



# TITLE I PART A GUIDE

Student, School, and Family Support Bureau  
New Mexico Public Education Department  
Guide



The State of New Mexico  
Title I Part A Guide

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# Contents

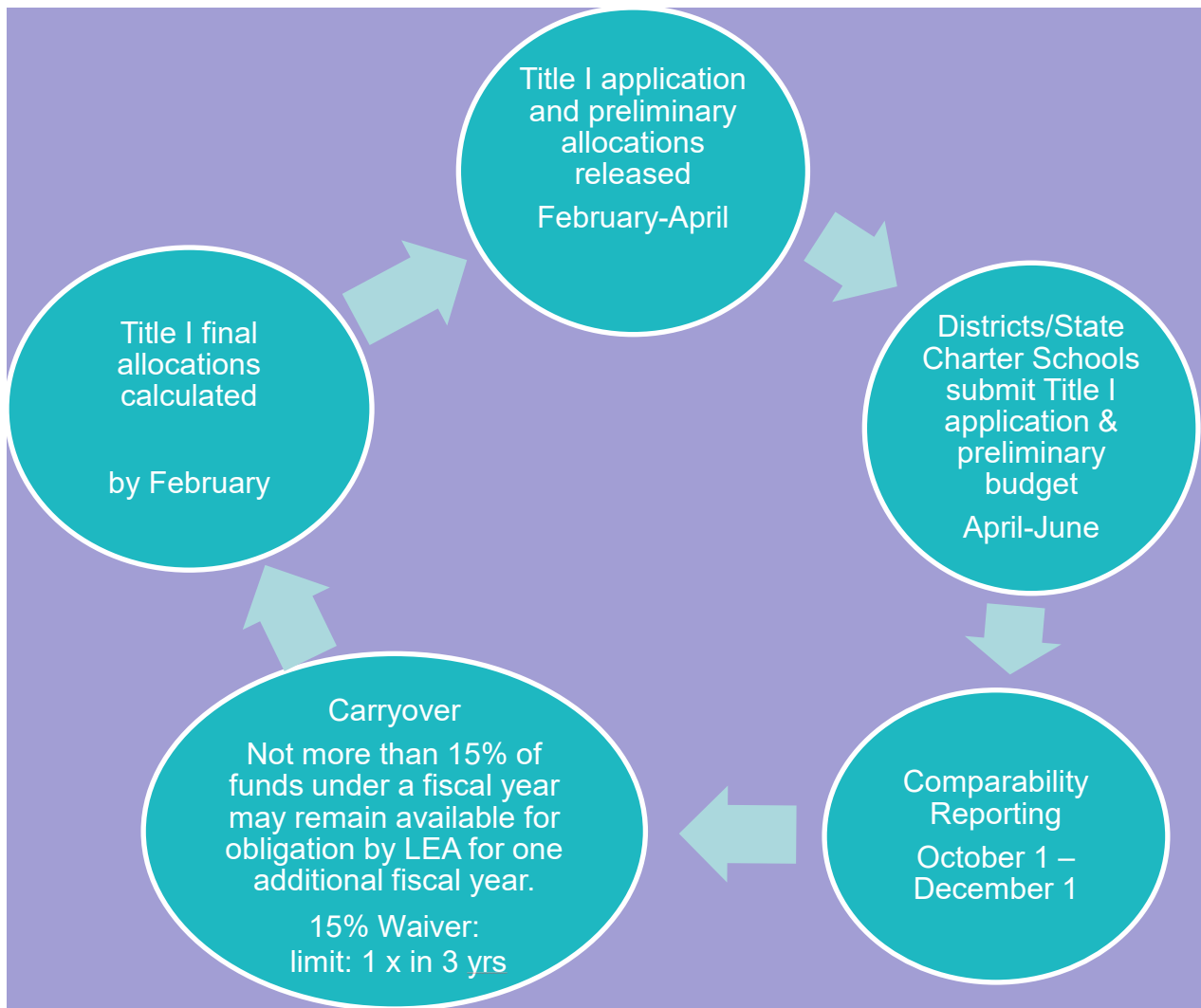
<b>Purpose of Title I Part A</b> .....	<b>4</b>
<b>Title I Part A Program Models</b> .....	<b>5</b>
Schoolwide Programs.....	5
Schoolwide Program Consolidation of Funds .....	5
Implementing a Schoolwide Program.....	5
Preschool Program.....	7
Delivery of Services.....	7
Operation of Dual and Concurrent Enrollment Programs .....	7
Targeted Assistance Schools Program.....	7
Eligible Population .....	7
Eligible Students from Eligible Population.....	7
Program Requirements.....	8
Delivery of Services.....	9
Operation of Dual and Concurrent Enrollment Programs .....	9
Integration of Professional Development.....	10
<b>Parent and Family Engagement</b> .....	<b>10</b>
LEA Parent and Family Engagement Policy.....	10
School Parent and Family Engagement Policy .....	10
School-Parent Compact .....	10
Parents’ Right to Know – Student Achievement.....	10
Parents’ Right to Know – Teacher and Paraprofessional Qualifications.....	10
Title I Part A Meetings.....	11
Annual Report Cards .....	11
Written Complaint Procedures .....	11
English Language Learner (ELL) – Language Instruction Educational Programs.....	11
Parental Participation .....	12
Further Resources .....	12
<b>ESEA Equitable Services</b> .....	<b>12</b>
Purpose of Equitable Services through Title I Part A.....	12
What are Equitable Services and who is eligible?.....	12
<b>Students Experiencing Homelessness</b> .....	<b>13</b>
LEA Homeless Liaison.....	14
<b>Students in Foster Care</b> .....	<b>14</b>

Overview of ESSA Requirements .....	14
Educational Stability.....	15
Best Interest Determination (BID) .....	15
Transportation .....	15
<b>Educational Assistants and Title I Schools .....</b>	<b>16</b>
<b>Within District Allocations and Rank Order .....</b>	<b>16</b>
Required Reservations.....	16
Equitable Services for Eligible Private School children .....	16
Parent and Family Engagement.....	17
Homeless Children and Youths; Children in Local Institutions for Neglected Children.....	17
Authorized Reservation.....	17
<b>Allocating Title I funds to Public School – In General .....</b>	<b>18</b>
Greater than 75 Percent Poverty.....	18
Option for High Schools .....	18
Less than 75 Percent Poverty.....	18
Three Options for Rank Ordering.....	18
<b>Guidance on Costs.....</b>	<b>19</b>
Title I, Part A Specific Activities and Expenditures.....	19
Supplanting .....	23
Equipment .....	24
Additional Budget Considerations .....	25
Carryover Limitation.....	25
Time Documentation.....	25
Requirements for Alternative System of Time and Effort Reporting.....	26
System Guidelines.....	26
<b>Program Monitoring.....</b>	<b>26</b>
Self-Assessment Tool .....	27
Desktop Monitoring .....	27
Subrecipient Monitoring in Collaboration with the Audit Bureau.....	27
<b>Complaint Procedure .....</b>	<b>28</b>
<b>APPENDIX A Evidence-Based Interventions .....</b>	<b>34</b>
<b>GLOSSARY.....</b>	<b>36</b>

## Purpose of Title I Part A

The Elementary and Secondary Education Act (ESEA) was amended by Every Student Succeeds Act in 2015. The purpose of Part A, Improving Basic Programs Operated by Local Educational Agencies, is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.

Title I allocations are based on U.S. Census Data as well as state Per-Pupil Expenditure (SPPE) data. The U.S. Department of Education (ED) calculates the district allocations for each State. The State then derives the formula counts for state charter schools.



## Title I Part A Program Models

### Schoolwide Programs

A Title I schoolwide program is a comprehensive reform strategy designed to upgrade the entire educational program in a Title I school to improve the achievement of the lowest-achieving students. (ESEA, as amended, Section 1114(a)(1)). A school with 40 percent or more of its students from low-income families may operate a schoolwide program. As an exception, a school that serves an eligible school attendance area in which less than 40 percent of the children are from low-income families or a school for which less than 40 percent of the children enrolled in the school are from such families may operate a schoolwide program if the school receives a waiver from the New Mexico Public Education Department's (NMPED) Student, School, and Family Support (SSFS) Bureau. This waiver can be requested through the Title I application submitted by the district to NMPED annually.

### **Schoolwide Program Consolidation of Funds**

Title I funding aims to provide all children with significant opportunity to receive a fair, equitable, and high-quality education and close educational achievement gaps. Title I, Part A funds are supplemental funds. A local education agency (LEA\*) may use its universal funds such as State and local funds to fund basic services for a program to operate. Supplemental funds, such as Title I, Part A, can then be used to pay for comprehensive services in order to strengthen the program. Specialized funds pay for eligible services that may increase or expand access to programs, such as restricted Federal or State funds or one-time funds.

An LEA may braid Title I, Part funds in order to coordinate with other funds to meet one purpose. When funds are braided, individual funding streams maintain their identity for eligibility and reporting.

To afford even greater flexibility than braiding funds, a Title I schoolwide program school may also consolidate funds. Some of the advantages of such consolidation include:

- Flexibility to allocate all available resources effectively and efficiently
- A school is not required to meet most of the statutory and regulatory requirements of the specific Federal programs included in the consolidation, provided it meets the intent and purposes of those programs.
- A school is not required to maintain separate fiscal accounting records by Federal program that identify the specific activities supported by each program's funds.

(Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program Non-Regulatory Guidance, 2016)

For further information, please see the Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program Non-Regulatory Guidance: [ESSA Schoolwide Guidance September 2016 \(PDF\) \(ed.gov\)](#)

\*The term LEA is used interchangeably with districts and state charter schools in this document.

### **Implementing a Schoolwide Program**

A school implementing a schoolwide program must have a schoolwide program plan. This plan is developed with the involvement of—

- parents and other members of the community
- school staff who will carry out the program including the principal, other school administrators, teachers, educational assistants, instructional support providers, etc.
- district staff
- Tribes (if applicable)

The schoolwide program plan must be—

- made available to the district, parents, and the public, and
- be in an understandable format and, to the extent practicable, provided in a language that the parents can understand.

There are three required components to a schoolwide program plan—

**1. Comprehensive Needs Assessment**

The schoolwide program plan must be based on a comprehensive needs assessment of the entire school that takes into account information on the academic achievement of students in relation to the challenging State academic standards, particularly the needs of students who are failing or are at risk of failing, to meet the challenging State academic standards and any other factors as determined by the district (example, MLSS-self-assessment with added questions from the [equity council readiness assessment](#) that pertain specifically to student groups)

**2. Preparing a comprehensive schoolwide plan**

The schoolwide program plan describes how the school will improve academic achievement throughout the school, particularly for the lowest-achieving students, by addressing the needs identified in the comprehensive needs assessment. The plan includes strategies to be implemented that address school needs such as methods that strengthen the academic program, provide for an enriched and accelerated curriculum, increase the amount and quality of learning time, and include programs and courses for a well-rounded education. This includes providing opportunities for all students including all student groups as well as addressing the needs of all students, particularly the needs of students at risk of not meeting State standards. Please see ESEA, as amended, Sec. 1114(b)(7). To ensure that the plan results in progress toward addressing the needs of the school, the plan should include benchmarks for the evaluation of program results. This plan may be integrated into an existing improvement plan (Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program Non-Regulatory Guidance, 2016)

**3. Annual evaluation of the schoolwide program plan**

A schoolwide program plan is reviewed annually using data from State assessments and other indicators of academic achievement (34 CFR 200.26(c)(1)) to determine if the program has been effective in addressing the major problem areas and increasing student achievement, particularly for the lowest-achieving students. A school must annually revise the plan, as necessary, based on student needs and the annual evaluation results to ensure continuous improvement (34 CFR 200.26(c)(3))

## **Preschool Program**

A school with a schoolwide program can also use Title I funding to establish or enhance a preschool program for children under 6 years of age. Title I funds can be used for preschool activities if the preschool activities support the needs of students in the school as identified through the comprehensive needs assessment and as articulated in the schoolwide plan. Since in a schoolwide program all students are eligible to be served under Title I the same applies to a schoolwide program that operates a preschool program. In such a case Title I funds can be used to serve all preschool children who participate in that program. For further information, please see the [Serving Preschool Children Through Title I, Part A Non-Regulatory Guidance](#).

## **Delivery of Services**

The services in a schoolwide program may be delivered by non-profit or for-profit external providers that have expertise in using evidence-based or effective strategies to improve student achievement.

## **Operation of Dual and Concurrent Enrollment Programs**

A schoolwide program in a secondary school can use Title I funding for a dual or concurrent enrollment program that addresses the needs of students not achieving at high levels or at risk of not meeting State standards. Title I funding can be used for any of the costs associated with the program. Such costs include—

- training for teachers, and joint professional development for teachers in collaboration with career and technical educators and educators from institutions of higher education, where appropriate, to integrate rigorous academics in such program
- tuition and fees
- books
- instructional materials for the program
- innovative delivery methods
- transportation to and from the program

## **Targeted Assistance Schools Program**

For schools that do not meet the criteria for a Title I schoolwide program and do not have a waiver to operate such a program, or that do not choose to operate a schoolwide program, a district may use Title I funding to provide programs that provide services for eligible students. Please see below for further information on the eligible population and eligible students.

### **Eligible Population**

The eligible population for targeted assistance services are students

- 1) not older than age 21 who are entitled to a free public education through grade 12, and
- 2) who are not yet at a grade level at which the district provides free public education.

### **Eligible Students from Eligible Population**

Eligible students are students from the eligible population who are identified by the school as failing or most at risk of failing to meet the State academic standards on the basis of multiple, educationally related, objective criteria established by the district and supplemented by the school. However, students



from preschool through grade 2 must be selected solely based on criteria, including objective criteria, established by the district and supplemented by the school.

It is important to note that economically disadvantaged students, students with disabilities, migrant students, or English Learner students are eligible for services under a targeted assistance program on the same basis as other students selected for receiving services are.

However, the following students are considered at risk of failing to meet state standards and are thus eligible for targeted assistance services by virtue of their status.

- Students who participated in a Head Start program, the literacy program under subpart 2 of part B of Title II, or in a Title I supported preschool at any time in the two preceding years
- Migrant students who received services under Part C of Title I at any time in the two preceding years
- Students in a local institution for neglected or delinquent children and youth or attending a community day program
- Students attending any school in the LEA who are experiencing homelessness

Please note that Title I targeted assistance program funds may not be used to provide services that are required by law to be made available for the student groups discussed above. However, Title I targeted assistance program funds can be used to supplement or coordinate such services.

### **Program Requirements**

Targeted Assistance Programs must (ESEA, as amended, section 1115(b)):

1. determine which students will be served
2. serve participating students identified as eligible, including by
  - a) using resources under this part to help eligible students meet the challenging State academic standards, which may include programs, activities, and academic courses necessary to provide a well-rounded education
  - b) using methods and instructional strategies to strengthen the academic program of the school through activities, which may include—
    - (i) expanded learning time, before- and after school programs, and summer programs and opportunities; and
    - (ii) a schoolwide tiered model to prevent and address behavior problems and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)
  - c) coordinating with and supporting the regular education program, which may include services to assist preschool children in the transition from early childhood education programs such as Head Start, the literacy program under subpart 2 of part B of title II, or State-run preschool programs to elementary school programs
  - d) providing professional development with resources provided under Title I, Part A and, to the extent practicable, from other sources to teachers, principals, other school leaders,

paraprofessionals, and, if appropriate, specialized instructional support personnel and other school personnel who work with eligible children in programs under this section or in the regular education program

e) implementing strategies to increase the involvement of parents of eligible children in accordance with ESEA, as amended, section 1116

f) if appropriate and applicable, coordinating and integrating Federal, State, and local services and programs, such as programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and comprehensive support and improvement activities or targeted support and improvement activities under ESEA, as amended, section 1111(d)

g) provide to the local educational agency assurances that the school will—

- (i) help provide an accelerated, high-quality curriculum;
- (ii) minimize the removal of children from the regular classroom during regular school hours for instruction provided under this part; and
- (iii) on an ongoing basis, review the progress of eligible children and revise the targeted assistance program under this section, if necessary, to provide additional assistance to enable such children to meet the challenging State academic standards.

As a funding source of last resort, Targeted Assistance program funds may be used to provide basic medical equipment (such as eyeglasses and hearing aids), to pay for a service coordinator, to provide family support and engagement services, integrated student supports, and for professional development in meeting the comprehensive needs of eligible children.

### **Delivery of Services**

The services of a targeted assistance program may be delivered by non-profit or for-profit external providers that have expertise in using evidence-based or effective strategies to improve student achievement.

### **Operation of Dual and Concurrent Enrollment Programs**

A secondary school operating a targeted assistance program may use Title I funds for a dual or concurrent enrollment program to eligible students identified as having the greatest need for special assistance. Title I funding can be used for any of the costs associated with the program. Such costs include—

- training for teachers, and joint professional development for teachers in collaboration with career and technical educators and educators from institutions of higher education, where appropriate to integrate rigorous academics in such program
- tuition and fees
- books
- instructional materials for the program
- innovative delivery methods
- transportation to and from the program

## **Integration of Professional Development**

Per ESEA, as amended, section 1115(d) in order to promote the integration of staff supported by Title I funds into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with Title I funds under may— (1) participate in general professional development and school planning activities; and (2) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

## **Parent and Family Engagement**

### **LEA Parent and Family Engagement Policy**

Districts and schools must, with the involvement of parents with children in Title I schools, develop written parent and family engagement policies that meet the requirements of ESEA, as amended, section 1116. LEA policies must be distributed to Title I parents in an understandable and uniform format. Policies must be evaluated annually, with meaningful involvement of parents. The evaluation process includes identifying the needs of parents and family members to assist in their child’s learning and to address identified barriers to greater family participation. Strategies are identified, and the LEA policy is revised, as necessary.

### **School Parent and Family Engagement Policy**

Each Title I school must develop, together with parents, a written parent and family engagement policy that is agreed upon by the parents. Parents must be notified of the policy in a uniform format and in a language that the parents can understand. The school policy must be made available to the local community and updated periodically to meet the changing needs of the parents and school.

### **School-Parent Compact**

Schools must develop a school-parent compact with parents. The compact is part of the school’s parent and family engagement policy and must outline how parents, school staff, and students will share the responsibility for improved student academic achievement.

### **Parents’ Right to Know – Student Achievement**

Schools must provide parents with information on the level of achievement of their students in each of the State academic assessments.

### **Parents’ Right to Know – Teacher and Paraprofessional Qualifications**

At the beginning of each school year, a school district must notify the parents of each student attending any school in the district of their right to request information regarding the professional qualifications of their child’s classroom teacher and paraprofessional.

If a parent requests this information, the LEA must provide such information upon request, promptly, in an understandable and uniform format, and to the extent practicable, in a language that the parents can understand. The information must include—

- whether the teacher has met PED qualification and licensing criteria for the grade levels and subject areas in which the teacher currently provides instruction;
- whether the teacher is working under an internship license or waiver;

- whether the teacher is teaching in their field of discipline of the teacher’s certification; and
- whether the paraprofessional is providing services to their child, and if so, their qualifications.

In addition, schools must provide timely notice if a student has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

### **Title I Part A Meetings**

A Title I school must hold annual meetings to provide parents information about the school’s participation in Title I Part A programs. Schools must explain program requirements, the parent’s right to be involved, and the importance of regular, ongoing parent-teacher communication. Schools must also provide parents with information about the curriculum used in the school, the forms of assessment used to measure student progress, and the achievement levels of the challenging State academic standards. Meetings must be held at a convenient time. Schools must offer a flexible number of meetings and may use Title I funds to provide support such as transportation or childcare.

### **Annual Report Cards**

LEAs must disseminate a district report card to parents with information about student achievement on academic assessments, accountability, and teacher quality.

### **Written Complaint Procedures**

LEAs must disseminate to parents of students and designated private school officials or representatives adequate information about written complaint procedures for resolving issues of violation(s) of a Federal statute or regulation that applies to Title I, Part A programs.

### **English Language Learner (ELL) – Language Instruction Educational Programs**

Not later than 30 days after the beginning of the school year, districts must inform parents of ELL students participating in a Title I Part A-funded language instruction educational program, as determined under Title III, of the following—

- reasons for the identification;
- level of English proficiency, how the level was assessed, and the status of the child’s academic achievement;
- methods of instruction used in the program and the methods of instruction in other available programs;
- how the program will meet the educational strengths and needs of their child;
- how the program will help their child learn English and meet age-appropriate academic standards for grade promotion and graduation;
- exit requirements, including the expected rate of transition into classrooms not tailored for ELL students, and the expected rate of graduation for secondary students;
- in the case of a child with a disability, how the program meets the objectives of the child’s individualized education program (IEP); and
- rights they have as parents, including written guidance of the right to remove their child from the program and their right to decline services or to choose another program if available.

## Parental Participation

Each LEA receiving Title I funds shall implement an effective means of outreach to parents of English learner students to inform them how they can be—

- involved in the education of their children; and
- active participants in assisting their children to—
  - attain English proficiency;
  - achieve at high levels within a well-rounded education; and
  - meet the challenging State academic standards expected of all students

Implementing an effective means of outreach to parents shall include holding and sending notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under Title I or Title III.

A student shall not be admitted to or excluded from any federally assisted education program on the basis of a surname or language-minority status.

The notice and information provided to parents under Title I shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

## Further Resources

For more resources, please click [here](#).

For the Title I Parents Right-to-Know Memorandum dated December 8, 2024, please click [here](#).

## ESEA Equitable Services

### Purpose of Equitable Services through Title I Part A

Since 1965, the Elementary and Secondary Education Act (ESEA), as amended, requires local educational agencies (LEAs) and other eligible entities to provide for the equitable participation of private school students, staff and families of students enrolled in nonprofit private schools.

### What are Equitable Services and who is eligible?

Under section 1117 of the ESEA—

- Districts are required to provide services for eligible private school students, teachers and their families that are equitable to those of eligible public-school students.
- A private school student generates Title I funds if he/she resides within an attendance area of a participating Title I public school and meets the established low-income criteria.
- A private school student who can participate in Title I services resides within an attendance area of a participating Title I public school and is failing or at risk of failing state student academic achievement standards. Low-income status alone is not a basis for participation in the Title I program.
- The SEA Ombudsman’s job is to help ensure equity for the private school students, and to monitor and enforce the equity requirement.

To help ensure equitable services and other benefits for eligible private school children, teachers and other educational personnel, and families, an SEA must designate an ombudsman to monitor and enforce ESEA equitable services requirements under both Title I and Title VIII. (ESEA sections 1117(a)(3)(B) and 8501(a)(3)(B).)

The Ombudsman provides technical assistance, answers district and private school questions, participates in relevant meetings, communicates with the field and the United States Department of Education on relevant topics, and receives complaints from the field. Please see below for the New Mexico ESEA Equitable Services Ombudsman.

Daniela Romero  
Equitable Services Ombudsman  
[Daniela.Romero@ped.nm.gov](mailto:Daniela.Romero@ped.nm.gov)  
505.372.8385

For more information on ESEA Equitable Services, please visit the NMPED’s website at: [ESEA Equitable Services – New Mexico Public Education Department \(state.nm.us\)](https://www.state.nm.us/education/equa)

## Students Experiencing Homelessness

Children and youth who are experiencing homelessness are automatically eligible for services under Title I Part A, whether or not they live in a Title I school attendance area or meet the academic standards required of other children for eligibility. The services provided to students who are experiencing homelessness and attending a non-Title I school must be comparable to services received by students in Title I schools. Students experiencing homelessness may receive Title I educational or support services from schoolwide and targeted assistance programs.

Students who have been receiving services and who become permanently housed during the school year continue to be eligible for Title I Part A services for the rest of that school year.

Two guiding principles direct LEAs in the use of funds:

1. The services must be reasonable and necessary to assist students to take advantage of educational opportunities.
2. Title I funds are used when no services are available from public or private sources. Other resources include but are not limited to the following: food banks, public health clinics, faith communities, service clubs (e.g., Lions, Kiwanis, USDA National School Lunch Program). LEAs should seek out and network with community sources and create a list.

An LEA completes a need assessment to determine the amount of Title I funds that will be set aside for services to students experiencing homelessness and ensure comparability with services provided to other Title I students. If an LEA has completed a current needs assessment to apply for McKinney-Vento funds, that needs assessment may be used. The following may be considered —

- examination of averages in enrollment of students experiencing homelessness during the previous two or three years and multiplying that figure with the average per-pupil cost of Title I services for the current year;

- consideration of other state or Federal education grants that may be used to provide assistance; and
- existence of county, local and community resources that may be able to meet some of the students' needs.

Title I funds may be used to assist students who are experiencing homelessness in meeting the state's challenging academic standards. In alignment with the two guiding principles above, LEAs may use Title I funds for students experiencing homelessness in ways not provided to other Title I students, including:

- Clothing, including when needed to meet school's dress code or participate in PE classes
- Personal school supplies
- Cost to obtain birth certificates necessary to enroll in school
- Immunizations
- Medical and dental services
- Eyeglasses and hearing aids
- Food (for student only, in emergency situations when no other sources are available)
- Counseling services to address anxiety that is interfering with a student's learning
- Fees for educational testing, such as AP, IB, and GED
- Fees for college entrance exams, such as the SAT or ACT
- Outreach services to students living in temporary residences such as shelters and motels
- Tutoring services, including in locations such as shelters
- Time for extended learning such as before or after school, Saturdays, or summer school
- Parental involvement specific to parents of students experiencing homelessness
- Additional transportation costs, when the student requires transportation to the home school or local services and other state, local or federal funds are not available.

### **LEA Homeless Liaison**

Every LEA is required to have a person identified as the homeless liaison. Title I funds may be used for part or all of the LEA's homeless liaison's salary, even if this individual does not have Title I duties. Homeless liaisons are responsible for ensuring that students who are experiencing homelessness are identified through outreach and coordination, are enrolled in school and receive services that allow them to succeed academically. For additional information regarding the responsibilities of a homeless liaison, refer to Section III Part 6 in the non-regulatory guidance in the [National Center for Homeless Education Homeless Liaison Toolkit](#).

For further information on the Education for Homeless Children and Youth Program at the NMPED, please see the NMPED's website at [Education for Homeless Children and Youth Program – New Mexico Public Education Department \(state.nm.us\)](#)

## Students in Foster Care

### **Overview of ESSA Requirements**

The ESEA, as amended, includes key provisions regarding the educational stability of students who are in foster care. These provisions are intended to assist students to succeed in school by reducing the number of educational disruptions and increasing school stability. During the 2017 New Mexico

legislative session, two bills (HB 411 and SB 213) were passed which emphasize the ESEA provisions and add additional detail and clarification.

### **Educational Stability**

Students in foster care are more mobile than their peers because of changes in foster home placement. When a student is first placed in foster care, and when a foster care placement changes to a new residence, the placement may be outside the attendance area of the student's current school (called *the school of origin*). School is often the most stable and consistent part of life for these youth. When the stability of a school setting is disrupted by sudden and frequent changes, students are impacted in multiple ways. These include but are not limited to: social isolation and loss of relationships with supportive teachers and other adults, falling behind in school, inconsistent attendance, lowered test scores, delayed graduation or dropping out of school entirely.

### **Best Interest Determination (BID)**

When a foster care placement changes to a location outside of the attendance area of the school of origin, the LEA Point of Contact, LEA staff who know the student and the Children Youth and Families Department (CYFD) staff must conduct a best interest determination, preferably through a face-to-face meeting when feasible, although a conference call may also be held. The purpose of the BID is to determine whether the student is best served by remaining in their school of origin to maintain educational stability and to create a transportation plan accordingly.

### **Transportation**

If a BID outcome is that the student will remain in their school of origin, the LEA and CYFD must work together to ensure that the student is transported to that school. The student must not miss school while transportation is being arranged. If there are additional costs incurred to provide transportation to the school of origin, the LEA will provide transportation to the school of origin if—

- the CYFD agrees to reimburse the LEA for the cost of transportation;
- the LEA agrees to pay for the cost of transportation; or
- the LEA and the local child welfare agency agree to share the cost of transportation.

LEAs may set aside funds during the Title I application process for transportation of foster students to their school of origin. If the LEA did not set aside funds, it is still required to ensure that transportation is provided.

In situations where the foster placement is in a different school district, it is the responsibility of the district where the school of origin is located to ensure that transportation occurs. This also applies to state charter schools even if the state charter school does not normally provide transportation for students.

All LEAs receiving a Title I subgrant have provided written assurances to the NMPED that they have communicated with their local child welfare agency and have developed policies and procedures to hold best interest determination meetings and to provide transportation to a student's school of origin, when necessary.

For further information the Foster Care Program, please see the NMPED's website at [Foster Care – New Mexico Public Education Department \(state.nm.us\)](https://www.nmped.state.nm.us). For additional information and requirements of LEAs, please refer to the [ED and HHS Foster Care Non-Regulatory Guidance June 22, 2016 \(PDF\)](#) released



by the U.S. Department of Education and the U.S. Department of Health and Human Services in June, 2016.

## Educational Assistants and Title I Schools

All Educational Assistants (Paraprofessionals) working in Title I supported schools who have instructional support duties must have a Level 3 Educational Assistant License, having met all the requirements set forth in [NMAC 6.63.9.10](#), regardless of funding source (Federal, State, or local) that supports the position. Educational assistants work under the direct supervision of a teacher.

Providing instructional support refers to activities performed by educational assistants who—

1. provide one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher
2. assist with classroom management, such as organizing instructional materials
3. provide instructional assistance in a computer laboratory
4. conduct parental involvement activities
5. provide instructional support in a library or media center, act as a translator
6. provide instructional support services under the direct supervision of a licensed teacher

Under the direct supervision of a teacher means the following—

- The teacher prepares the lessons and plans the instructional support activities the educational assistant carries out and evaluates the achievement of the students with whom the educational assistant is working.
- The paraprofessional works in close and frequent proximity with the teacher.

**A program staffed entirely by educational assistants is not permitted.**

Close and frequent proximity does **not** mean a program in which a paraprofessional—

- provides instructional support and a teacher visits a site once or twice a week but otherwise is not in the classroom; or
- works with a group of students in another location while the teacher provides instruction to the rest of the class.

## Within District Allocations and Rank Order

There are two factors that determine the amount of funds that a district can allocate to its schools.

1. The size of the LEA allocation
2. LEA required and authorized reservations

## Required Reservations

### **Equitable Services for Eligible Private School children**

Section 1117(a)(4)(A)(ii) of the ESEA and 34 C.F.R. § 200.64(a)(2) require an LEA to determine the proportional share of Title I funds available for providing and administering equitable services based on the LEA's total Title I allocation prior to any expenditures or transfers of funds. This means that an LEA applies the proportion used to calculate the proportional share to its entire Title I allocation (including

any Title II, Part A or Title IV, Part A funds that an LEA transfers to Title I) prior to the other required and authorized reservations discussed below.

Please note, if the LEA's total Title I allocation exceeds \$500,000, the LEA must reserve at least one percent to provide engagement activities for parents and families of participating private school children.

(Within-District Allocations Under Title I, Part A of the ESEA of 1965, as Amended; Non-Regulatory Guidance, 2022)

### **Parent and Family Engagement**

Section 1116(a)(3) of the ESEA, as amended, requires an LEA with a total Title I allocation that exceeds \$500,000 to reserve at least one percent of its total Title I allocation to carry out parent and family engagement activities under section 1116 of the ESEA. This amount includes reserving at least one percent of the proportional share for equitable services in order to provide equitable services to parents and families of participating private school children. Of the parent and family engagement reservation amount remaining after determining equitable services for parents and families of private school children, the LEA must distribute at least 90 percent to its Title I schools, giving priority to high-need schools. (ESEA section 1116(a)(3)(C)). An LEA with a Title I allocation of \$500,000 or less can, but is not required to, reserve Title I funds for parent and family engagement. Please note that Title I schools must carry out parent and family engagement activities under section 1116 regardless of the reservation amount.

(Within-District Allocations Under Title I, Part A of the ESEA of 1965, as Amended; Non-Regulatory Guidance, 2022)

### **Homeless Children and Youths; Children in Local Institutions for Neglected Children**

As discussed above under Students Experiencing Homelessness, an LEA is required to reserve Title I funds to provide services comparable to those provided to children in Title I schools to homeless children and youth in Title I and non-Title I schools and to children in local institutions for neglected children. The ESEA, as amended, requires an LEA to determine the amount of these reservations based on its total Title I allocation prior to any allowable expenditures or transfers of funds.

(Within-District Allocations Under Title I, Part A of the ESEA of 1965, as Amended; Non-Regulatory Guidance, 2022)

### **Authorized Reservation**

An LEA may reserve funds also for the following—

- Children in local institutions for delinquent children and neglected or delinquent children in community-day programs
- Financial incentives and rewards to teachers who serve students in Title I schools *identified for comprehensive support and improvement or implementing targeted support and improvement plans under section 1111(d) of the ESEA, as amended, for the purpose of attracting and retaining qualified and effective teachers, in an amount that does not exceed five percent of the LEA's total Title I allocation*
- Administration of Title I programs for public school children, including the option of paying for variations in personnel costs, such as seniority pay differentials or fringe benefit differentials, as LEA-wide administrative costs, rather than as part of the funds allocated to schools
- Other authorized activities, such as early childhood education, school improvement, and coordinated services.

(Within-District Allocations Under Title I, Part A of the ESEA of 1965, as Amended; Non-Regulatory Guidance, 2022)

## Allocating Title I funds to Public School – In General

Districts and state charter schools must follow the requirements in ESEA, as amended, section 1113 and 34 CFR § 200.78 for identifying Title I-eligible schools and allocating Title I funds to those schools. In general, Title I funds must be allocated to Title I-eligible schools in rank order based on the percentage of children from low-income families in each school. However, a district or state charter school with an enrollment of less than 1,000 students does not have to follow the rank ordering requirements in ESEA, as amended, section 1113 pertaining to allocating funds to its schools. Such a district or state charter school can use other criteria, for example, academic performance or the grade span of its schools to determine which schools receive Title I funds. The same applies to districts and state charter schools with only one school.

### **Greater than 75 Percent Poverty**

After a district has ranked all of its schools by percentage of poverty, it must first allocate, in rank order of poverty, Title I funds to the schools above 75 percent poverty; this includes any middle and high schools.

### **Option for High Schools**

After serving all schools above 75 percent poverty, an LEA may choose to allocate funds to high schools with a poverty percent between 50 and 75 percent in rank order of poverty. If this option is implemented it occurs before serving any other grade span.

### **Less than 75 Percent Poverty**

After serving all its schools over 75 percent poverty, the district has the option to allocate Title I funds on a grade-span basis or LEA-wide basis. A district that opts to serve schools below 75 percent poverty using grade span may determine different per-child amounts for different grade spans so long as those amounts do not exceed the amount allocated to any school above 75 percent poverty. Per-child amounts within grade spans may also vary as long as the per-child amounts in schools with higher poverty rates are equal to or greater than the per-child amounts in schools with lower poverty rates. A district may choose to fund more than one grade span or may choose not to fund an entire grade span.

A district may opt to serve schools down to the 35 percent poverty level. The district may serve schools with poverty averages lower than 35 percent if the overall district poverty average is below 35 percent. Specific funding rules must be followed if a district chooses to fund a school below 35 percent or below the district poverty average. Please see the [Within-District Allocations Under Title I, Part A of the ESEA of 1965, as Amended; Non-Regulatory Guidance, 2022](#) for detailed information.

### **Three Options for Rank Ordering**

An LEA has three options for deriving a common poverty metric used for rank ordering its schools:

1. Apply the 1.6 multiplier to the number of students identified by direct certification in a Community Eligibility Provision (CEP) school and use the free and reduced-price meal data for non-CEP schools
2. Use the number of students directly certified in both CEP and non-CEP schools
3. Apply the 1.6 multiplier to the number of students directly certified in both CEP and non-CEP schools.

## Guidance on Costs

### Title I, Part A Specific Activities and Expenditures

The purpose of Title I, Part A is to provide all children significant opportunities to receive a fair, equitable, and high-quality education and to close educational achievement gaps.

Any activities or proposed expenditures must be allowable, allocable, reasonable, and necessary for the purpose of Title I, Part A. Title I, Part A funds shall only be used to supplement the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students participating in programs assisted under Title I, Part A, and not to supplant such funds [Elementary and Secondary Education Act (ESEA), Sec. 1118(b)(1)].

Activities and proposed expenditures must meet requirements in the Education Department General Administrative Regulations (EDGAR), the Uniform Grants Guidance at 2 CFR Part 200, and all other applicable Federal and State statutes and regulations.

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### **When determining if an activity or proposed expenditure meets the requirements of Title I, Part A, please consider some of the following questions:**

#### **Does the cost meet all allowability requirements under 2 CFR 200.403?**

- Is the cost necessary and reasonable for the performance of the Federal award, and allocable thereto?
- Does the cost conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items?
- Is the cost consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity?
- Is the cost accorded consistent treatment as either direct or indirect?
- Is the cost determined to be in accordance with generally accepted accounting principles (GAAP)?
- Costs cannot be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. Is the cost being used this way?
- Is the cost adequately documented?
- Is the cost being incurred during the approved budget period?

#### **Is the proposed expenditure or activity allocable?**

Is the activity incurred specifically for the purpose of Title I, Part A? If the cost benefits more than Title I, Part A, is the cost distributed in proportions that may be approximated using reasonable methods?

- 2 CFR § 200.405 requires that charges to federal awards be allocated “in accordance with the relative benefits received.”

#### **Is the cost reasonable?**

- Is the nature and amount of the cost such that a prudent person under the circumstances prevailing at the time the decision was made would incur? [2 CFR 200.404]?
- Is the cost reasonable as compared to fair market prices for similar and comparable goods or services?
- Are all applicable purchasing or procurement codes followed?

**Is the cost necessary?**

- Is the activity or expenditure meeting a need(s) identified in the comprehensive needs assessment that guides the schoolwide program plan?
- Is the cost necessary for operating an efficient Title I Program that produces results and improves student achievement?
- If the cost is intended to support educators, do they have the knowledge and the time to implement what is proposed to be purchased?
- Does the program have the capacity to implement the activity?

**Is the cost an allowable use of funds under the requirements in Title I, Part A?**

Schoolwide program [ESEA, as amended, Sec. 1114]:

In schoolwide programs, funds may be used to upgrade the entire educational program in a school, and all students in the school may benefit from the use of Title I, Part A funds.

- Will the proposed activity or expenditure improve academic achievement across the entire school, especially for students not achieving State standards?
- Is the proposed activity based on the current and comprehensive needs assessment that informs the schoolwide program plan?
- Is the proposed activity included in the schoolwide program plan?
- If external providers are used, do they have expertise in using evidence-based strategies to improve student achievement?

Targeted Assistance Program [ESEA, as amended, Sec. 1115]:

In Targeted Assistance Schools, funds may only be used to meet the needs of children identified as being in the greatest need of services.

- Is the cost supporting students in the eligible population who are failing or most at risk of failing to meet the challenging State academic standards based on multiple, educationally related, objective criteria?
- Is the activity or expenditure focused on improving academic achievement for students identified for services?
- Is the activity or proposed expenditure assisting preschool children in the transition from early childhood education programs or increasing the involvement of parents of eligible students?
- If external providers are used, do they have expertise in using evidence-based strategies to improve student achievement?

Required and Optional Reservations:

Districts must reserve Title I-A funding to support activities under required set-asides; and may reserve funding for additional district initiatives.

- Is the activity or expenditure supporting activities under required reservations?  
Such reservations include:
  - Homeless students
  - Students in local institutions for neglected children and youth
  - Parent and family engagement
  - Equitable services
- If a district-level initiative, is the cost supporting supplemental activities only in Title I-A schools?

<b><u>Supports for Title I Schools and Students</u></b>	
<b><u>Allowable</u></b>	<b><u>Unallowable</u></b>
Provide opportunities for all students, including economically disadvantaged students, Native American students, English learners, and students with disabilities, to meet state academic standards	General expenditures unrelated to Title I purposes
Methods and instruction activities that strengthen the academic program including programs and activities to provide a well-rounded education and address identified school needs.	Field trips for entertainment or recreational purposes
Increase the quality of learning time	Basic school or classroom necessities, such as furniture and office equipment
Enriched and accelerated curriculum	Decorations
Counseling and school-based mental health programs	Promotional items (t-shirts, fundraisers, etc.)
Mentoring services and other strategies to improve student skills outside the academic subjects	Athletic equipment or items related to sports events
Preparation for and awareness of opportunities for post-secondary education and the workforce	Construction
<b><u>Allowable</u></b>	<b><u>Unallowable</u></b>
Support for career and technical education	Building maintenance or landscaping costs
Broadening secondary school students access to coursework to earn post-secondary credit while still in high school (AP, IB, dual or concurrent enrollment, early college high school)	Costs associated with general school functions such as base pay for principals

Implementing a school-wide tier model to prevent and address problem behavior and early intervening services	Costs associated with awards banquets, ceremonies, celebrations, or social events.
Summer or after-school programs	Incentives to reward students for participation in a Title I program
Costs associated with operating dual or concurrent enrollment programs that address the needs of secondary students whose academic performance is low and those at risk of not meeting state standards (e.g. tuition, books, fees, instructional materials, or transportation to and from program)	
Establish or enhance preschools programs for children under the age of 6.  Please note that Title I funds can only be used to provide preschool services to Title I-eligible students unless it is a schoolwide program.	

<b><u>Supports for Staff in Title I Schools</u></b>	
<b><u>Allowable</u></b>	<b><u>Unallowable</u></b>
Professional development (PD) for teachers, paraprofessionals (educational assistants), and other school personnel to improve instruction	Staff transportation
PD for teachers, paraprofessionals, and other school personnel on using data from academic assessments	Using Title I funds to pay for the salary of a teacher, guidance counselor, or paraprofessional in a non-Title I school.
<b><u>Allowable</u></b>	<b><u>Unallowable</u></b>
Financial incentives and rewards for <i>teachers</i> who serve in a school identified as comprehensive support and improvement or targeted support and improvement to attract and retain qualified and effective teachers	Food and refreshments for district or building staff meetings or trainings.
Evidenced-based instructional materials or programs	

**Please note** that the above tables are not a comprehensive list of Title I, Part A allowable or unallowable activities or expenditures. For any further questions on activities or proposed expenditures, please contact the [Student, School, and Family Support Bureau](#).

### **Is the activity listed in prohibited activities in ESEA Section 8526?**

The section includes six prohibited uses of funds:

No funds under this Act may be used—

1. for construction, renovation, or repair of any school facility, except as authorized under this Act;
2. for transportation unless otherwise authorized under this Act;
3. to develop or distribute materials or operate programs or courses of instruction directed at youth that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;
4. to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;
5. to provide sex education or HIV-prevention education in schools unless that instruction is age-appropriate and includes the health benefits of abstinence; or
6. to operate a program of contraceptive distribution in schools.
7. for the provision to any person of a dangerous weapon, as defined in section 930(g)(2) of title 18, United States Code, or training in the use of a dangerous weapon, except that this paragraph shall not apply to the use of funds under this Act for activities carried out under programs authorized by this Act that are otherwise permissible under such programs and that provide students with educational instruction or educational enrichment activities, such as archery, hunting, other shooting sports, or culinary arts.

For more information on allowable uses of Title I, Part A funds, see the guidance at [ESSA Schoolwide Guidance September 2016 \(PDF\) \(ed.gov\)](#)

## **Supplanting**

LEAs shall use Title I funding only to supplement the funds that would, in the absence of funds, be made available from State and local sources for the education of students in Title I schools and not to supplant such funds.

**To demonstrate compliance** an LEA shall demonstrate that the methodology used to allocate State and local funds to each Title I school ensures that it receives all of the State and local funds it would otherwise receive if it were not a Title I school.

LEAs provide an assurance and a description of the methodology used to distribute state and local funds in the Title I application. The PED SSFS Bureau will conduct follow-up monitoring during the school year to review the LEA's methodology and to confirm that the method has been implemented.

### **What this means:**

- Districts must have a method for allocating State and local funds to all schools that ensures that Title I schools get their fair share of State and local funds. Districts cannot reduce state and local funding to Title I schools because they get Title I funds.



- When this test is met, Title I funding allocated to Title I schools is considered supplemental.
- Expenditures must be allowable. This means that all expenditures must be based on the comprehensive needs assessment and included in the school's schoolwide plan, and they must be necessary, reasonable, and allocable to the subgrant.
- For *district-level expenditures*, Title I schools must benefit from district-level State and local funding equitably. Districts **cannot** pay for something in non-Title I schools with State or local funds and pay for the same in Title I schools with Title I funds.

## Equipment

When Title I funds are used to purchase equipment, the equipment—

- is the property of the LEA's Title I program. This includes equipment purchased by the LEA for use by a private school;
- may be housed and used in schools/sites where children are served by the Title I program;
- must be noted on a LEA maintained equipment inventory; and
- must include a notation indicating the building/location of Title I equipment. The list must include a notation indicating the building/location of Title I equipment, including equipment in participating private schools.

If the equipment's acquisition cost is greater than \$5,000, the purchase must be pre-approved by the Student, School, and Family Support Bureau. The approval form can be found on the bureau webpage. It should be signed by a Title I contact and returned to the LEA for record keeping. **The form must be approved before the purchase is made.** When the date of purchase is before the PED signed and dated pre-approval form, **reimbursement will be denied.**

Examples:

- A district purchases ten \$1,000.00 laptops (ten units), each to be placed in a separate classroom for teachers to use to develop parent correspondence, worksheets, etc. The ten units are intended to be used independently, so they are ten separate units and prior approval is not required.
- A district purchases twenty computers, software licenses, and two printers, each costing less than \$800.00. They are purchased to equip a single computer lab, which will cost \$15,000.00. The twenty units are intended to be used collectively as a computer lab. Prior approval is required.

When equipment must be relocated, sold or is determined to be obsolete:

1. If the Title I funded equipment is housed in a building that is no longer receiving a Title I allocation, that equipment should be moved to a location served by Title I.

2. Obsolete equipment should be marked as such and disposed of according to LEA policy and the date of process noted on the equipment inventory.
3. Records should be maintained for five years after any transfer/disposal of equipment from the Title I program.

## Additional Budget Considerations

- 1) Any increase or transfer budget adjustment request (BAR) must include written documentation with sufficient justification which will provide SSFS bureau staff with the information necessary to determine if the proposed use of funds is allowable.
- 2) BARs and requests for reimbursement (RfR) for which required documentation is not received will be delayed or disapproved.
- 3) Ongoing communication between district federal programs staff and the business manager is crucial for the effective and efficient management of federal programs.

## Carryover Limitation

Section 1127(a) of ESEA, as amended, limits the carryover amount to not more than 15% of the funds allocated to an LEA for any fiscal year. The 15 percent limitation does not apply to districts or state charter schools that were allocated less than \$50,000 in funds for any fiscal year.

A district or state charter school may request a waiver for the 15 percent carryover limitation from NMPED once in three years. Such a waiver may be approved if the request is reasonable and necessary or supplemental appropriations for Title I Part A become available.

## Time Documentation

Time documentation is required for all employees paid from federal funds as required by 2 CFR section 200.430. There are two types of time documentation, semiannual employee certifications and personnel activity reports (PARs) which may also be referred to as time and effort reports.

**Semiannual certifications** must be prepared at least semiannually and signed by the employee and the employee's direct supervisor, who has direct knowledge of the work performed by the employee.

**PARs** must account for all activities for which an employee is paid, not just a specific cost objective. They must be completed after the work is finished, prepared at least monthly, and signed by the employee. PARs should reflect variations in daily activities that are common among split-funded staff who may work many hours on a specific cost objective during a certain time of year, and fewer hours at other times.

For employees who are split-funded and paid with federal funds, an accounting of the actual hours worked on the separate cost objectives is required at least annually to adjust funding to actual hours worked. The percentage of salary charged to the federal fund must match the actual percentage of time spent on the federal cost objective, not just the budget estimate.

### **Requirements for Alternative System of Time and Effort Reporting**

To use alternative methods of time and effort reporting, the district must certify that only eligible employees will participate in the substitute system and that there are sufficient controls to ensure that the system used to document employee work is accurate. This certification should be on file with the district and available upon request.

### **System Guidelines**

(1) To be eligible to document time and effort under the substitute system, employees must –

- a. Currently work on a schedule that includes multiple activities or cost objectives that must be supported by monthly personnel activity reports;
- b. Work on specific activities or cost objectives based on a predetermined schedule; and
- c. Not work on multiple activities or cost objectives at the exact same time on their schedule.

(2) Under the substitute system, in lieu of personnel activity reports, eligible employees may support a distribution of their salaries and wages through documentation of an established work schedule that meets the standards under section (3). An acceptable work schedule may be in a style and format already used by an LEA.

(3) Employee schedules must:

- a. Indicate the specific activity or cost objective that the employee worked on for each segment of the employee's schedule;
- b. Account for the total hours for which each employee is compensated during the period reflected on the employee's schedule; and
- c. Be certified at least semiannually and signed by the employee and a supervisory official having firsthand knowledge of the work performed by the employee.

(4) Any revisions to an employee's established schedule that continue for a prolonged period must be documented and certified in accordance with the requirements in section (3). The effective dates of any changes must be clearly indicated in the documentation provided.

(5) Any significant deviations from an employee's established schedule, that require the employee to work on multiple activities or cost objectives at the exact same time, including but not limited to lengthy, unanticipated schedule changes, must be documented by the employee using a personnel activity report that covers the period during which the deviations occurred.

### **Program Monitoring**

As required in the Code of Federal Regulations 2 CFR §200.332 the NMPED must monitor the activities of the subrecipients as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

As part of the monitoring of the subrecipient NMPED must follow-up and ensure that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the NMPED detected through audits, on-site reviews, and written confirmation from subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.

### **Self-Assessment Tool**

The Title I and V Monitoring Self-Assessment Tool is completed as part of a five-year monitoring cycle by approximately 30 districts and state charter schools annually. Each selected district and state charter school completes the Title I and V Monitoring Self-Assessment Tool and submits the required evidence to the designated SharePoint site. Districts and state charter schools are selected to participate in the cycle based on annual performance such as SSFS bureau staff's frequency of revision requests to proposed expenditures in the application or amendment processes, unallowable expenditures in requests for reimbursement, and no requests for reimbursement submitted regularly and timely. An LEA may also be selected based on the time elapsed since completing the last Monitoring Self-Assessment Tool.

The Title I and V Monitoring Self-Assessment Tool is submitted by January 15<sup>th</sup> of each year in SharePoint. SSFS Bureau staff review submitted responses and evidence for respective programs to ensure they meet the requirements of the applicable sections of ESEA, as amended, as well as any other Federal or State requirements. When completing the Tool, an LEA may request technical assistance (TA) through SharePoint. SSFS bureau staff will provide technical assistance as needed to each LEA requesting this. The TA may be provided through Office Hours, one-on-one virtual meetings with the LEA, email, and if requested, through an onsite visit.

Any Title I and V Monitoring Self-Assessment Tool responses or submitted evidence that do not meet requirements are either requested to be corrected by the LEA within a requested time frame, typically 30 days, or the LEA is referred to the NMPED's Cross-Cutting Risk Assessment process for further action.

### **Desktop Monitoring**

The SSFS Bureau conducts ongoing monitoring via desktop review through a thorough review of the Title I applications and application amendment forms. The processes are iterative; any activities that do not meet requirements will not be approved; the bureau staff reaches out to the LEA and provides technical assistance via email, virtual meetings, and phone calls as needed to ensure all proposed activities meet requirements.

The desktop review includes a review of each Request for Reimbursement (RfR) submitted by an LEA in the Operating Budget Management System. After the SSFS Bureau staff complete the first layer of the RfR review, including how it aligns with the approved application, pre-approval, or amendment forms, the Fiscal Grants Management staff in the Administrative Services Division completes a second layer of review before the RfR is approved. For further information on the SSFS Bureau RfR submission and review process, please see the Title I Part A website at [TITILE-I-LEA-RFR-Submission-Checklist-1.pdf \(state.nm.us\)](https://www.state.nm.us/titlesi/leas/rfr-submission-checklist-1.pdf)

### **Subrecipient Monitoring in Collaboration with the Audit Bureau**

NMPED's Audit Bureau staff review district state audit reports annually. If a district has a finding for the Title I subgrant, the Audit Bureau notifies the SSFS Bureau. SSFS Bureau staff send out a memorandum concerning the findings and request a response concerning the resolution with supporting

documentation. The SSFS Bureau staff collaborate with the Audit Bureau staff on review of the submitted responses and documents. If the response and documents are considered sufficient the district is notified.

## Complaint Procedure

Every school district should have a complaint procedure to address issues that may arise in the implementation of Title I programs. The complaint procedure does not have to be specific to Title I but should be appropriate for Title I related complaints.

Complaints should first go through the established complaint procedure of the district from where the complaint originated. This allows the complaint to follow protocol and ensure it is properly documented. If issues are not reasonably addressed at a local level, as determined by the parties involved, then the petitioner may file a written complaint with the PED. The PED may research the matter and may make a determination based on facts presented.

PED Rule NMAC 6.10.3 Complaint Procedure establishes written procedures for receiving and resolving complaints for various federal education programs including those administered by the SSFS Bureau. School districts and charter schools must provide copies of the complaint procedure to the parents of students as described in section 6.10.3.12 of this rule, the full text of which appears on the following pages.

### **TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 10 PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS PART 3 COMPLAINT PROCEDURE**

**6.10.3.1 ISSUING AGENCY:** Public Education Department  
[12-31-98, 07-30-99; 6.10.3.1 NMAC - Rn, 6 NMAC 1.5.1.1, 11-30-00; A, 10-17-05]

**6.10.3.2 SCOPE:** Public education department, local educational agencies, charter schools, public agencies, or consortia of agencies.  
[12-31-98; 6.10.3.2 NMAC - Rn, 6 NMAC 1.5.1.2 & A, 11-30-00; A, 10-17-05]

**6.10.3.3 STATUTORY AUTHORITY:** Sections 22-2-1, 22-2-2, and 22-9-3 NMSA 1978; 20 US Code Sections 1681 et seq; 42 US Code Section 11432(g)(1)(c), 34 Code of Federal Regulations Parts 106 and 299.  
[12-31-98; 6.10.3.3 NMAC - Rn, 6 NMAC 1.5.1.3 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

**6.10.3.4 DURATION:** Permanent  
[12-31-98; 6.10.3.4 NMAC - Rn, 6 NMAC 1.5.1.4, 11-30-00]

**6.10.3.5 EFFECTIVE DATE:** December 31, 1998, unless a later date is cited at the end of a section.  
[12-31-98; 6.10.3.5 NMAC - Rn, 6 NMAC 1.5.1.5 & A, 11-30-00]

**6.10.3.6 OBJECTIVE:** This rule establishes written procedures for:

- A. receiving and resolving a complaint from an individual or organization that the public education department or an agency or consortium of agencies is violating a federal statute or regulation that applies to an applicable or covered program;
  - B. reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint;
  - C. conducting an independent on-site investigation of a complaint if the public education department determines that an on-site investigation is necessary;
  - D. resolving complaints of discrimination based on sex regarding educational programs of the public education department that are alleged to be a violation of Title IX of the Education Amendments of 1972; and
  - E. resolving complaints brought pursuant to the McKinney-Vento Education for Homeless Children and Youth Act (42 USC Section 11432(g)(1)(c)).
- [12-31-98; 6.10.3.6 NMAC - Rn, 6 NMAC 1.5.1.6 & A, 11-30-00; A, 10-17-05; A, 11-30-06]  
 [Complaints alleging violations of statutes or regulations governing special education and related services for children with disabilities are covered under Subsection H of 6.31.2.13 NMAC.]

**6.10.3.7 DEFINITIONS:**

- A. “Applicable program” means any of the following Elementary and Secondary Education Act (20 U.S.C. 2701 et. seq.) programs:
  - (1) Part A of Title I (Improving Basic Programs Operated by Local Educational Agencies);
  - (2) Part B of Title I (Student Reading Skills Improvement Grants);
  - (3) Part C of Title I (Education of Migratory Children);
  - (4) Part D of Title I (Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk);
  - (5) Title II (Preparing, Training, and Recruiting High Quality Teachers and Principals);
  - (6) Language Instruction for Limited English Proficient and Immigrant Students;
  - (7) Title IV (21st Century Schools (other than Subpart 2 of Part A, National Programs);
  - (8) Title V (Promoting Informed Parental Choice and Innovative Programs) (other than Subpart 8 and Subpart 12); and
  - (9) Part A of Title VII (Indian, Native Hawaiian, and Alaska Native Education).
- B. “Covered program” means a federal program not defined as an applicable program for which the state educational agency is required to provide a complaint procedure and for which a complaint procedure is not otherwise provided by public education department rule.
- C. “Department” means the public education department.
- D. “Homeless children and youth” means individuals who lack a fixed, regular, and adequate nighttime residence, which includes:
  - (1) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
  - (2) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
  - (3) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
  - (4) migratory children (as such term is defined in Section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in Paragraphs (1) through (3) of this subsection.
- E. “School of origin” means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.
- F. “LEA” means local education agency.

G. “Title IX” means Title IX of the Education Amendments of 1972, codified as 20 US Code Sections 1681 et seq, which provides in part that, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

[12-31-98; 6.10.3.7 NMAC - Rn, 6 NMAC 1.5.1.7 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

#### **6.10.3.8 FILING A COMPLAINT:**

A. The department will accept and investigate complaints from organizations or individuals with respect to applicable or covered programs. The complaint must:

- (1) be written;
- (2) be signed by the complaining party or his or her designated representative;
- (3) contain a statement that the department or an agency or consortium of agencies has violated a requirement of a federal statute or regulation that applies to the program;
- (4) contain a statement of the facts on which the complaint is based and the specific requirement alleged to have been violated; and
- (5) in the case of Title IX, must contain a statement that the department or any of its employees, has discriminated against the complainant on the basis of sex in regard to an education program or activity operated or managed by the department given that the department is a recipient of federal financial assistance.

B. In the case of a complaint filed pursuant to the McKinney-Vento Education for Homeless Children and Youth Act relating to a dispute not resolved at the district level, the LEA shall forward the department’s dispute resolution process form along with the LEA’s written explanation of the school’s decision to the department’s homeless liaison within 5 calendar days of the LEA’s final decision; The filing of these documents shall be deemed to satisfy the requirements of Paragraphs (1) through (4) of Subsection A of this section. The parent, guardian or student may also initiate the appeal by providing copies of these documents to the department’s homeless liaison.

[12-31-98; 6.10.3.8 NMAC - Rn, 6 NMAC 1.5.1.8 & A, 11-30-00; A, 10-17-05; A, 11-30-06]

#### **6.10.3.9 COMPLAINTS AGAINST AN AGENCY OR CONSORTIUM OF AGENCIES:**

A. Impartial review. Upon receipt of a complaint which meets the requirements of Section 6.10.3.8 of this rule, the department will:

- (1) acknowledge receipt of the complaint in writing;
- (2) provide written notice to the agency or consortium of agencies against which the violation has been alleged;
- (3) conduct an impartial investigation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if determined necessary by the department;
- (4) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and
- (5) review all relevant information and make an independent determination as to whether the agency or consortium of agencies is violating a requirement of an applicable federal statute or regulation.

B. Decision. A written decision, which includes findings of fact, conclusions, and the reasons for the decision and which addresses each allegation in the complaint, shall be issued by the secretary of education or designee and mailed to the parties within sixty (60) calendar days of receipt of the written complaint. In the case of a complaint filed pursuant to the McKinney-Vento Education for Homeless Children and Youth Act, the decision must be issued within thirty (30) calendar days. Such decision will further include:

- (1) procedures for effective implementation of the final decision, if needed, including technical assistance, negotiations, and, if corrective action is required, such action shall be designated and

the decision shall include the time line for correction and the possible consequences for continued noncompliance;

(2) a statement of the right to request the secretary of the United States department of education to review the final decision at the secretary's discretion; complaints regarding participation by private school children must be appealed to the secretary no later than thirty (30) days after the department issues its decision; an appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

C. Failure or refusal to comply. If the agency or consortium of agencies fails or refuses to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance may be effected by the department by any means authorized by state or federal statute or regulation. The department will retain jurisdiction over the issue of noncompliance with the law or regulations and will retain jurisdiction over the implementation of any corrective action required.

D. Informal resolution.

(1) Nothing herein shall preclude the availability of an informal resolution between the complainant and the agency or consortium of agencies, nor shall this rule preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

(2) In the case of a complaint filed pursuant to the McKinney-Vento Education for Homeless Children and Youth Act, each district shall have a written policy for concerned parties to resolve disputes, and every effort should be made to resolve the dispute at the district level. The district level procedure must adhere to the following parameters:

(a) The dispute resolution process shall be as informal and accessible as possible and the process should be able to be initiated directly at the school of choice as well as at the district level or with the LEA homeless liaison. Every LEA is required to have a homeless liaison.

(b) When a dispute arises over school selection or enrollment, pending resolution of the dispute, the homeless child or youth must be immediately enrolled in the school in which the child or youth is seeking enrollment, and provided all services to which student is entitled.

(c) The district must create and provide a simply stated notice of rights and provide that notice of rights to the student, parent or guardian, in a language the student, parent or guardian can understand. The notice of rights shall contain:

(i) contact information for the LEA homeless liaison and the state coordinator, with a brief description of their roles;

(ii) a step by step description of how to make use of the dispute resolution process;

(iii) notice of the right to immediately enroll in the school of choice pending resolution of the dispute and notice that immediate enrollment includes full participation in all school activities;

(iv) notice of the right to obtain the assistance of advocates or attorneys;

(v) notice of the right to appeal to the department if the district-level resolution is not satisfactory;

(vi) the timelines for resolving district and department-level appeals;

(vii) notice of the right to provide written or oral documentation to support their position; and

(viii) a simple form that parents, guardians or the student can complete and return to the school to initiate the process.

(d) The school with the dispute must provide notice of the dispute to the LEA's homeless liaison using the department's dispute resolution process form which requires the following information:

(i) school name, address, phone and fax number;

(ii) student's name, identification number, grade, and address;



- (iii) parent, guardian or complaining party's name, relationship to student, address, and phone number;
- (iv) whether student lives in a shelter;
- (v) name of school child or youth chooses to be enrolled in pending resolution of dispute;
- (vi) whether school enrolled in is school of origin;
- (vii) reason for complaint;
- (viii) signature of parent guardian or complaining party; and
- (ix) the principal's actions on the complaint.

(e) The district will have 10 calendar days to review its initial determination and make a final decision as to the position taken.

(f) The district's final decision must be in writing and must state all factual information upon which it is based and the legal basis in support thereof. If the final decision of the district is adverse to the parent, guardian or student, the decision, along with the department's dispute resolution process form, must be forwarded by the LEA homeless liaison to the department's homeless liaison within 5 calendar days of issuing its final decision.

[12-31-98; 6.10.3.9 NMAC - Rn, 6 NMAC 1.5.1.9 & A, 11-30-00; A, 10-17-05, A, 11-30-06]

**6.10.3.10 COMPLAINTS AGAINST THE DEPARTMENT:**

A. If the complaint concerns a violation by the department and meets the applicable requirements of 6.10.3.8 NMAC, the secretary of education or designee will appoint an impartial person or impartial persons to conduct an investigation.

B. Investigation. The person or persons appointed pursuant to this section will:

- (1) acknowledge receipt of the complaint in writing;
- (2) undertake an impartial investigation which shall include a review of all relevant documentation presented and may include an independent on-site investigation, if necessary;
- (3) give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and
- (4) review all relevant information and make an independent determination as to whether the department is violating a requirement of an applicable federal statute or regulation.

C. Decision. A written decision, including findings of fact, conclusions, and the reasons for the decision and addressing each allegation in the complaint, shall be issued by the person or persons appointed pursuant to this section and mailed to the parties within sixty (60) calendar days of receipt of the written complaint. The decision will include a statement of the right to request the secretary of the United States department of education to review the final decision at the secretary's discretion. Complaints regarding participation by private school children must be appealed to the secretary no later than thirty (30) days after the decision is issued. An appeal regarding participation by private school children must be accompanied by a copy of the decision and a complete statement of reasons supporting the appeal.

D. Nothing herein shall preclude the availability of an informal resolution between the complainant and the department, nor shall this rule preclude or abrogate the availability of any administrative hearing opportunities as provided for by federal statute or regulation.

[12-31-98; 6.10.3.10 NMAC - Rn, 6 NMAC 1.5.1.10 & A, 11-30-00; A, 10-17-05]

**6.10.3.11 EXTENSION OF TIME LIMIT:** An extension of the time limit under 6.10.3.9 NMAC and 6.10.3.10 NMAC of this rule will be permitted by the secretary of education or designee only if exceptional circumstances exist with respect to a particular complaint.

[12-31-98; 6.10.3.11 NMAC - Rn, 6 NMAC 1.5.1.11 & A, 11-30-00; A, 10-17-05]

**6.10.3.12 NOTICE TO PARENTS:** Public school districts, charter schools and agencies will disseminate, free of charge, adequate information about the complaint procedures to parents of students, and appropriate private school officials or representatives.  
[6.10.3.12 NMAC - N, 11-30-00; A, 10-17-05]

**6.10.3.13 CONFLICTS:** If any statute or regulation governing any federal program subject to this rule affords procedural rights to a complainant exceeding those set forth in this rule, such statutory or regulatory right(s) shall be afforded to the complainant. In acknowledging receipt of the complaint in such a case, the secretary of education or designee shall identify the procedures applicable to that complaint.  
[12-31-98; 6.10.3.13 NMAC - Rn, 6 NMAC 1.5.1.12 & A, 11-30-00; A, 10-17-05]

**HISTORY OF 6.10.3 NMAC:**

**PRE-NMAC HISTORY:** The material in this Part is derived from that previously filed with the State Records Center and Archives under: State Board of Education (SBE) Regulation No. 85-1, Complaint Procedure, filed April 17, 1985 and State Board of Education (SBE) Regulation No. 94-4, Complaint Procedure, filed October 3, 1994.

## APPENDIX A

### Evidence-Based Interventions

#### 1. Information regarding Evidence-Based Interventions (EBI)

Educators often use the well-established and commonly used practices and strategies that they have seen others use—including their own teachers—never questioning whether these practices are supported by evidence. In fact, some of these practices have been shown to be ineffective or have no data to support them.

The field of education has been making great efforts for a number of years to implement evidence-based practices or programs (EBPs) and evidence-based interventions to improve the quality of instruction students receive and the outcomes that students achieve. In general, an EBP is one whose effectiveness is supported by rigorous research. In other words, research shows that the practice or program works.

CATEGORY ONE:			CATEGORY TWO:
<i>Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes.</i>			<i>Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.</i>
<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>	<b>Tier 4</b>
<b>STRONG EVIDENCE</b>	<b>MODERATE EVIDENCE</b>	<b>PROMISING EVIDENCE</b>	<b>“STRONG THEORY”</b>
<i>Based on at least one well-designed and well-implemented experimental study.</i>	<i>Based on at least one well-designed and well-implemented quasi-experimental study.</i>	<i>Based on at least one well-designed and well-implemented correlational study with statistical controls for selection bias.</i>	<i>Includes ongoing efforts to examine the effects of such activity, strategy, or intervention.</i>

Source: Policy Brief ESSA and Evidence: Why it Matters

#### 2. Difference between evidence-based practices and evidence-based programs

Although the terms evidence-based practices and evidence-based programs have been used interchangeably, experts in the field and as well as practitioners are beginning to differentiate between them.

- **Evidence-Based Practice:** Skills, techniques, and strategies proven to work through experimental research studies or large-scale research field studies.
- **Evidence-Based Program:** A collection of practices that, when used together, has been proven to work through experimental or large-scale research field studies.

### 3. Additional information regarding Evidence-Based Interventions

Below are links to Evidence-Based Intervention Clearinghouses:

- What Works Clearinghouse: With over 700 publications available and more than 12,000 reviewed studies in the online searchable database, the WWC identifies studies that provide credible and reliable evidence of the effectiveness of a given practice, program, or policy and disseminates summary information and free reports online. [Click here to access resources from What Works Clearinghouse.](#)
- Best Evidence Encyclopedia: A free website created by the Johns Hopkins University School of Education's Center for Data-Driven Reform in Education (CDDRE) that gives educators and researchers fair and useful information about the strength of the evidence supporting a variety of programs available for students in grades K-12. Results First Clearinghouse Database: This one-stop online resource provides policymakers with an easy way to find information on the effectiveness of various interventions as rated by eight national research clearinghouses. [Click here to access resources from Best Evidence Encyclopedia.](#)
- Evidence for ESSA: A free, authoritative, user-centered database to help anyone – school, district, or state leaders, teachers, parents, or concerned citizens – easily find programs and practices that align to the ESSA evidence standards and meet their local needs. [Click here to access resources from Evidence for ESSA.](#)
- Results for America Evidence in Education Lab: [Click here to access the Resource Page from Results4America](#)
- Results for America Our Work: [Click here to access the Evidence in Education Lab page from Results4America.](#)

#### Some Recommended Websites:

- [Bestevidence.org](http://Bestevidence.org)
- [Evidenceforessa.org](http://Evidenceforessa.org)
- [Results4america.org](http://Results4america.org)

## **GLOSSARY**

ASD	Administrative Services Division
BID	Best Interest Determination
CFR	Code of Federal Regulations
CLRI	Culturally and Linguistically Relevant Instruction
CNA	Comprehensive Needs Assessment
CSPR	Consolidated State Performance Report
CYFD	Children Youth and Families Department
EBI	Evidence-Based Interventions
ED	U.S. Department of Education
EDGAR	Education Department General Administrative Regulations
EOY	End-of-Year
EPSS	Educational Plan for Student Success
ESEA	Elementary and Secondary Education Act
ESSA	Every Student Succeeds Act
GEPA	General Education Provisions Act
LEA	Local Education Agency
MEP	Migrant Education Program (Title I Part C)
N&D	Neglected and Delinquent Program (Title I Part D)
NMAC	New Mexico Administrative Code
NMDASH	New Mexico Data, Accountability, Sustainability, and High-Achievement
NMPED	New Mexico Public Education Department
NOVA	New Student teacher Accountability system
OBMS	Operating Budget Management System
PAR	Personnel Activity Report
PBIS	Positive Behavioral Interventions & Supports
PEC	New Mexico Public Education Commission
PNP	Private Not for Profit schools
REC	Regional Education Cooperative
RFR	Request for Reimbursement
RLIS	Rural and Low-Income School Program
SEA	State Education Agency
SharePoint®	The NMPED’s electronic database platform for completing and submitting Title I Applications and Monitoring submissions.
SSFS	Student, School, and Family Support Bureau
SRSA	Small, Rural School Achievement Program
STARS	Student Teacher Accountability Reporting System