. Overview of Title I Portability Proposals Since 1999

*Previous proposals illustrate several of the issues that new Title I portable grant proposals would have to address, such as student eligibility, and the range of educational programs or services that portable grants might be used to obtain. This section provides an overview of such proposals since 1999.*

## 106th Congress (1999-2000)

During the 106<sup>th</sup> Congress, bills were considered by the House of Representatives and Senate to amend and extend the ESEA; however, no such legislation was adopted until the succeeding 107<sup>th</sup> Congress in 2001 (the No Child Left Behind Act).

In the 1999-2000 period, a bill was introduced in the Senate on which no formal action was taken, and an amendment was considered by the House of Representatives during committee and floor debates, that would have authorized the provision of Title I services in the form of portable grants.<sup>34</sup>

	SENATE BILL 1677 BY SENATOR GREGG	HOUSE AMENDMENT 542 BY CONGRESSMAN PETRI
LEGISLATIVE BACKGROUND	<p>S.1677 would have amended Title I by adding a new authorization for a “Child Centered Program.”</p>	<p>During committee and floor consideration of H.R. 2, the Student Results Act, H.Amdt.542 (an amendment sponsored by Rep. Petri and offered in October 1999) was considered, but not adopted. It would have authorized the provision of Title I services in the form of portable grants. This amendment was a much simplified version of provisions similar to those of S. 1677.</p>
PROGRAM STRUCTURE	<p>Under this proposal, any state, or any individual LEA in a non-participating state (with approval by the state), could apply to administer Title I as a child centered program, under which Title I funds would be distributed on a per student basis.</p> <p>Thus, within a participating state, Title I allocation formula provisions intended to provide higher grants per child counted under the allocation formulas to LEAs with higher percentages or numbers of such children would not apply (although there were many fewer such provisions in effect in 1999 than currently). Once initiated, states or LEAs would be authorized to continue operating child centered programs for 5 years. Participating states and LEAs would be authorized to use their current Title I funds, as well as additional federally awarded incentive grants authorized (at an unspecified funding level) by the bill, to operate the child centered programs.</p>	<p>H.Amdt. 542 would have amended Title I by adding a new authorization for a “Pilot Child Centered Program.” Under this proposal, up to 10 states, or any individual LEA in a non-participating state (with approval by the state), could apply to administer Title I as a child centered program, under which Title I funds would be distributed on a per student basis.</p> <p>Thus, within a participating state, Title I allocation formula provisions intended to provide higher grants per child counted under the allocation formulas to LEAs with higher percentages or numbers of such children would not apply (although there were many fewer such provisions in effect in 1999 than currently). Participating states and LEAs would be authorized to use their current Title I funds, to operate the child centered programs.</p>

	SENATE BILL 1677 BY SENATOR GREGG	HOUSE AMENDMENT 542 BY CONGRESSMAN PETRI
STUDENT ELIGIBILITY	Students would be eligible for the grants if they met the income and related criteria to be counted in the allocation of Title I funds to states and LEAs — i.e., they are from poor families, are neglected, delinquent, or in foster homes, or are in families receiving Temporary Assistance for Needy Families (TANF) payments in excess of the poverty level for a family of four — as well as children not in these categories who are otherwise selected by the state or LEA, and had low levels of academic achievement.	All students currently eligible to be served under Title I would have been included (i.e., all pupils in schools eligible to operate schoolwide programs plus the lowest-achieving students in targeted assistance schools).
INDIVIDUAL GRANT AMOUNTS	At state or LEA discretion, the amount per student could be adjusted to account for differences in pupil needs, in the costs of providing educational services in different localities, or to place priority on selected grade levels.	Each participating state or LEA would establish an amount per eligible student (as defined above) that could be varied to account for differences in the costs of providing education in different localities, the costs of providing services to meet different student educational needs, or the desirability of prioritizing different grades.
INDIVIDUAL GRANT USES	Parents of the students eligible to receive these grants would be allowed to use them to procure services at a public or private school, or a non-school tutorial services program. In all cases, funds under the child centered program would have to be used to provide supplementary services (not tuition) intended to meet the student's special educational needs, as is the case under Title I currently. The bill also provided that funds under Title I and most other federal education programs could be used on a schoolwide basis in public schools at which 50% or more of the students were eligible for child centered program grants.	Grants would be distributed via certificates to the parents of eligible students. Those certificates could be used to obtain education services at their current public or private school, a tutorial services provider, or another public or private school.
STATE/LEA REQUIREMENTS	Participating states or LEAs would be required to have open enrollment policies allowing students to attend any public school in their state or LEA, respectively so that public school tuition could not be charged. In addition, participating states and LEAs would be required to offer the opportunity for services to be procured from private schools or non-school tutorial services providers, if requested by the parents of eligible pupils.	None were explicitly included in the amendment, and it was unclear whether any of those generally applicable to Title I programs at that time would apply to the portable grant program.



ACCOUNTABILITY AND FISCAL REQUIREMENTS	SENATE BILL 1677 BY SENATOR GREGG	HOUSE AMENDMENT 542 BY CONGRESSMAN PETRI
	Simplified versions of the Title I requirements applicable at the time regarding parental involvement, standards and assessments, adequate pupil progress and corrective action, publication and dissemination of information on pupil outcomes, and state plans would have applied to the child centered programs. Requirements that Title I funds be targeted on a LEA's highest poverty schools, and fiscal accountability requirements that Title I funds must supplement, and not supplant, state and local funds, would not have applied to the child centered programs.	None were explicitly included in the amendment, and it was unclear whether any of those generally applicable to Title I programs at that time would apply to the portable grant program

## 113th (2013-14) and 114th (2015-16) Congresses

LEGISLATIVE BACKGROUND	HOUSE BILL 5 BY CONGRESSMAN KLINE	SENATE AMENDMENT 2132 BY SENATOR SCOTT	SENATE AMENDMENT 2139 BY SENATOR ALEXANDER
	<p>During the 114th Congress, the House-passed version – H.R. 5 – of ESEA reauthorization legislation that was ultimately enacted as the Every Student Succeeds Act (ESSA) would have authorized an alternative mechanism to be used, at state discretion, for allocating Title I funds to LEAs and schools.</p> <p>As introduced, the bill referred to this provision as “Title I Portability” and as the “Title I Funds Follow the Low-Income Child State Option.” Several other bills introduced in the 113th and 114th Congresses contained provisions very similar to those of this H.R. 5 state option.<sup>35</sup></p>	<p>In the Senate’s consideration of S. 1177, companion legislation to H.R. 5 reauthorizing ESEA that was ultimately enacted as the ESSA, two amendments were offered that relate to the Title I portable grant concept.</p> <p>A floor vote was taken on Senate Amendment (S. Amdt.) 2132, but it was not adopted. The provisions of S. Amdt. 2132 (sponsored by Sen. Scott and proposed July 2015) were essentially the same as those of the state option provision of H.R. 5, discussed above, with respect to students enrolled in public schools.</p> <p>However, S. Amdt. 2132 also explicitly included students enrolled in private schools, and contained a number of specific provisions regarding such students and schools.</p>	<p>A second amendment to S. 1177 that would have authorized Title I portable grants was sponsored by Sen. Alexander and proposed in July 2015, but no action was taken on it. S. Amdt 2139 was entitled the “Scholarships for Kids Program.”<sup>36</sup></p>

PROGRAM STRUCTURE	HOUSE BILL 5 BY CONGRESSMAN KLINE	SENATE AMENDMENT 2132 BY SENATOR SCOTT	SENATE AMENDMENT 2139 BY SENATOR ALEXANDER
	<p>Under this option, Title I grants would first be calculated for states and LEAs as under current law. However, states exercising the optional authority would be authorized to reallocate their total Title I grants among LEAs statewide based solely on their number of enrolled students from families with income below the federal poverty level.</p> <p>Similarly, LEAs would distribute the Title I grants they receive to public schools in the LEA based on each school's share of enrolled children from families with income below the federal poverty thresholds.<sup>37</sup></p> <p>While there was no explicit provision for the distribution of Title I funds via parental choice, and no explicit inclusion of educational providers other than public schools, this proposal would implicitly provide for Title I funds to follow eligible students to the public schools in the state in which they are able to enroll.</p> <p>At the same time, the current Title I formula provisions designed to provide higher grants per poor child to LEAs with greater concentrations of such children would not have applied.</p> <p>Similarly, current provisions limiting Title I grants to schools with relatively high percentages of students from low-income families, as well as authority to provide higher grants per low-income student to schools with higher percentages of such students (weighting for poverty concentration), would no longer apply. These provisions are intended to reflect the research findings that the negative effects of poverty on educational achievement are greatest in schools and localities where poverty is concentrated.</p>	<p>As under H.R. 5, Title I grants would first be calculated for states and LEAs as under current law. Then, states exercising the optional authority would reallocate their total Title I grants among LEAs statewide based on their number of students from families with income below the federal poverty level who are enrolled in the LEA's public schools, plus the number of such students residing within the LEA who are enrolled in private schools.</p> <p>LEAs would distribute the Title I grants they receive to public schools in the LEA based on each school's share of enrolled children from families with income below the federal poverty thresholds.</p> <p>Title I payments on behalf of students from poor families who are enrolled in private schools would be made via their parents, and could be used only to pay for tuition, fees, and transportation required to attend the private schools.</p> <p>The proposal provided that payments would be considered to be aid to the eligible child, not to the private school, and would further not constitute income to the child or his/her family.</p>	<p>Under this proposal, states would be authorized to distribute Title I funds on the basis of equal amounts per eligible student. As under the provision of H.R. 5, as passed by the House during the 114th Congress, states exercising the optional authority could reallocate their total Title I grants among LEAs statewide based on their number of enrolled students from families with income below the federal poverty level.</p> <p>Thus, the current factors intended to provide higher grants per child counted under the formulas to LEAs with high percentages or numbers of such children (poverty concentration) would not be applied, and apparently each LEA and school would receive the state average Title I grant per student from a poor family.</p>

	HOUSE BILL 5 BY CONGRESSMAN KLINE	SENATE AMENDMENT 2132 BY SENATOR SCOTT	SENATE AMENDMENT 2139 BY SENATOR ALEXANDER
STUDENT ELIGIBILITY	Students in families with incomes below the federal poverty level would be eligible.	Students in families with incomes below the federal poverty level would be eligible. The amendment required each LEA in a participating state to report annually on the number of eligible students in the LEA.	Eligible students are defined as those from a family with income below the federal poverty level, or a student who met this criterion the previous year and whose current family income is no more than twice the poverty income threshold.
INDIVIDUAL GRANT AMOUNTS	The level of the grant made to each public school enrolling an eligible student would be equal to the total Title I grant to the state divided by the state total number of eligible students. (It was not clear whether administrative or other costs could be reserved from the total Title I funding at the state or LEA level before calculation of individual grants.)	The level of the grant made to each public school enrolling an eligible student would be equal to the total Title I grant to the state divided by the state total number of eligible students. (It was not clear whether administrative or other costs could be reserved from the total Title I funding at the state or LEA level before calculation of individual grants.)	The level of the grant made to each public school enrolling an eligible student would be equal to the total Title I grant to the state, after deducting up to 3% of total grants for state administration and up to 2% for student transportation costs, divided by the state total number of eligible students.
INDIVIDUAL GRANT USES	This provision applied only to eligible students attending public schools. This option did not contain any provision for Title I services to eligible students attending private schools. However, it is unclear whether the current Title I requirements for serving eligible private school students (equitable services) would have continued to apply in participating states. Within public schools, it was unclear which, if any, of the current Title I requirements would apply to schools in which eligible students are enrolled, except that the “supplement/not supplant” fiscal requirement would apply.	Within public schools, it was unclear whether any requirement would apply in public schools other than the “supplement/not supplant” fiscal requirement. For students enrolled in private schools, funds could be used to pay for tuition, fees, and transportation.	The grants could be used, based on family choice, for: <ul style="list-style-type: none"> <li>• supplementing the budget of any public school which the eligible student could attend without fees (i.e., any public school in the same LEA, and any public school in other LEAs of the state if such choice were provided under state law with no fees attached);</li> <li>• fees to attend any other public school in the state;</li> <li>• tuition and fees at a state-approved private school; or</li> <li>• fees for a state-approved provider of supplemental educational services.</li> </ul>

	HOUSE BILL 5 BY CONGRESSMAN KLINE	SENATE AMENDMENT 2132 BY SENATOR SCOTT	SENATE AMENDMENT 2139 BY SENATOR ALEXANDER
STATE/LEA REQUIREMENTS	<p>It is unclear whether the full array of current Title I accountability and other requirements would have continued to apply in participating states, or would be applied to any public school in which one or more students from a poor family might enroll.</p>	<p>Participating private schools must operate in accordance with state law, must charge the same tuition and fees to Title I grantees as to other students, must be academically accountable to parents for meeting the educational needs of their children, and could not discriminate on the basis of race, color, national origin or sex (unless, in the case of the latter, this would be inconsistent with religious beliefs). The amendment contained a number of prohibitions against control of or limitations on participating private schools.</p>	<p>In states exercising the option authorized under S. Amdt. 2139, Title I requirements would generally not apply, though exception is made for Title I requirements regarding academic standards, assessments, and performance reporting by student subgroup (that would apply). Participating schools and supplemental educational services providers could not discriminate on the basis of race, color, national origin, religion, or sex (unless, in the case of the latter, this would be inconsistent with religious beliefs). S. Amdt. 2139 contained a number of protections for participating private schools similar to those of S. Amdt. 2132, above.</p>
ACCOUNTABILITY AND FISCAL REQUIREMENTS	<p>The “supplement/not supplant” fiscal accountability provision would apply to these funds.</p>	<p>The “supplement/not supplant” fiscal accountability provision would apply to these funds in public schools. With respect to students enrolled in private schools, S. Amdt. 2132 would have required the U.S. Secretary of Education to conduct an evaluation of the impact of the state option program on the education of students whose parents receive aid under the program (apparently this would involve only grantees attending private schools), including measures of parental satisfaction and 4-year adjusted cohort graduation rates for high schools. Participating private schools would also have been required to report annually to parents on their child’s academic achievement, on aggregate achievement by all Title I state option aid recipients in the school, as well as all students in the school, and on school safety. S. Amdt. 2132 does not specify anything about the nature of the methods, including test(s) used, to measure achievement.</p>	<p>Participating states would be required to publish annual reports on participating students and schools/supplemental educational services providers, including the academic progress of participating students, based on either the assessments that are generally administered to public school students in the state under Title I or on alternative assessments approved by the state educational agency. The amendment also provided for a national assessment of the implementation of this program and its impact on the academic achievement of participating students and on the involvement of their parents in the education of their children. The “supplement/not supplant” fiscal accountability requirement would also apply.</p>

## School Choice and Title I Currently

One of the strongest arguments in favor of Title I portability is to better support the increasingly strong and diverse choice environments expanding in many states.

As currently constructed, Title I supports school choice in only a very limited, indirect, and delayed manner. For example, Title I aid may “follow the child” when a pupil transfers from one school to another. Within LEAs, funds are allocated among eligible schools, and reserved to provide services to private school pupils, on the basis of their number of pupils from low-income families. When pupils from low-income families transfer from one eligible school to another, including public charter schools, Title I grants are generally to be adjusted the following year — i.e., funds follow the child if he or she is from a low-income family and if they move from one school participating in Title I to another. Similarly, when a pupil from a low-income family transfers from a public to a private school within a LEA, a share of the LEA’s Title I grant is supposed to be shifted to the amount reserved to serve private school pupils, if the student continues to reside in a residential area served by a Title I public school and if the private school chooses to have its eligible students receive Title I services.

None of the above guarantees that the transferring student actually receives Title I services him/herself. If the student transfers to a public school conducting a schoolwide program, then the transferring student is deemed to be served by that program. However, if the transfer is to a public school operating a targeted assistance Title I program, or to a private school, then the transferring student will receive Title I services at his/her new school only if he or she is selected by school staff as being among the most educationally disadvantaged students at their new school.

## Choice and School Improvement

More relevant to the construction of a portability proposal are current and prior school choice provisions related to school improvement.

- **ESSA:** Under ESSA, LEAs may choose to offer public school choice to students in schools identified for comprehensive support and improvement, but there is no requirement that they do so. It is not yet clear how many LEAs will take advantage of this option under ESSA.
- **NCLB:** Under No Child Left Behind (in effect from 2002-2015), Title I schools that failed to meet annual adequate yearly progress (AYP) standards for two consecutive years were to be identified for program improvement. All students attending these schools were to be provided with options to attend other public schools that had not been designated as needing improvement or as being unsafe (unless prohibited by state law). Also under the NCLB, if a Title I school failed to meet AYP standards for a third year, pupils from low-income families in the school were to be offered the opportunity to receive instruction from a supplemental educational services<sup>38</sup> provider of their choice, in addition to continuing to be offered public school choice options. States were required to identify and provide lists of approved providers of such supplemental instructional services—which might include public or private schools, LEAs, commercial firms, or other organizations—and monitor the quality of the services they provided.

LEAs were to use funds equal to as much as 20% of their Title I grants for transportation of pupils exercising public school choice options plus supplemental services costs (combined). If insufficient funds were available to pay the costs of supplemental services for all eligible pupils whose families wished to exercise this option, LEAs could limit services to the lowest-achieving eligible pupils.



According to a major evaluation conducted for the U.S. Department of Education on the implementation of the NCLB school improvement-related school choice provision, utilization of this option was very low.<sup>39</sup> In the 2006-07 school year, only 1-2% of eligible students participated in the NCLB school choice option.

Reasons cited by the report for this low level of participation included:

- Frequent lack of choice options within the same LEA for middle and high school students.
- Failure of LEAs to inform parents about choice opportunities before the beginning of the school year, if at all.

However, the report did find that in a sample of large urban LEAs, students exercising the NCLB choice option generally used it to attend schools with higher average achievement levels, and parents were generally satisfied with their children's schools of choice.

### Weighted Student Funding Pilot Authority

ESSA also contains a new authority of potential relevance to the topic of Title I and school choice.

Under a new ESEA Title I, Part E, the U.S. Secretary of Education is authorized to enter into agreements with, initially, up to 50 LEAs in the nation to allocate their grants under Title I and a number of other ESEA programs through “weighted per pupil allocation” systems devised by the LEAs. Under such systems, sometimes also referred to as student-based budgeting or student-centered funding, each school receives a “base” amount of funding for each enrolled student, plus additional amounts for each student in one or more high need/high cost categories, such as being from a low-income family, having limited English proficiency, or perhaps being a high school student or in a vocational/technical education program. If the student transfers from one public school to another, the relevant funding follows the student to his or her new school. The Secretary is generally authorized to waive ESEA requirements that would otherwise interfere with the implementation of these funding systems.

To date, the U.S. Department of Education has approved Puerto Rico to participate. In the coming years the Department will be working with Puerto Rico and other districts interested in incorporating federal funds into their weighted per pupil allocation systems, which could provide an excellent opportunity for portability within LEAs.

## Part III. Potential Advantages of, and Concerns About, Title I Portable Grant Proposals

*Before considering options for those interested in proposing future portable grant options under Title I, it is worthwhile to recap major aspects of the current Title I program that are relevant to such proposals.*

### Under current law and policy:

- **Title I funds and services vary greatly.** Title I is intended to serve students disadvantaged by concentrated poverty, although services are spread so broadly that approximately 84% of all LEAs, 55,000 (56% of all) public schools (including 68% of public elementary schools), and 23.6 million (45% of all) public school pupils participate in the program. Because services are spread so broadly, and because of the increasing dominance of the schoolwide program mode of providing services, the average Title I grant per student served is only \$605, and as low as \$538 if one excludes administration and related costs. As shown in Table C, there is substantial variation among the states in the average Title I grant per child served. Such per student amounts may be used to provide potentially substantial supplemental educational services when combined for large numbers of eligible students. However, without limiting eligibility and thus lowering the number of participants and increasing subsequent funding amounts, the level of services it is possible to obtain on an individual student basis would be limited.
- **Title I funds focus on eligible schools, not individual students.** In all respects, Title I currently is very much focused on eligible schools, not individual students, especially given the tremendous growth of schoolwide programs, for which schools are eligible even if their percentage of students from low-income families is somewhat below the national average. Again, the program is currently based largely on “economies of scale” – relatively small grant amounts per student being used to pay for a substantial level of services only when combined for many eligible students in a school. At the same time, a number of schools currently receiving Title I grants have relatively low percentages of students from low-income families where economies of scale may not be realized.
- **No meaningful level of “portability” in the current Title I program structure.** While there are, arguably, small elements of “portability” in the current Title I program—participation by a comparatively small proportion of students attending private schools, and a very limited, indirect and delayed adjustment of school allocations (and possibly student services) when students from low-income families move from one school participating in Title I to another—these are extremely limited, and confer no rights on individual students or their families to transfer funding or services between schools or to dispute services that they consider to be inadequate. Thus, there is no meaningful level of “portability” in the current Title I program structure.

*Largely because of the program characteristics discussed above, and other arguments listed on the following pages, some legislators and analysts have proposed that states or LEAs be authorized to provide Title I aid in the form of portable grants. Because the concept of making Title I portable has been debated for almost 20 years, there are a wide variety of arguments both in favor of and against the concept. If Congress were to redesign Title I into an effective portable grant program that maximizes the benefits for our nation’s neediest students, it would have to take these arguments into account.*

## Supporting arguments for the portable grant concept

**Would expand opportunities to attend a more effective school.** Portable grants might offer to eligible students a significant opportunity to attend a more effective school. While current information on the aggregate effects of Title I programs on pupil achievement is limited, evaluations of the program's impact have generally concluded that overall effects are modestly positive, with substantial variation in effectiveness among different schools and LEAs, and with no significant impact on the size of the achievement gap.<sup>40</sup> A Title I portable grant program might offer substantial opportunities for improved education for disadvantaged students, not only through families' ability to choose potentially more effective educational services, but also because competition for funds and students might improve the performance of all affected schools. The availability of additional funds might also increase the incentives for all schools to enroll additional students from low-income families. It is also possible that non-school tutorial services providers, including commercial firms motivated by marketplace competition, might be more effective in providing supplemental instruction to many disadvantaged pupils than their current schools. In addition, substantial research indicates that there are increasingly negative effects on the educational achievement of all pupils as the percentage of pupils from low-income families increases (concentration of poverty).<sup>41</sup> If portable grants to pupils from low-income families are effective in encouraging pupils to transfer away from high poverty schools, this might reduce the number of schools with high concentrations of low-income pupils, thereby reducing the negative effects of such concentrations on pupil achievement overall.

**Would increase compatibility with current school choice options.** A portable grant format might be more compatible than the present Title I program structure with the variety of school choice options available in many states and LEAs, including the increasing number of disadvantaged and other pupils attending charter schools or other schools of choice including, in some states and LEAs, private schools. In states and LEAs with public school choice policies, pupils will generally lose access to services under Title I if they transfer from a participating school to a school that is not eligible to receive Title I funds. If aid were portable to any school an eligible pupil chooses to attend, this problem would be eliminated.

**Would reduce the Title I participation rate gap between elementary and secondary students.** A portable grant structure might be a way to reduce the imbalance between elementary and secondary students in providing Title I services. As noted earlier, under current law, LEAs may choose to focus Title I services on specific grade levels, as long as all schools where the percentage of students from low-income families is 75% or higher are served. In practice, this has resulted in a much higher rate of participation by elementary than secondary schools and students. According to the most recent National Assessment of Title I, elementary schools receive 76% of Title I school allocations, while their share of the nation's students from low-income families is 57%; middle schools receive 14% of Title I funds and enroll 20% of all students from low-income families, and high schools receive 10% of Title I funds and enroll 22% of all students from low-income families.<sup>42</sup> Average poverty rates do decrease somewhat as children age. Beyond that, high school students are less likely to participate in FRPL, even if eligible. Also, high schools tend to be larger and less likely to have a very high rate of low-income students, even if their numbers of such children are high.<sup>43</sup> Nevertheless, if all students were to be selected on the basis of eligibility criteria applied equally to all students in a state or LEA, without regard to grade level, then it is likely that the gap in Title I participation rates between elementary versus secondary students and schools would be greatly reduced.

**Would simplify provision of equitable services to eligible students attending private schools.** Portable grants might be a simpler and more effective way to provide equitable Title I services to eligible students attending private schools. As discussed earlier, LEAs that receive Title I grants are required to provide equitable services to low-achieving private school students who reside in the areas served by Title I public schools. Advocates of private schools and their pupils have often argued that such Title I services are not, in fact, equitable, especially that too few private school pupils are served.

Participation by students enrolled in private schools would likely increase from the current very low level in states adopting portable grants. Eligible pupils who initially attend either public or private schools could “transport” Title I aid to the school of their choice, whether public or private.

**Would improve and build upon school choice and tutorial services provided in NCLB.** Title I portable grants could build and improve upon the experiences with school choice and tutorial services as provided under the No Child Left Behind Act (NCLB) from 2002 through 2015.<sup>44</sup> While, as addressed previously, participation rates in these options, especially school choice, were not high, results were generally positive. In a sample of large urban LEAs, students exercising the NCLB choice option generally used it to attend schools with higher average achievement levels, and parents were generally satisfied with their children’s schools of choice; and significant achievement effects were associated with participation in supplemental educational services, especially among students who participated for more than 1 year. Major reasons cited for the low rate of participation in school choice were that fewer than half of all LEAs informed parents about the school choice option before the beginning of the school year, and a lack of choices within the same LEA, barriers that could be resolved through more effective administration, and a requirement that participating states offer choices to attend public schools outside a student’s LEA of residence.<sup>45</sup> More broadly, school choice and tutorial services are more likely to be effectively implemented in a selection of states voluntarily opting to adopt the portable grant concept than in states required to offer these options as a condition of receiving Title I funds, as under NCLB.

## Opposing arguments to the portable grant concept

**Targeting of funds on schools and pupils with the greatest need would be reduced.** Depending on how a portable grant program is designed, the targeting of Title I funds on schools and pupils with the greatest need for assistance might be substantially reduced. Under the current Title I provisions, available funds must be concentrated on relatively high poverty schools, whereas portable grant proposals would encourage the spread of Title I grants to all schools, no matter what their level of poverty. Many proposals would also eliminate Title I allocation formula provisions that are designed to provide higher grants per child to LEAs with higher percentages or numbers of such children. The current program structure is based implicitly on the assumption that the relationship between poverty and low achievement is not especially strong for individual pupils, but the correlation between *concentrations* of poverty and *concentrations* of low-achieving pupils is quite high.<sup>46</sup> According to proponents of the current structure of Title I, this implies that limited Title I funds should be concentrated on the highest poverty schools if they are to address the greatest pupil needs.

**Would reduce economies of scale.** Concerns regarding economies of scale may argue against dispersal of Title I grants among potentially all schools in a locality. The current level of aid per student can provide a significant amount of resources or services only if combined for a substantial number of pupils in a school. While this would not be a concern at schools which numerous pupils eligible for portable grants choose to attend, it would be an issue at a school that only a few such children choose to attend. Responding to arguments that public schools with relatively low concentrations of poverty could not reach economies of scale, some have discussed allowing a student’s portion of their Title I aid to be in a parent-controlled account, rather than flow directly to the public school.

**Would increase administrative burden and interfere with private school autonomy or reduced financial accountability.** Portable grants might either expand administrative burdens to more schools or reduce accountability for use of Title I funds.

Title I portable grant proposals raise a basic question of whether public and private schools plus tutorial services providers that do not currently participate in the program, but at which pupils eligible for portable grants choose to enroll, would be subject to any or all of the administrative and accountability requirements that now accompany a school's receipt of Title I funds. If the current planning, outcome and fiscal accountability, and other requirements for Title I schools were extended to all schools that enrolled a Title I student, there would likely be a large expansion of administrative burdens associated with the program. In addition, such requirements could interfere with a private school's freedom to make decisions about curriculum, enrollment and other decisions essential to a private school's autonomy and unique mission.

If, on the other hand, those requirements were not applied to additional schools, or were substantially reduced for some or all schools, then there might be a significant reduction in some forms of accountability (primarily procedural or fiscal) for use of federal aid funds. This issue is closely associated with the question of whether schools in which recipients of portable grants enroll would be required to use the funds to provide supplementary services to their disadvantaged pupils (either those who "brought" the grants to the school or on a schoolwide basis), since many of the current administrative requirements for participating schools are focused on demonstrating that Title I funds are used to provide supplementary services intended to meet the unique needs of disadvantaged pupils.

**Limited success of similar efforts in the past.** Large scale support of school choice and supplemental educational services was provided under the No Child Left Behind Act, with limited success. Only 1-2% of eligible students participated in the school choice option, and 15-17% participated in the tutorial services option.<sup>47</sup>



## Part IV. Key Design Elements of Title I Portable Grants

*The final section of this report addresses key design elements of any Title I portable grant program, including targeting concentrations of poverty, funding amounts, and student eligibility. The section also discusses how Congress could approach each of these key issues in ways that address many of the concerns raised above and maximize the positive impact on our nation's most disadvantaged students.*

### Levels at Which Title I Portability Might Be Authorized

In theory, Title I portable grant authority could be provided to:

- Individual states, to be implemented on a statewide basis.
- A limited number of LEAs, either within a state or across the nation.
- A select group of individual students, such as those enrolled in a state's lowest-performing schools.

In practice, implementation on a statewide basis in states interested in adopting this method of providing Title I services would have several advantages.

- First, if a wide range of options are to be offered to participating students – including public schools in the same LEA, public schools outside a student's LEA of residence, public charter schools, private schools, and non-school providers of tutorial services – there would need to be state-level policies authorizing such a range of choices.
- Second, as is discussed below, the amount of the Title I portable grant alone is unlikely to be sufficient to pay the full cost of private school tuition and fees, and would likely function best as a supplement to contributions toward tuition through state scholarships and/or privately-funded scholarships that are encouraged and subsidized through state tax credits or deductions in states that have adopted such policies.
- Third, it would be difficult to administer both traditional Title I programs and Title I portable grant programs in the same state, and such a situation would raise questions of unequal treatment of similar students in different parts of the state.

Given the major change in Title I strategy and structure that portable grants would represent, a limited number of states could be initially authorized through a pilot.

One exception to this general pattern of preference for administering the Title I program in the same manner (i.e., under current policies vs. through portable grants) might be a policy authorizing portable grants limited to students in a state from low-income families who have been enrolled in the state's worst performing public schools and/or schools at which student safety is in jeopardy. In this case, differential treatment might be seen as justified by the exceptionally disadvantageous circumstances faced by the students in a limited number of such ineffective or unsafe schools, while the program continues to be administered as it is currently for other eligible students. Where there are state programs providing school choice options to such students, a portable Title I grant could be an additional supplement to the funds available to serve these students.<sup>48</sup>

## Making Title I Funds Portable While Targeting Areas of Concentrated Poverty

As discussed earlier, research indicates that the negative impact of poverty on educational achievement is greatest in residential areas or schools with concentrated poverty. While this need not imply that Title I grants should go only to schools with high percentages of students from low-income families, as theoretically occurs currently (although many low-poverty concentration schools participate as well), it does support the value of establishing a balance between parent choice of the best educational opportunities for their children and targeting of areas of concentrated poverty and/or the individual students most affected by concentrated poverty.

One way to attain such a balance might be to retain the current Title I provisions for allocating funds to LEAs, which provide higher grants per child in a poor family to LEAs that have higher percentages or numbers of such children, and to consider ways of identifying students within those LEAs who are most educationally disadvantaged by poverty.

Another strategy for focusing Title I aid on students most affected by concentrated poverty would be to apply the same standards statewide with individual student eligibility defined in such a way as to target the student population in greatest need of assistance – i.e., those living in residential areas most affected by concentrated poverty. This would be a way to address the effects of concentrated poverty that is focused on individual, high need students rather than the demographics of the geographic areas served by LEAs. This strategy is discussed further below under “Addressing Concentrated Poverty.”

## Possible Criteria for Per Pupil Funding Amounts

Under the current program structure for Title I, the average grant per student served is very low, \$605 on average or even less – approximately \$538 – if one excludes funds used for transportation, administration, and facilities. In the context of proposals to convert Title I into a portable grant program in at least some states or LEAs, such a low level of funding per student is especially problematic. On an individual basis, this level of funding is insufficient to provide a meaningful amount of educational services in public schools, or to pay a significant share of tuition charges at private schools or fees that may be charged by public schools outside a student’s LEA of residence.

It is possible that at least some tutorial services providers would be willing to serve students at the current funding level per student serve, but it might be questioned how substantial such services would be. Based on very limited available data, \$605 might be sufficient to pay for approximately 32 hours of tutorial services per student, or nearly one hour of tutoring per school year week, on average.<sup>49</sup>

As noted above, an estimated 23.8 million students are currently served by Title I. Barring very large increases in federal appropriations for Title I, which seem unlikely to occur, the way to significantly increase grants per student is to narrow the pool of students eligible to be served. The narrowing of eligibility would be for the purposes of providing sufficient funds to finance a meaningful improvement in educational opportunities available to participating students, while focusing available funds on those most in need. At the same time, this would inevitably reduce the number of students served by Title I in a state or LEA.

## Possible Goals for Establishing Funding Level Per Eligible Student

*Within a limited budget, proposals to convert Title I to a portable grant program face a complex, interactive set of questions including:*

- How much of the widely varying costs of different choice options to attempt to pay for?

- How to select eligible students?
- How to address the effects of poverty concentration?

*Secondary, related questions to be addressed include:*

- Whether to apply somewhat different eligibility standards for students after their initial year of eligibility (e.g., whether to allow students to continue to receive grants even if family income rises somewhat above the initial eligibility threshold in year 2 or beyond).
- Whether students should be allowed to retain eligibility for as long as they remain at their current grade level (e.g., whether a student who becomes eligible when in the second grade should remain eligible until he or she finishes elementary school).

*A Title I portable grant proposal might be based on funding per student goals such as the following:*

- An amount sufficient to potentially pay the full cost of any authorized choice option, subject to some maximum level per student – for the sake of discussion, assume a cap of \$11,000 per student, roughly comparable to the average cost of private school tuition and fees.
- An amount comparable to the maximum amount authorized to be used for tutorial services under the No Child Left Behind Act, or approximately \$1,386 per student, on average.
- An amount equal to the Title I Basic Grant authorized payment level, or approximately \$4,657 on average.

## Possible Criteria for Student Eligibility Standards

Recent proposals for Title I portable grants would make all K-12 students from families with income below the federal poverty standard eligible for grants. While there are some data issues related to this provision,<sup>50</sup> this would substantially reduce the number of students eligible to be served compared to current policy under which eligible students include all students in public schools operating schoolwide programs plus the most educationally disadvantaged students in other schools participating in Title I, along with educationally disadvantaged students enrolled in private schools and residing in attendance areas of public schools participating in Title I.

Applying this federal poverty standard would reduce the number of eligible students from 23.8 million public to 10.7 million,<sup>51</sup> the most recent estimate of the total number of children aged 5-17 in poor families.<sup>52</sup> Decreasing the number of eligible students in this way would increase the national average total Title I grant per eligible student from \$605 to \$1,386.

While this would represent a substantial increase, the value of such an amount may still be questioned if the intention is to provide meaningful opportunities to pay tuition and fees at private schools. Nevertheless, as a supplement to the budget of public schools (including charter schools) that a student might attend without fees being charged, as a supplement to funds provided by existing state or local private school choice programs, or to obtain supplemental tutorial services, such a level of funding per student might represent a meaningful increase in resources for their education.

In contrast, a funding goal of \$4,657 per student would be 3.4 times as high as the level of funding associated with an eligibility criterion that includes all students in poor families, and a goal of \$11,000 would be 7.9 times as high. If either of these latter goals for funding per student were adopted, the eligibility criterion would have to be much narrower than simply students from a family with income below the federal poverty standard.

If it were desired to define Title I portable grant eligibility more narrowly than under a poverty income standard, at least three options are hypothetically available.

### *These standards include:*

- Students from persistently poor families (for example, in families with income below poverty for 3 or more continuous years).
- Students from poor families who live in residential areas within LEAs that have very high poverty rates.
- Students from poor families who attend very low-performing public schools.

Each of these options would have the advantage of focusing available funds on students who are most likely to be substantially educationally disadvantaged by low family income. Each option would also presumably reduce the pool of eligible students to a level well below the estimated 10.4 million total K-12 students from poor families, and therefore provide substantially higher shares of the costs of a wide range of choice options to participating students. Unfortunately, however, estimates of the number of K-12 students in the nation who meet these standards are unavailable, so the specific impact of adopting any of them cannot be estimated.

Of course, it cannot be ignored that any major narrowing of eligibility for Title I would eliminate services for large numbers of students now served by the program. This change would rightfully raise concerns from families, advocates and policymakers. However, the tradeoff is that Title I, as currently constructed, provides only marginal and often not very effective services for many students (some of whom are actually in relatively low-poverty schools in low-poverty districts) versus the opportunity to more substantial choices and opportunities for a more narrowly targeted group of students most in need of better educational services.

### **Addressing Concentrated Poverty at the Level of Eligibility for Individual Students**

A straightforward approach to Title I portability would be to give the same weight to every low-income child. Such an approach would be agnostic as to where a child lived or what school that child opted to attend. However, because of the history of Title I's focus on addressing concentrations of poverty, it is possible that Title I portability proposals may similarly consider addressing concentrations of poverty. There are various ways this could be done.

If student eligibility was limited to a small number of highly disadvantaged students, then the eligibility standards themselves would have the effect of addressing concentrated poverty.

If, in contrast, a broader standard of student eligibility was applied, it could be appropriate to address concerns about the effects of concentrated poverty by varying the size of those grants for different students. For example, Congress could maintain the current Title I allocation amounts at the LEA level, which would result in higher grants per student from a poor family in LEAs with higher percentages or numbers of such children. A variation of this approach would be to allow participating states to establish policies for varying the size of student grants based on the concentration of poverty within the LEA or residential area in which an eligible student resides, rather than relying on the degree of variation in grants to LEAs resulting from the current Title I allocation. At the same time, such policies would likely raise concern by allocating different amounts to students with comparable family incomes in the same state.

A final, hypothetical option for addressing the significance of concentrated poverty among eligible students would be to vary the size of individual student grants based on the percentage of students from low-income families who choose to attend

each school. However, in a regime of widespread student choice, the incentive aspects of this would be highly problematic. Schools and LEAs would have a strong incentive to recruit eligible students to enroll in a comparatively small number of schools in order to maximize concentrations of poverty and obtain increased grants per student, at the same time possibly increasing the educational disadvantages faced by those students. It would seem preferable to adjust grants on the basis of the degree of concentration of poverty in students' residential areas, a factor over which they and their families have limited control. This would provide some incentive for schools at all levels of enrolled student poverty concentration to compete for students who reside in areas of concentrated poverty, who would bring with them especially high portable grant amounts.

## Accountability for Student Performance Under a Title I Portable Grant Option

Portable grant proposals raise the question of which, if any, of the existing student performance accountability requirements (outlined earlier in the report) should be applied to different types of schools or tutorial services providers that may participate in Title I through enrolling portable grant recipient students.

This section discusses how outcome- or performance-related accountability requirements might be applied under a Title I portable grant option and, briefly, what might be the associated change in administrative burdens for states and LEAs.

### Public Schools Under Portable Grants

A large majority of the current Title I *accountability requirements* for public schools that are *related to student performance or outcomes* are applicable to all LEAs and public schools in each state that receives Title I funds.<sup>53</sup> There are a number of fiscal accountability and other requirements (parental involvement, planning, etc.) that are applicable only to LEAs and schools that directly receive Title I funds. However, the only major current Title I outcome accountability requirement that is specific to individual schools that receive Title I funds is the priority for comprehensive intervention and support in each state's lowest-performing public schools. Under the ESSA, schools selected for this designation must include at least the lowest-performing 5% of all schools receiving Title I funds, along with schools in other – broader, non-Title I specific – categories. The ESSA requires states to develop and implement interventions for the identified schools.

Thus, it might well be argued that under a Title I portable grant option, no major changes are required to the current Title I outcome accountability requirements beyond expansion of the reference immediately above to include all public schools enrolling students receiving Title I portable grants, or perhaps more simply all public schools in the state. Thus, the increase in administrative burden related to outcome accountability requirements for public schools in states implementing a Title I portable grant option would likely be small. This is in contrast to other current types of Title I administrative requirements, as discussed later in this report.

### Private Schools Under Portable Grants

The current outcome accountability requirements regarding students enrolled in private schools who are served by Title I are quite minimal and broad. However, this applies to a situation in which the educational services for these students are provided by public school staff (or, in some cases, by third-party contractors), not by the staff of the private schools. Further, funding is currently controlled by public school authorities, not transferred or distributed to private schools. This would not be the case under a Title I portable grant scheme, where Title I funds would go (via parents) to pay directly for part or all of private school tuition.

Under a Title I portable grant option, some advocates of private schools might argue that the ability of families to choose their child's school, and their level of satisfaction with the educational services provided by the school, would be sufficient to assure accountability for appropriate and effective use of Title I funds. However, in a context where federal aid pays part or all of private school tuition, many would want to establish more specific outcome accountability requirements for participating private schools. At the same time, requiring participating private schools to be subject to the full range of standards, assessments, and outcome accountability requirements applicable to public schools would violate the independence that is essential to the nature of private schools, and is a "cost" that presumably few private schools would want to pay in return for Title I funds.

One compromise would be to require that participating private schools assess the performance of Title I students at least as frequently as required of public schools under Title I currently, and at least in the subjects of reading and math. In addition, private schools might be required to report individual assessment results to parents, and aggregate assessment results for Title I students and non-Title I students to the LEA serving their geographic area, the state educational agency, and the public. For private high schools, a requirement might be added to report on graduation rates for Title I and non-Title I students. Partly for reasons related to student privacy,<sup>54</sup> and partly to avoid situations where a private school faces assessment and reporting requirements on the basis of enrolling only one or a very small number of students, it would be reasonable to apply such requirements only to private schools enrolling some minimum number or percentage of total enrollment of Title I students. The assessments used to meet this requirement could be the same as those administered in public schools in the state or, since the state tests might be poorly aligned with the curriculum of private schools, another assessment selected through consultation between the participating private schools and the state.

### **Tutorial Services Providers Under Portable Grants**

Under a Title I portable grant option, tutorial services providers would have a status partially analogous to that of private schools under Title I currently, in that they would be involved in only part of a student's overall educational experience. However, unlike Title I services to private school students currently, where no funds go to the private schools, the tutorial services providers would be receiving Title I funds directed by parent choice, along with providing the educational services. We have an important, historical example in the supplemental educational services requirement that was an integral part of the Title I outcome accountability requirements under the No Child Left Behind Act. Under the NCLB, states were required to establish systems for approving, monitoring, and evaluating the effectiveness of tutorial services providers. The instruction they provided was required to be consistent with state academic standards for content and achievement, and to be consistent with the instructional program of the LEA. States were required to withdraw the approval of providers that failed to contribute to improved student proficiency for two consecutive years.

More specifically, the NCLB required LEAs to institute contracts with supplemental educational services providers that included achievement goals for each student, methods by which student achievement would be measured, provisions for reporting on student progress to each student's parents and teachers, schedules for improving student achievement, and provisions for terminating the contract if goals were not met in a timely manner.

Outcome accountability requirements similar to those under the NCLB could be applied to tutorial services providers under a Title I portable grant option. This would involve a degree of administrative burden for states, although all states have relatively recent experience implementing such requirements, so the burdens would not be entirely new.



## Possible Administrative Burden Under Title I Portable Grant Proposals

In proposals such as those for Title I portable grants, it is desirable to minimize any expansion of administrative burdens beyond the extent necessary to provide for acceptable levels of accountability for appropriate and effective use of federal funds.

This section of the report refers to administrative burdens associated with requirements *other than those related to outcome accountability* and considers:

- The administrative burdens associated with different methods of distributing Title I funds (determining LEA and school eligibility for assistance and allocating those funds, etc.).
- Fiscal accountability requirements, and such current Title I procedural requirements as those related to planning for how Title I programs are to be conducted; limiting the specific activities that either must, or may, be included in Title I schoolwide or targeted assistance programs; or for parental involvement in Title I programs.

### Administrative Burdens Directly Associated with Distributing Title I Aid in the Form of Title I Portable Grants

Establishment of a new and different strategy for allocating Title I funds within LEAs and/or states would necessitate a variety of administrative activities not currently undertaken. At the same time, depending on how a portable grant option might be structured, there might be an equivalent reduction in current administrative requirements.

Among the likely new administrative requirements for states and/or LEAs associated with implementing a portable grant scheme would be the following:

#### *Defining, identifying and tracking eligible students*

Implementation of any of the likely options for defining student eligibility, such as students in families below the federal poverty threshold, would require new surveys and/or application mechanisms to determine which students are eligible to receive grants.

Some states could expand upon surveys they currently administer of the household income for at least some students in public K-12 schools, and other states could implement such surveys. Another option would be to rely on existing systems that identify students in families eligible for Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or Medicaid.<sup>55</sup>

#### *Distributing grants to families*

This would require states and/or LEAs to establish new procedures to assure that grants are used for authorized purposes. This might be done directly by state agencies or indirectly via third party organizations under contract to the state.<sup>56</sup>

#### *Informing and counseling families about the choices available*

All states performed similar tasks under the No Child Left Behind Act with respect to tutorial services providers, but this task would be broadened to also include participating private schools under a portable grant concept. In some states and LEAs, this could involve expansion of efforts by existing organizations<sup>57</sup> to inform and counsel parents about school choice options.

### *Identifying, monitoring and possibly evaluating eligible private schools and tutorial services providers*

Again, states have experience with these activities with respect to tutorial services providers, but not with respect to private schools. Note also that eligible students attending private schools that are not currently approved to participate in a Title I portable grant program could still be able to use funds for services by approved tutorial services providers.

### **Administrative Burdens Associated with Meeting Current Title I Requirements for Fiscal Accountability and How Programs Are Conducted**

As noted earlier, unlike most current Title I outcome accountability requirements, current fiscal accountability and procedural requirements apply only to the individual schools and LEAs that directly receive Title I grants.

Thus, the question arises of whether their application should be expanded to include all public schools in which one or more students receiving a Title I portable grant enrolls, or even expanded to apply to private schools and/or tutorial services providers that serve Title I portable grant recipients. Alternatively, should these current Title I requirements be made more flexible, or possibly eliminated, for all schools and tutorial services providers that serve Title I portable grant recipients?

As discussed above, the *fiscal accountability requirements* for states, LEAs, and public schools that participate in Title I are intended to provide that Title I grants represent a net increase in the level of financial resources available to serve educationally disadvantaged pupils, and that they do not ultimately replace funds that states or LEAs would provide in the absence of federal aid. These requirements are well-intentioned, however, it can be somewhat burdensome for states and LEAs to prove that they meet some of them. Their role under a regime of Title I portable grants can be questioned in at least two respects.

First, with respect to the comparability requirement specifically, if eligible students may choose to attend any public school in the LEA, or even outside their LEA of residence, does it make sense to compare spending at “Title I” and “non-Title I” schools in the LEA? The current policy with respect to LEAs where all public schools (at least all of those at certain grade levels) are Title I schools could possibly be applied in this situation. This involves comparing spending at the LEA’s public schools with high and low percentages of students from low-income families. However, the value of even this measure would be questionable under a policy in which economically disadvantaged students receive Title I assistance to attend any public school they choose.

Second, should the requirement that Title I funds “supplement, and not supplant” funds otherwise available to public schools in the LEA and state apply to public schools at which one (or some minimum number of) Title I portable grant recipients are enrolled?<sup>258</sup> This raises a basic question of intent for Title I portable grant proposals:

**Is it sufficient that a public (or private) school chosen by an eligible Title I grant recipient simply provide the “regular” education program on the basis of which it is assumed that the student and his/her family chose it, or should all public, or even private, schools at which at least some minimum number of portable grantees enroll offer – and compete for Title I students on the basis of – supplemental instructional services beyond those offered to other students, and intended to meet the Title I students’ special educational needs?**

This question has major implications for the nature of the program that would result if portable grants were authorized and adopted in one or more states or LEAs. It applies also to the variety of current Title I requirements that are neither fiscal nor outcome-based.

*These include principally:*

- Procedural requirements for planning how Title I programs are to be conducted at the state, LEA, and school levels.
- Specific activities that either must, or may, be included in Title I schoolwide or targeted assistance programs.
- Parental involvement in Title I programs serving their children.
- Coordination of Title I services with those provided under other federal, state, and local programs.

As such, many portability proponents hold that supplement, and not supplant requirements should not apply to all providers serving Title I participants, especially those that are not public schools. Portable Title I grants may provide low-income students access to new public or private school options, which is access to entirely new, supplementary services.

One option for responding to this question would be to eliminate all current Title I requirements – other than those related to student outcomes, modified as discussed earlier – in states/LEAs conducting Title I portable grant programs. This option would involve minimum administrative burden while relying very heavily on a combination of parental choice and competition among schools to assure that Title I funds are appropriately and effectively used. Schools might offer to provide supplementary educational services, beyond their “regular” educational program, as a way of competing for portable grant recipients to enroll in them, but they would not be required to do so. This option might be particularly appropriate for participating private schools, to encourage them to participate while maintaining their independence.

Alternatively, another option would be to retain at least some of the current requirements for only *public* schools participating in Title I, assuming that they enroll some minimum number of portable grant recipients. Such minimal requirements might include the “supplement, not supplant” fiscal requirement for public schools, perhaps modified to minimize administrative burdens, and some portion of the current requirements regarding services that either must or may be provided in targeted assistance or schoolwide programs, along with some of the current parental involvement requirements. This would maintain the concept, inherent in Title I since it was initiated, that services funded by this program should go beyond those regularly provided by participating public schools.

If the current authority for schoolwide programs were to be retained under this scenario, then the burdens would be somewhat less for eligible schools, giving them relatively more flexibility in choosing how to use Title I grants, than if all participating schools were required, in effect, to conduct targeted assistance programs.

## Addressing Concerns Specific to the Inclusion of Religiously Affiliated Private Schools

Some may be concerned that inclusion of religiously affiliated private schools in a Title I portable grant program would contradict current law and policy. As discussed earlier, current Title I services for private school students are generally provided by public school staff, and funds are not transferred from public to private school authorities.

Nevertheless, a number of states have established programs under which public funds are provided to pay the costs for some students to enroll in private schools, including religiously-affiliated private schools.<sup>59</sup> The constitutional status of one of these state programs was considered by the U.S. Supreme Court in 2002, in the case of *Zelman v. Harris* (536 U.S. 639).<sup>60</sup> This case involved an Ohio program under which certain students from low-income families residing in Cleveland received state-funded vouchers to attend a variety of public or private schools. Although a range of private schools could be selected, a majority of the participating private schools were religiously affiliated, and a large majority of the participating students were enrolled in these schools. Parents controlled the choice of which school their children would attend.

A group of Ohio taxpayers sought to terminate the program, arguing that it violated the Establishment (of religion) Clause of the U.S. Constitution. However, the Supreme Court ruled that the Ohio program did not violate the Establishment Clause. In the majority opinion, Chief Justice Rehnquist wrote

**“In sum, the Ohio program is entirely neutral with respect to religion. It provides benefits directly to a wide spectrum of individuals, defined only by financial need and residence in a particular school district. It permits such individuals to exercise genuine choice among options public and private, secular and religious. The program is therefore a program of true private choice. In keeping with an unbroken line of decisions rejecting challenges to similar programs, we hold that the program does not offend the Establishment Clause.”<sup>61</sup>**

Thus, while a legal review of relevant issues and debates is well beyond the scope of this paper, it seems probable that a carefully-designed, publicly-funded school choice program that involves a wide array of choices among public and private schools, including religiously affiliated private schools, as well as tutorial services providers, and that relies on family choice to select among these service providers, could survive legal challenge.

While the federal government has long funded postsecondary education grant and loan programs such as Pell grants that support students enrolled in public and private, including religiously affiliated, institutions, this example has often been seen as having limited relevance to the Title I portable grant concept because the courts have recognized important differences between students at the postsecondary versus elementary-secondary levels.<sup>62</sup>

At the same time, the federal government has funded for several years a program under which certain students from low-income families in the District of Columbia can receive scholarships to pay tuition costs at private schools, including religiously affiliated schools.<sup>63</sup>

## Options to Make Portability Attractive to States

Arguably, for interested states and LEAs, the opportunity to implement Title I as a portable grant would constitute, by itself, a substantial and sufficient incentive to do so. The possibility that a substantial share of current requirements regarding how Title I funds may, or must, be used might be eliminated for participating schools would likely be considered an additional incentive.

In addition, Congress could consider the following strategies for making portability appealing to states:

- Explicitly authorize states to combine Title I portable grants with state programs or tax authorities intended to expand school choice. This could include integration of Title I portable grants with: state weighted pupil school finance programs; state programs offering scholarships for certain students to attend private schools or obtain privately-provided educational services; state public school choice programs, including public charter schools; and state provisions for deductions or credits for contributions to private school choice programs.
- Provide additional funding for participating states. Such additional funds could be rationalized as a way to help pay for the substantial increase in expenditures per participating student in order to provide a full range of choices.

## Conclusion

Any proposals to authorize the provision of Title I assistance in the form of portable grants would be considered in the context of current program provisions discussed in this report. Under portable grants, some elements of the current program structure, such as its focus primarily on schools rather than individual students, would inevitably be set aside. Other current provisions, such as an emphasis on providing higher grants per student from a poor family to LEAs with higher percentages or numbers of such students, might or might not be incorporated into portable grant proposals. Those considering portable grant options will need to consider which of the current program elements should or should not be included in possible new portable grant authorities.

# Endnotes

<sup>1</sup>For simplicity, reference will be made to “Title I” rather than “Title I, Part A,” in the remainder of this paper.

<sup>2</sup>Title I services are provided to, approximately: (1) 84% of all LEAs; (2) 55,000 (56% of all) public schools, including 68% of public elementary schools; and (3) 23.6 million (45% of all) public school pupils, plus 200,000 (4% of all) pupils attending private schools.

<sup>3</sup>This could include integration of Title I portable grants with state weighted pupil school finance programs, state programs offering scholarships for certain students to attend private schools or obtain privately-provided educational services, the District of Columbia scholarship program, state public school choice and public charter school programs, and state provisions for deductions or credits for contributions to private school choice programs.

<sup>4</sup>In practice, for recent years, the amount allocated each year under the Concentration Grant formula has remained constant, the amount allocated as Basic Grants has declined somewhat (as across-the-board budget cuts for Title I overall have been applied only to Basic Grants), and remaining funds have been allocated under the Targeted and EFIG formulas on a fifty-fifty basis.

<sup>5</sup>In addition, states are authorized to use alternative data on school-aged children in low-income families to reallocate the aggregate amounts calculated by the U.S. Department of Education (ED) for the small LEAs in their state. For this purpose, small LEAs are defined as those serving areas with a total population of fewer than 20,000 persons. In order to exercise this option, the alternatives to Census poverty estimates to be used by states must be approved by ED. The participating states have selected a variety of alternative population measures, including counts of children receiving free or reduced-price school meals, children in families receiving public assistance, or state revenue system data on children in poor families. Many states use a combination of Census poverty estimates and alternative data -- e.g., Census poverty estimates \* 0.5 plus children receiving free school meals \* 0.5.

<sup>6</sup>As is discussed later in this report, these Census poverty estimates are not used in the allocation of Title I funds to schools or in the determination of which students are to be served under the program.

<sup>7</sup>For FY 2016 grants, the national average expenditure factor (before application of the 0.4 multiplier) is \$11,271. Thus, the range of state expenditure factors is \$9,017 to \$13,525 for all formulas except EFIG Grants, and \$9,580 to \$12,962 for EFIG Grants.

<sup>8</sup>For example, the total Targeted plus EFIG Grant for Williamson County School District in Tennessee fell from \$686,148 for FY 2014 to zero for FY 2015 after the LEA's formula child percentage fell from just over 5.0% to 4.86%.

<sup>9</sup>In calculating grants for Puerto Rico, a cap of 1.82 is placed on the net aggregate weight applied to the population factor under the Targeted Grant formula. This cap was intended to provide that the share of Targeted Grants allocated to Puerto Rico would be approximately equal to its share of grants under the Basic and Concentration Grant formulas for FY 2001.

<sup>10</sup>Detailed guidance regarding the selection of schools to receive Title I grants and the allocation of funds among them may be found in the following ED policy guidance document — “Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools,” 2003, available at: <http://www2.ed.gov/programs/titleiparta/legislation.html#wave1>.

<sup>11</sup>Some LEAs run out of Title I funds before serving all schools where the percentage of students from low-income families is 75% or above. This usually occurs in a small number of LEAs with exceptionally high percentages of students from low-income families in a high proportion of their schools. These LEAs are to serve schools in rank order, based on their percentage of students from low-income families, until they run out of funds. Note that under ESSA states may treat high schools that are above 50% poverty the same way they treat elementary schools above 75%.

<sup>12</sup>There is an exemption from all of the Title I school selection requirements for small LEAs — defined in this case as those with enrollments of 1,000 or fewer pupils. Such small LEAs do not have to meet any of the school ranking requirements discussed here.

<sup>13</sup>This minimum percentage is reduced from 35% to 25% for schools participating in certain desegregation plans.

<sup>14</sup>LEAs may also develop and use a composite of two or more of these measures—for example, school-age children in families receiving either TANF or Medicaid benefits.

<sup>15</sup>U.S. Department of Education, “Study of Education Resources and Federal Funding: Final Report,” 2000, p. 33, available at: <http://eric.ed.gov/?id=ED445178>.

<sup>16</sup>These income thresholds are somewhat higher for Alaska and Hawaii.

<sup>17</sup>U.S. Department of Education, National Center for Education Statistics, “Digest of Education Statistics, 2014,” Table 204.10, available at: [nces.ed.gov/pubs2016/2016006.pdf](http://nces.ed.gov/pubs2016/2016006.pdf), p. 108.

<sup>18</sup>According to the ED policy guidance document, “Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools” (p. 16), “To obtain a count of private school children, an LEA may use: (1) The same poverty data it uses to count public school children. (2) Comparable poverty data from a survey of families of private school students that, to the extent possible, protects the families’ identity. The LEA may extrapolate data from the survey based on a representative sample if complete actual data are not available. (3) Comparable data from a different source, such as scholarship applications, so long as the income level for both sources is generally the same. (4) Proportional data based on the poverty percentage of each public school attendance area applied to the total number of private school children who reside in that area. (5) An equated measure of low income correlated with a measure of low income used to count public school children.”

<sup>19</sup>See, for example: <http://www.virginiatitleibypass.com/index.cfm>.

<sup>20</sup>Most public school Title I programs are schoolwide programs (where all enrolled pupils are considered to be served), whereas private school pupils are served only in targeted assistance programs (where only the individual pupils directly served are counted and receive services).



<sup>21</sup>For more detailed information on this topic, see “Issues in the Allocation of ESEA Title I Funds to Charter Schools,” by Wayne Riddle, National Alliance for Public Charter Schools, April 2015, available at: <http://www.publiccharters.org/publications/title1-funds-charter-schools/>.

<sup>22</sup>“State Educational Agency Procedures For Adjusting Basic, Concentration, Targeted, And Education Finance Incentive Grant Allocations Determined By The U.S. Department Of Education,” available at: [www2.ed.gov/programs/titleiparta/seaguidanceforadjustingallocations.doc](http://www2.ed.gov/programs/titleiparta/seaguidanceforadjustingallocations.doc), pages 3-24.

<sup>23</sup>Neglected, delinquent, and foster children, plus children in families receiving TANF payments in excess of the poverty income threshold for a family of 4.

<sup>24</sup>For more detailed information on this topic, see “Implications of Community Eligibility for the Education of Disadvantaged Students Under Title I,” by Wayne Riddle, available at: <http://www.cbpp.org/research/food-assistance/implications-of-community-eligibility-for-the-education-of-disadvantaged>.

<sup>25</sup>See U.S. Department of Education, “The Community Eligibility Provision and Selected Requirements Under Title I, Part A of the Elementary and Secondary Education Act of 1965, As Amended,” revised March 2015, available at: [www2.ed.gov/programs/titleiparta/15-0011.doc](http://www2.ed.gov/programs/titleiparta/15-0011.doc).

<sup>26</sup>The ED guidance refers to Identified Students as “directly certified students.”

<sup>27</sup>The data in this table are from “FY 2016 Department of Education Justifications of Appropriation Estimates to the Congress,” available at: <http://www2.ed.gov/about/overview/budget/budget16/justifications/index.html>, p. A-27, and the “Digest of Education Statistics, 2014,” available at: [nces.ed.gov/pubs2016/2016006.pdf](http://nces.ed.gov/pubs2016/2016006.pdf), pages 29, 118, and 172.

<sup>28</sup>Stephanie Stullich, et al., “National Assessment of Title I Final Report” (Washington, DC: U.S. Department of Education, 2007), p. 16, available at: [http://ies.ed.gov/ncee/pdf/20084012\\_rev.pdf](http://ies.ed.gov/ncee/pdf/20084012_rev.pdf).

<sup>29</sup>The participation data are taken from individual “Consolidated State Performance Reports, 2013-14, Part II,” table 2.1.2.3, available at: <http://www2.ed.gov/admins/lead/account/consolidated/sy13-14part2/index.html>; and the funding data are taken from the U.S. Department of Education Budget Service, available at: <http://www2.ed.gov/about/overview/budget/statetables/index.html>.

<sup>30</sup>As discussed earlier, Title I participants are all students in schoolwide program schools plus individual children receiving Title I-funded supplementary services in targeted assistance schools including private schools.

<sup>31</sup>For additional information on this topic, see <http://www.excelined.org/principles-2015-reauthorization-elementary-secondary-education-act/>.

<sup>32</sup>If all of an LEA's schools participate in Title I (or at least all schools at certain grade levels), then a comparison is made of spending at the LEA's public schools with relatively high and low percentages of students from low-income families.

<sup>33</sup>“Title I Services to Eligible Private School Children,” available at: [www2.ed.gov/programs/titleiparta/psguidance.doc](http://www2.ed.gov/programs/titleiparta/psguidance.doc).

<sup>34</sup>A previous example of a proposal to restructure a major portion of federal aid on an individualized basis was the effort during the Reagan Administration to either require or authorize LEAs to offer ESEA Title I services to at least some disadvantaged pupils in the form of vouchers that could be used to obtain supplementary educational services at any public school chosen by the pupil's parents, or to pay tuition costs at a private school. These proposals, offered on two different occasions, were not adopted by the Congress. See Riddle, Wayne, “Vouchers for the Education of Disadvantaged Children: Analysis of the Reagan Administration Proposal,” *Journal of Education Finance*, Summer 1986, p. 9-35, available at: <http://www.jstor.org/stable/40703526>.

<sup>35</sup>The 113th Congress bills include S. 2998 (Sen. Vitter), S. 1101 (Sen. Alexander, et al.), H.R. 5 (Rep. Kline, et al.), and H.R. 5477 (Rep. Messer). The 114th Congress bills include H.R. 554 (Rep. Messer), S. 72 (Sen. Vitter), and S. 306 (Sen. Lee). The only substantial variation among these proposals is whether they are limited only to public schools (the two versions of H.R. 5 (Rep. Kline) and S. 1101 (Sen. Alexander)) or also explicitly and directly include private schools (all of the other listed bills (Sen. Vitter, Rep. Messer, and Sen. Lee)).

<sup>36</sup>Partially similar proposals were offered by Sen. Alexander in previous years, particularly a “GI Bill for Kids” proposal in 1992 and a “Pell Grants for Kids” proposal in 2004. However, since these did not involve the ESEA Title I program, they will not be discussed in this report. Similarly, in the 114th Congress, Sen. Scott sponsored S. 265, a bill that would authorize portable grants, but with respect to the Individuals with Disabilities Education Act (IDEA) program, not ESEA Title I.

<sup>37</sup>Data on the number of students enrolled in public (or private) schools from families with income below the federal poverty thresholds do not currently exist for states or LEAs. The Census Bureau produces estimates of the total number of children aged 5-17 (whether or not they are enrolled in any school) residing within the geographic areas served by traditional (e.g., not charter school) LEAs, but those data would not meet the requirements of the option proposed under H.R. 5 during the 114th Congress.

<sup>38</sup>In this report, I use the terms of “tutorial services provider” and “supplemental educational services provider” interchangeably – i.e., as meaning the same thing.

<sup>39</sup>Slightly different estimates of participation in school choice and supplemental educational services in the 2006-07 school year were provided in two different U.S. Department of Education reports published in 2009 – “Title I Implementation – Update on Recent Evaluation Findings” (available at: <https://www2.ed.gov/about/offices/list/opepd/ppss/reports.html>) and “State and Local Implementation of the No Child Left Behind Act Volume VII—Title I School Choice and Supplemental Educational Services: Final Report” (available at: <https://www2.ed.gov/rschstat/eval/choice/nclb-choice-ses-final/choice-ses-final.pdf>). The differences in participation estimates resulted from use of different databases on NCLB implementation).

<sup>40</sup>See, for example, Borman, Geoffrey D., and Jerome V. D'Agostino, “Title I and Student Achievement: A Meta-Analysis of Federal Evaluation Results,” *Educational Evaluation and Policy Analysis*, December 1996, pages 309-326; and Sousa, Sonia and David J. Armor, *The Effectiveness of Title I: Synthesis of National-level Evidence from 1966 to 2013*, GMU School of Public Policy Research Paper No. 2013-19, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2350037##](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2350037##)

<sup>41</sup>U.S. Department of Education, “Prospects: The Congressionally Mandated Study of Educational Growth and Opportunity. The Interim Report,” May 1993, p. 76-83, available at: <http://eric.ed.gov/?id=ED361466>.

<sup>42</sup> Jay G. Chambers, et al., “State and Local Implementation of the No Child Left Behind Act, Volume VI—Targeting and Uses of Federal Education Funds” (Washington, DC: U.S. Department of Education, 2009), p. 48, available at: <http://www2.ed.gov/rschstat/eval/disadv/nclb-targeting/nclb-targeting.pdf>.

<sup>43</sup> Wayne Riddle, “Title I and High Schools: Addressing the Needs of Disadvantaged Students at All Grade Levels,” Alliance for Excellent Education, 2011, available at: <http://all4ed.org/reports-factsheets/title-i-and-high-schools-addressing-the-needs-of-disadvantaged-students-at-all-grade-levels/>.

<sup>44</sup> During the later years of this period, most states obtained waivers from the U.S. Department of Education releasing them from several of the Title I accountability requirements of the NCLB, including the school choice and supplementary services requirements, in return for meeting other requirements not contained in the Title I statute.

<sup>45</sup> See two U.S. Department of Education reports published in 2009 – “Title I Implementation – Update on Recent Evaluation Findings” (available at: <https://www2.ed.gov/about/offices/list/opepd/ppss/reports.html>) and “State and Local Implementation of the No Child Left Behind Act Volume VII—Title I School Choice and Supplemental Educational Services: Final Report” (available at: <https://www2.ed.gov/rschstat/eval/choice/nclb-choice-ses-final/choice-ses-final.pdf>).

<sup>46</sup> See, for example, U.S. Department of Education, “National Assessment of the Chapter 1 Program, The Interim Report,” June 1992, p. 137-163, available at: <http://eric.ed.gov/?id=ED350105>. Also see: U.S. Department of Education, “Prospects: The Congressionally Mandated Study of Educational Growth and Opportunity, The Interim Report,” May 1993, p. 78, available at: <http://eric.ed.gov/?id=ED361466>.

<sup>47</sup> Slightly different estimates of participation in school choice and supplemental educational services in the 2006-07 school year were provided in two different U.S. Department of Education reports published in 2009 – “Title I Implementation – Update on Recent Evaluation Findings” (available at: <https://www2.ed.gov/about/offices/list/opepd/ppss/reports.html>) and “State and Local Implementation of the No Child Left Behind Act Volume VII—Title I School Choice and Supplemental Educational Services: Final Report” (available at: <https://www2.ed.gov/rschstat/eval/choice/nclb-choice-ses-final/choice-ses-final.pdf>). The differences in participation estimates resulted from use of different databases on NCLB implementation).

<sup>48</sup> See for example the Louisiana Scholarship Program and Ohio’s Educational Choice Scholarship Program.

<sup>49</sup> According to the U.S. Department of Education’s 2009 report, “State and Local Implementation of the No Child Left Behind Act, Volume VII—School Choice and Supplemental Educational Services: Final Report,” the average number of hours provided to students participating in Title I-funded supplemental educational services in 2006-07 was 45, and the average amount spent per student in 2005-06 was \$838. Combining those figures, you would get and estimated \$18.62 per child per hour of service, so \$605 would cover approximately 32 hours of tutorial services.

<sup>50</sup> Specifically, the U.S. Census Bureau publishes annual estimates of the number of school-age (5-17 years) persons from poor families for states and LEAs. These data do not consider whether individuals are or are not enrolled in any school, and they do not identify any specific individuals – i.e., they are only estimates of aggregate numbers of persons meeting these criteria. They are based on sample, not universal, population surveys. Nevertheless, these estimates are the best available proxy for the actual total number of students enrolled in K-12 schools who might be in poor families, and they are employed in the discussion above.

<sup>51</sup> These are estimates for income year 2014 published by the Small Area Income and Poverty Estimates (SAIPE) program of the U.S. Bureau of the Census, available at: <http://www.census.gov/did/www/saipe/data/highlights/2014.html>.

<sup>52</sup> Another theoretical option for defining students from low-income families is on the basis of “identified students” as defined for purposes of the Community Eligibility Program for school meals discussed earlier in this paper. As noted above, these include students who may be directly certified as eligible for free school meals because of participation in programs such as Head Start, Temporary Assistance for Needy Families (TANF), or the Supplemental Nutrition Assistance Program (SNAP). Unfortunately, an unduplicated, national count of the children meeting this standard is not available. However, the Healthy, Hunger-Free Kids Act of 2010 embodies an estimate of the ratio of the number of students eligible for free or reduced price lunches to the number of identified students; this ratio is estimated to be 1.6 to 1.0. Given the most recent available count of students eligible for free or reduced price lunches of 25.2 million (U.S. Department of Education, National Center for Education Statistics, “Digest of Education Statistics, 2014,” Table 204.10, available at: <http://nces.ed.gov/pubs2016/2016006.pdf>), this would result in an estimated number of identified students of 15.8 million. While this total is substantially lower than the 23.8 million students currently participating in Title I, it is substantially higher than the estimated 10.4 million students from poor families enrolled in K-12 schools. Therefore, the identified student standard of eligibility would be less useful than the poverty standard for purposes of meaningfully expanding educational opportunities for eligible students through increased grants per student served.

<sup>53</sup> All states have participated in Title I since the initiation of the program in 1965.

<sup>54</sup> At the least, there should be an exception to the requirement to report to the public in cases where the number of Title I students at a school is so low that the reporting of results might constitute release of individually-identifiable information.

<sup>55</sup> These surveys are sometimes administered to the families of students in schools that participate in the Community Eligibility Program for school meals. For example, see information about the New Jersey Household Information (including income) Survey at: <http://www.state.nj.us/education/finance/cep/>. These surveys now generally focus on the income thresholds for free and/or reduced price school meals, not the Census poverty income threshold.

<sup>56</sup> Assuming that religiously-affiliated private schools are included in a portable grant program, it is possible that a neutral, non-governmental “bypass agent” would have to be established in at least a couple of states if they choose to participate. Such bypass arrangements have been made in cases where a state or LEA deems itself to be unable to provide Title I services to eligible private school students. Currently this applies to the states of Missouri and Virginia.

<sup>57</sup> For example, existing Scholarship Granting Organizations work to educate parents on available educational options, and other private actors like EdNavigator advise parents on their child’s education as a benefit of employment. <http://www.ednavigator.com/>

<sup>58</sup> On September 6, 2016, the U.S. Department of Education published proposed regulations for the supplement/not supplant requirement that have generated significant debate (see <https://www.gpo.gov/fdsys/pkg/FR-2016-09-06/pdf/2016-20989.pdf>).

<sup>59</sup> See, for example, “Vouchers, Scholarship Tax Credits, and Individual Tax Credits and Deductions,” by Emily Workman, October 2012, Education Commission of the

States, available at: <http://www.ecs.org/clearinghouse/01/05/28/10528.pdf>; and “Education Savings Accounts: Key Provisions and State Variations,” by Hunter Railey, Education Commission of the States, August 2016, available at: [http://www.ecs.org/ec-content/uploads/08112016\\_Education\\_Savings\\_Accounts.pdf](http://www.ecs.org/ec-content/uploads/08112016_Education_Savings_Accounts.pdf).

<sup>60</sup>For the text of this decision, see <https://www.law.cornell.edu/supct/html/00-1751.ZS.html>.

<sup>61</sup>See <https://www.law.cornell.edu/supct/html/00-1751.ZO.html>.

<sup>62</sup>See *Tilton v. Richardson*, 403 U.S. 672 (1971) and related cases, as discussed in: [https://www.law.cornell.edu/anncon/html/amdt1afrag3\\_user.html](https://www.law.cornell.edu/anncon/html/amdt1afrag3_user.html).

<sup>63</sup>Under the DC School Choice Incentive Act of 2003, scholarships are available for students from low-income families to pay costs of tuition at private schools located in the District of Columbia. Students eligible for free or reduced price lunches (income up to 185% of the federal poverty level), or whose families receive assistance under the Supplemental Nutrition Assistance Program (SNAP), may apply for initial scholarships, and may retain eligibility as long as family income does not exceed 300% of the poverty level. Scholarships may not exceed regular tuition charges at the participating private schools, and are capped at \$8,452 for elementary schools (grades K-8) and \$12,679 for secondary schools (grades 9-12) for the 2016-17 school year. If available funds are insufficient to provide scholarships to all eligible applicants, recipients are selected by lottery. The program is administered via a non-governmental organization, “Serving Our Children.” For further information, see <http://servingourchildrenc.org>.