2016 April 19

Expanding Equity

Leveraging the Every Student Succeeds Act to Provide Direct Student Services

CHIEFS for CHANGE

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EXPANDING EQUITY:

Leveraging the Every Student Succeeds Act (ESSA) to provide Direct Student Services

April 2016

Chiefs for Change is a nonprofit network of diverse state and district education Chiefs dedicated to preparing all students for today's world and tomorrow's. We advocate for the policies and practices working for students, facilitate a robust system of peer-to-peer advising among our members, and sustain a pipeline of the next generation of Chiefs.

To learn more about Chiefs for Change, visit our website at [chiefsforchange.org.](chiefsforchange.org)

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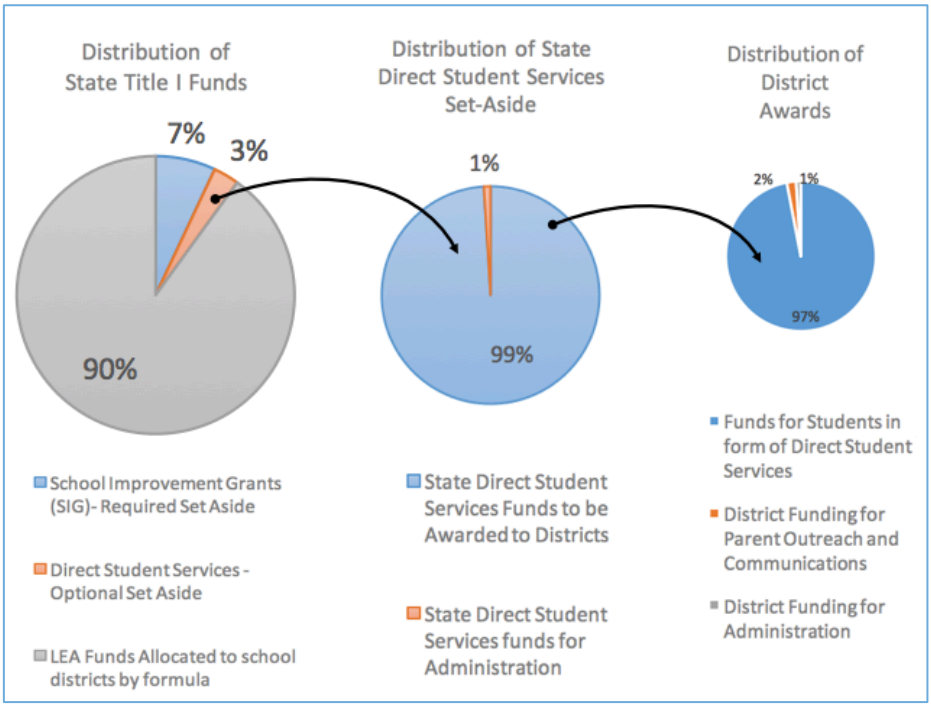
EXECUTIVE SUMMARY

The "Every Student Succeeds Act" (ESSA) includes a new provision championed by Chiefs for Change that will provide SEAs and LEAs with resources to support **Direct Student Services** (DSS). This is possible through a 3% discretionary state reservation of Title I funding. This will allow states to work with districts to re-think the use of a portion of Title I funds to provide innovative approaches to bringing value and service to educators, families, students, and taxpayers. This new authority follows initiatives that Chiefs for Change members have taken in recent years to expand parental choice options as a way to improve student academic achievement. If all states take advantage of this new provision, over $425 million annually would be available to involve families in choosing personalized, outcomes driven, educational services for their children.

FAST FACTS

- DSS may be supported through **a 3% discretionary state reservation of Title I funding**.
- These funds are **in addition to the 7% set-aside for school improvement** activities.
- Funds must be **targeted to** districts with large numbers of **schools identified for improvement**.
- Services **must be implemented through meaningful collaboration** with diverse state and district stakeholders.
- The new provision can allow families of students who attend struggling schools to **obtain a range of additional academic opportunities** from among a wide menu of providers.
- **Examples** of services provided include, but are not limited to: access to online courses not otherwise available, credit recovery programs for at-risk students, school choice, and personalized learning.
- Under ESSA, states have the ability to **develop innovative ways to implement DSS**.

Overview of the Available Title I Funds for DSS



Action Steps for Implementing DSS Using Title I Funds

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STATE CONSULTS WITH SCHOOL DISTRICTS	STATE DEVELOPS A LOCAL APPLICATION	STATE AWARDS COMPETITIVE GRANTS TO DISTRICTS	DISTRICTS CHOOSE SPECIFIC TYPES OF DSS	DISTRICTS IDENTIFY ELIGIBLE PROVIDERS	FAMILIES OF ELIGIBLE STUDENTS CHOOSE DSS SERVICES	STATES AND DISTRICTS PROVIDE OVERSIGHT

1

STATE CONSULTS WITH SCHOOL DISTRICTS

- *Prior* to determining whether to use DSS funds, states are required to actively engage stakeholder groups regularly and thoughtfully.
- States **must** consult with districts from rural, suburban, and urban areas as well as those with a high number of schools identified for improvement.
- Although ESSA only requires district consultation, states should consider the extent to which teachers, administrators, parents, students, and community members can be involved and ensure regular feedback loops are in place.

2

STATE DEVELOPS A LOCAL APPLICATION

- States that decide to reserve funds for DSS may use up to 1% for administration and **must** develop an application package for districts seeking to receive an award.
- At a minimum the application **must** describe how the district will provide adequate time, information, and outreach to ensure parents can exercise a meaningful choice of DSS; prioritize services to students that are lowest achieving; select DSS providers, monitor DSS provisions, and publicly report results in a way that is accessible to parents.
- States may define key terms in the application and establish criteria beyond what is required under ESSA.

3

STATE AWARDS COMPETITIVE GRANTS TO DISTRICTS

- States **must** award funds for DSS to districts.
- States **must** award subgrants to geographically diverse districts and give priority to districts serving the highest percentage of schools identified for improvement.
- States may set “priorities” or “bonus points” as part of the local application in order to incentivize districts to carry out certain activities.
- For an estimated amount of funds available to each state see Appendix D.

4

DISTRICTS CHOOSE SPECIFIC TYPES OF DSS

- DSS are a wide variety of educational opportunities including but not limited to:
  - ✓ Public school choice,
  - ✓ Personalized learning including high quality tutoring,
  - ✓ Credit recovery programs,
  - ✓ Accelerated learning,
  - ✓ Access to courses not otherwise available to students in their schools such as Advanced Placement courses among others.

5

DISTRICTS IDENTIFY ELIGIBLE PROVIDERS

- Providers may include one or more of the following: the local educational agency or other local educational agencies; community colleges or other institutions of higher education; and non-public entities, or community-based organizations.
- Entities seeking to carry out high-quality academic tutoring must first be approved on a state list of eligible providers.

- Districts may use up to 1% of their funds for outreach and communication to parents about DSS and up to 2% of funds to administer the program.
- Possible uses of these outreach funds include promotional materials or hold meetings or fairs to ensure that parents across the district understand the new options that will be available for their children.
- Once available, districts must publicly report the results of DSS providers in improving relevant student outcomes in a manner that is accessible to parents.

6

FAMILIES OF ELIGIBLE STUDENTS CHOOSE DSS SERVICES

7

STATES AND DISTRICTS PROVIDE OVERSIGHT

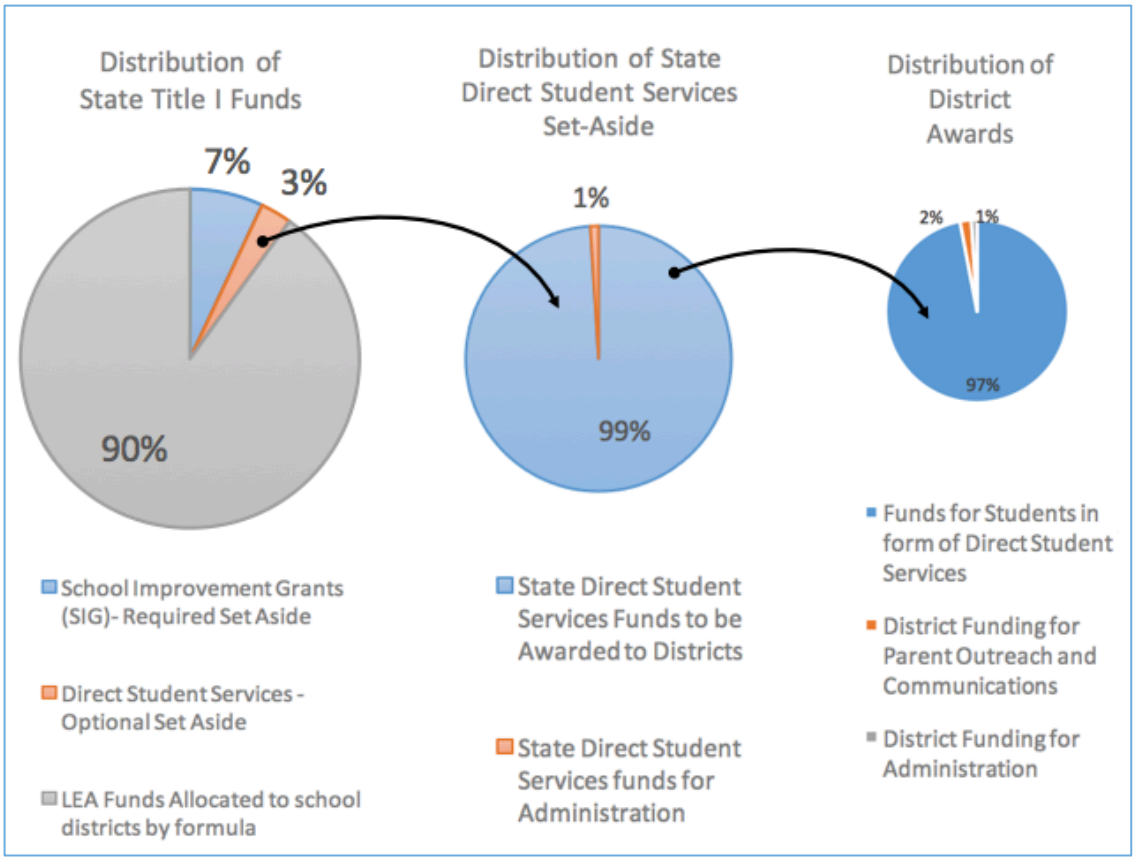
- States should set clear benchmarks for provider performance and work with districts to ensure that unsuccessful providers improve in a timely manner or are no longer able to provide services.
- States may want to also be more active and set specific statewide performance criteria.

EXPANDING EQUITY: Leveraging the "Every Student Succeeds Act" (ESSA) to provide students with Direct Student Services

The Every Student Succeeds Act (ESSA) includes a new innovative provision championed by Chiefs for Change enabling families of students who attend struggling schools to obtain Direct Student Services (DSS). These services encompass a wide range of individualized academic opportunities and build upon efforts several states have taken in recent years to expand parental choice options as a way to improve student academic achievement.

Direct Student Services may be supported through a 3% discretionary state reservation of Title I funding. While nearly all funds designated for DSS must be awarded to districts, states have the opportunity to play a large role in creating a broader vision for how these resources can help leverage efforts of districts to increase school success and improve student outcomes – bringing value to teachers, families, students, and taxpayers.

The funds available for states to support DSS are in addition to the 7% set-aside for school improvement activities. Although they are separate streams of funding with different specific purposes, both set-asides must be targeted to districts with large numbers of schools identified for improvement. For this reason, states should consider driving the implementation of DSS in the broader context of efforts to support students and turn around low-performing schools.



Unlike the requirement that states set aside 7% of their Title I allocation for school improvement grants, states are not required to make a 3% reservation for DSS. Some states may in fact not want to deal with the challenges of implementing this new initiative. Indeed, in order to be successful, these efforts will require the investment of state time and resources in order to effectively communicate their vision of success for students. However, all states should at least consider how DSS can be part of a larger strategy for improving education.

For example, many states have begun to expand access to online courses offering supplemental instruction for classes not otherwise available to students. Other states have expanded opportunities for at-risk students to participate in credit-recovery programs in order to keep students connected to school and to improve statewide graduation rates. Under ESSA, states have the ability to develop innovative ways for using DSS to leverage these types of initiatives.

Those states considering implementing DSS in the 2017-18 school year should begin to actively engage stakeholder groups (as required) regularly and thoughtfully during the 2016-17 school year. For states that do not set aside DSS funds, these dollars will instead be allocated in the same manner as the rest of the Title I formula funding.

This paper is intended to help state leaders understand the DSS provisions under ESSA as they consider whether to set aside funds for this purpose. This paper is also intended to serve as a "how to" guide for those states that want to take on the opportunity to implement DSS, particularly as part of their broader vision for improving school success and student outcomes. While this paper is based upon our current analysis of these provisions as they are written under ESSA, it's important to note that the U.S. Department of Education may provide further guidance or regulations that could impact this analysis. Chiefs for Change will continue to monitor any further guidance.

Direct Student Services in a Nutshell:

- ✓ Upon meaningful consultation with districts, states may reserve up to 3% of their Title I funding for DSS.
- ✓ If they decide to implement DSS, states must develop a local application – allowing states the ability to set meaningful, performance-based criteria for programs, ensure coordination, and leverage broader state initiatives. If they do not, funds are distributed to districts using the regular Title I formula.
- ✓ States award grants to districts – allowing states the ability to target resources and incentivize performance-based practices and cohesive theories of action focused on improving school success and student outcomes.
- ✓ Districts choose which specific types of DSS they will make available to students. Allowable services include a wide variety of educational opportunities, including personalized learning, public school choice, tutoring, credit recovery, accelerated learning, and access to courses not otherwise available to students in their schools, such as AP.
- ✓ Districts identify eligible providers (although in the case of tutoring providers, the state develops a list of eligible providers).
- ✓ Families of eligible students choose from among the DSS services and providers offered by their district.
- ✓ States and districts provide ongoing oversight.

I. STATE DECISION TO IMPLEMENT DIRECT STUDENT SERVICES

Beginning with the 2017-18 school year (and with FY2017 federal funds), state education agencies (SEAs) have the option to set aside 3% of their total Title I allocation to carry out these services. However, *prior* to making this decision, states must consult with suburban, rural, and urban districts within their state as well as districts serving a high percentage of schools identified for "Comprehensive Support and Improvement" activities or "Targeted Support and Improvement" activities.

Considerations in determining whether to set aside 3% for Direct Student Services:

1. The law requires consultation with certain types of districts, including those from rural, suburban, and urban areas as well as those with a high number of schools identified by the state for improvement. States intending to set aside DSS funding should build a case for how these services can help meet the needs of families and students and why districts and schools should support this effort.

   This case should be part of a broader vision for improving education throughout the state and for strategically targeting resources to those services that are research-based and have a proven track record of successful outcomes for students.

2. Although ESSA requires only district consultation, states should also consider the extent to which teachers, leaders, families, students, and community members have a stake in their efforts and ensure that there are regular feedback loops in place.

   This consultation should not be limited to the question of whether funding should be set aside. Instead, it should serve as a way to collaboratively develop a vision for making DSS work for students and using DSS to complement other school improvement activities carried out at the state and district levels, including funds from other ESSA programs such as Title II Teacher and School Leader Quality and Title IV-A Student Support and Academic Enrichment Grants. Many of the same stakeholders will also be able to champion the efforts of the state to do something new and innovative in order to accelerate student outcomes.

II. STATE IMPLEMENTATION

States that decide to set aside 3% of their Title I funding to carry out DSS may reserve up to 1% of these funds to help build organizational capacity in order to administer the program. The administrative set-aside may be used to support such activities as developing the instructions for local applications, awarding funds, and identifying eligible providers of tutoring, as well as providing on-going oversight of the program.

Developing a Local Application

States reserving DSS funds must develop an application package for districts seeking to receive an award. ESSA requires that, at a minimum, the application describe how the district will –

- Provide **adequate outreach** to ensure that families can exercise a **meaningful choice** of DSS for their child's education;

- Ensure that families have **adequate time and information** to make a meaningful choice prior to enrolling their child in a DSS;

- In the case of a local educational agency offering public school choice[1], ensure **sufficient availability of seats** in the public schools the local educational agency will make available for public school choice options;

- Prioritize services to students who are **lowest achieving**;

- **Select providers** of DSS, which may include one or more of the following: the local educational agency or other local educational agencies; community colleges or other institutions of higher education; non-public entities; community-based organizations; or, in the case of high-quality academic tutoring, a variety of providers of such tutoring that are selected and approved by the state and appear on a state list of providers;

- **Monitor** the provision of DSS; and

- Publicly report the results of DSS providers in **improving relevant student outcomes** in a manner that is accessible to families.

How can my state use the local application to shape the overall DSS program?

There are several ways in which states may use the local application to shape the overall DSS program. The first is to take advantage of the law's flexibility, which enables states to define key terms such as "adequate outreach," "meaningful choice," "sufficient availability," or any of the other key terms highlighted above. For example, a state could ensure that "meaningful choice" means that districts are not providing just one option for services, but instead are offering a full menu of research-based DSS to students.

In addition, with respect to the process used by districts to select providers of DSS, a state could establish specific, rigorous, minimum requirements on their quality, which could mirror those used by the state for the purposes of selecting eligible tutoring providers. For instance, the state could require the same level of demonstrated success in improving student outcomes.

States may also establish criteria beyond what is required under ESSA. For example, states may want to ensure that districts not only specify what services they will make available, but also how these services are aligned to best or promising practices and how these services will be aligned to other ESSA programs.

In addition, states can use local applications to help promote a broader education vision. For

[1] Under ESSA, school districts have the option of providing students enrolled in schools identified for comprehensive support and improvement with the opportunity to enroll in a different public school within the district.

example, if a state believes that DSS should be integrated with school improvement funding and broader human capital strategies, then each application could require districts to be explicit in how identified schools will build these services into their overall school improvement and human capital plans (strategies for preparation, recruitment, retention, and equitable access) as part of their strategies to improve outcomes for students and schools.

III. AWARDING GRANTS TO DISTRICTS

States must award subgrants[2] to geographically diverse districts and give priority to districts serving the highest percentage of schools, as compared to other districts in the state, identified for Comprehensive Support and Improvement or Targeted Support and Improvement.

Could my state set "priorities" or "bonus points" as part of the local application in order to incentivize districts to carry out certain activities?

The law does not expressly prohibit a state from placing a priority or awarding bonus points to a district that agrees to –

- Use funds in conjunction with other school improvement funding and human capital strategies to help ensure a coordinated approach to implementing statewide reform strategies;
- Ensure that certain DSS activities (such as access to AP courses) will be among those offered to students;
- Ensure that existing statewide course access or virtual education opportunities are able to be offered to students;
- Create "student DSS accounts" (as some states have considered or are doing) in which families of eligible students have a set amount of funds that can be used for whatever education option(s) are made available by the districts; or
- Establish an innovative pay-for-performance funding mechanism by which providers agree to only be paid for reaching agreed-upon success benchmarks.

Could my state fund just those districts that have a high age of schools identified by the state for improvement so that these districts receive adequate resources to implement robust DSS programs?

The law does not expressly prohibit a state from targeting resources to a small number of districts so long as a state can demonstrate that they are geographically diverse and it gives preference to those with the highest percentage of identified schools. For example, states may wish to target resources to those districts with the largest equity gaps as evidenced by differences in access to effective educators.

[2] Although not explicitly stated in the law, it is likely states would award grants based upon a competitive grant process.

IV. ADDITIONAL STATE RESPONSIBILITIES

In addition to developing local applications and awarding subgrants, states that decide to implement DSS also have other responsibilities that are specified under ESSA. Each of these responsibilities opens up other avenues for states to help shape DSS implementation.

Public School Choice

States must ensure that districts receiving an award and intending to provide public school choice can provide a "sufficient number of options to make such choice meaningful for parents."

Could my state define what is meant by "meaningful"?

Yes, states appear to have the authority to establish minimum expectations for options that should be available to students as part of any public school choice initiative.

Ensuring Districts Are Able to Provide Adequate High-Quality Academic Tutoring Options

Although DSS may encompass more than high-quality academic tutoring, ESSA includes additional requirements for states and districts when it comes to this activity. These include the requirement that states ensure that each district is able to provide an "adequate number of high-quality academic tutoring options to ensure families have a meaningful choice of services."

Could my state define what is meant by "adequate number" of tutoring options?

Yes. In a manner similar to the state's responsibility to ensure that each district can provide a sufficient number of public choice options, states also appear to have the authority to establish what an "adequate number of high-quality academic tutoring options" means, including for traditionally hard-to-serve areas in the state (such as rural districts).

Identification of High-Quality Academic Tutoring Providers

Unlike providers of other DSS, entities seeking to carry out "high-quality academic tutoring" must first be approved and placed on a state list of eligible providers.

Therefore, states are required to compile and maintain an updated list of state-approved high-quality academic tutoring providers that: (1) is developed using a fair and rigorous selection and approval process; (2) provides families with meaningful choices; (3) offers a range of tutoring models, including online and on- campus; and (4) includes only providers that have a demonstrated record of success in increasing students' academic achievement; comply with all applicable federal, state and local health, safety and civil rights laws; and provide instruction and content that is secular, neutral, and non-ideological.

Under NCLB, states were required to maintain a list of Supplemental Educational Services (SES) providers. Is this the same list?

While states appear to have the option of updating prior lists of eligible SES providers to meet the above requirements, states should consider using best practices and lessons learned from the prior program as a way to develop better ways to hold providers accountable, ensure that approved providers can deliver real results that are in step with statewide reform efforts, and use economies of scale to lowers costs so that more services can be provided to students.

Provider Oversight

ESSA requires states to establish and implement clear criteria for when providers of DSS are not successful in improving academic outcomes, which, for a tutoring provider, may include a process for removing the provider from the state list.

Are states going to have to individually monitor every provider?

States should set clear benchmarks for provider performance and work with districts to ensure that unsuccessful providers improve in a timely manner or are no longer able to provide services. States may want to also be more active and set specific statewide performance criteria.

V. DISTRICT OUTREACH AND ADMINISTRATION

Districts are permitted to use up to 1% of their grant funds for outreach and communication to families about available DSS and up to 2% to administer the program. In addition to providing local capacity, these funds enable districts to carry out activities such as developing promotional materials and holding parent meetings and promotional fairs in order to ensure that families across the district understand the new options that will be available for their children.

VI. DISTRICT IMPLEMENTATION

Local Uses of Funds

After reservations are made for outreach and administration, districts must use not less than 97% of grant funds to pay costs associated with one or more of the specified DSSs which may be carried out by providers selected by districts as described in their application to the state; providers of tutoring, must appear on the state's list of such providers.

In carrying out its DSS program, a district must, first, pay costs for students enrolled in schools identified for Comprehensive Support and Improvement; second, pay costs for low-achieving students enrolled in schools identified for Targeted Support and Improvement; and, with any remaining funds, pay costs for other low-achieving students. Districts may offer the following types of services:

- Enrollment and participation in **academic courses not otherwise available at a student's school** (including advanced courses and career and technical education (CTE) coursework that leads to an industry-recognized credential).

Our state has a course access program to enable students to take courses not otherwise available at a student's school. Could students use funds from DSS to cover the costs of these courses?

If a district identifies the providers of such courses as eligible to carry out these service (which, as noted above, could be required or incentivized through the state application), then it is possible that DSS could cover the costs of these courses. (States may have to be mindful of any supplement not supplant requirements, as applicable.) For example, this could potentially include offering virtual AP courses or courses otherwise offered through a Pathways in Technology Early College High school (P-TECH) within a district.

Could districts identify community colleges as providers of courses not otherwise available to students at their school?

Yes, community colleges are specifically identified by the statute as eligible providers of services and could apply to provide courses under DSS.

- **Credit recovery and academic acceleration** courses that lead to a regular high school diploma.

- **Postsecondary-level instruction** and examinations that are accepted for credit at institutions of higher education (including **Advanced Placement (AP) and International Baccalaureate (IB)** courses), which may include reimbursing low-income students to cover part or all of the cost of fees for such examinations.

Our state has a virtual network of on-line AP courses. Could a district allow students to use DSS funds to take these courses as well as pay for AP assessments?

As noted above, if a district identifies the providers of such courses as eligible to carry out these services, (which as noted above, could be required or incentivized through the state application), then it is possible that DSS could cover the costs of these courses. However, states may have to be mindful of any supplement not supplant requirements, as applicable.

- Components of **personalized learning** approaches, which may include high-quality **academic tutoring**.

- **Transportation** to allow a student enrolled in a school identified for Comprehensive Support and Improvement activities to **transfer to another public school** (which may be a public charter school) that has not been identified by the state. The LEA may use its DSS funds for this purpose only if it is not using a portion of its Title I allocation in that manner.

CONCLUSION AND ACTION ITEMS:

As states seek the best ways to design and implement DSS, they should consider how these activities could complement other education reform efforts; use applicable lessons learned and best practices from prior law to better inform new programming; and engage local stakeholders, including through a robust consultation process, to help encourage broad participation at the local level.

As part of this process, states have the opportunity to work together to maximize the potential of DSS, leverage scarce resources by reducing duplication of effort in developing similar statewide systems, and to build upon best practices. Below are just a few of the specific examples of where this state collaboration could begin:

POTENTIAL STATE COLLABORATION ACTION ITEMS	
Development of Local Application	All states need to develop local applications, and each will be different to the extent a state seeks to use the application to implement a statewide vision of reform. However, many elements of a local application will be the same across all states, and states could work together on designing a template that serves this purpose.
Selection of Eligible Providers	Each state must develop a process for identifying eligible providers, but states can work together to develop a common application that meets the requirements under ESSA and ensure providers are of the highest quality. States can also share best practices on the selection of providers.
Monitoring and Oversight	Perhaps one of the most challenging aspects of DSS is the monitoring and oversight of providers – in particular, setting benchmarks for what constitutes success, especially given the wide variety of services that may be offered. States can work together to identify best practices for carrying out these activities.
Leveraging Innovation	DSS opens up a multitude of opportunities for states to drive innovation at the district level. States should share ideas about what such innovations might entail and how DSS can be leveraged for their implementation.

APPENDIX A:

Direct Student Services Statutory Language

SEC. 1004. DIRECT STUDENT SERVICES.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended by inserting after section 1003 (20 U.S.C. 6303) the following:

‘‘SEC. 1003A. DIRECT STUDENT SERVICES.

‘‘(a) STATE RESERVATION.—

‘‘(1) IN GENERAL.—

‘‘(A) STATES.—Each State educational agency, after meaningful consultation with geographically diverse local educational agencies described in subparagraph (B), may reserve not more than 3 percent of the amount the State educational agency receives under subpart 2 of part A for each fiscal year to carry out this section.

‘‘(B) CONSULTATION.—A State educational agency shall consult under subparagraph (A) with local educational agencies that include—

‘‘(i) suburban, rural, and urban local educational agencies;

‘‘(ii) local educational agencies serving a high percentage of schools identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i); and

‘‘(iii) local educational agencies serving a high percentage of schools implementing targeted support and improvement plans under section 1111(d)(2).

‘‘(2) PROGRAM ADMINISTRATION.—Of the funds reserved under paragraph (1)(A), the State educational agency may use not more than 1 percent to administer the program described in this section.

‘‘(b) AWARDS.—

‘‘(1) IN GENERAL.—From the amount reserved under subsection (a) by a State educational agency, the State educational agency shall award grants to geographically diverse local educational agencies described in subsection (a)(1)(B)(i).

‘‘(2) PRIORITY.—In making such awards, the State educational agency shall prioritize awards to local educational agencies serving the highest percentage of schools, as compared to other local educational agencies in the State—

''(A) identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i); or

''(B) implementing targeted support and improvement plans under section 1111(d)(2).

''(c) LOCAL USE OF FUNDS.—A local educational agency receiving an award under this section—

''(1) may use not more than 1 percent of its award for outreach and communication to parents about available direct student services described in paragraph (3) in the local educational agency and State;

''(2) may use not more than 2 percent of its award for administrative costs related to such direct student services;

''(3) shall use the remainder of the award to pay the costs associated with one or more of the following direct student services—

''(A) enrollment and participation in academic courses not otherwise available at a student's school, including—

''(i) advanced courses; and

''(ii) career and technical education coursework that—

''(I) is aligned with the challenging State academic standards; and

''(II) leads to industry-recognized credentials that meet the quality criteria established by the State under section 123(a) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102);

''(B) credit recovery and academic acceleration courses that lead to a regular high school diploma;

''(C) activities that assist students in successfully completing postsecondary level instruction and examinations that are accepted for credit at institutions of higher education (including Advanced Placement and International Baccalaureate courses), which may include reimbursing low-income students to cover part or all of the costs of fees for such examinations;

''(D) components of a personalized learning approach, which may include high-quality academic tutoring; and

''(E) in the case of a local educational agency that does not reserve funds under section 1111(d)(1)(D)(v), transportation to allow a student enrolled in a school identified for comprehensive support and improvement under section

1111(c)(4)(D)(i) to transfer to another public school (which may include a charter school) that has not been identified by the State under such section; and

''(4) in paying the costs associated with the direct student services described in paragraph (3), shall—

''(A) first, pay such costs for students who are enrolled in schools identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i);

''(B) second, pay such costs for low-achieving students who are enrolled in schools implementing targeted support and improvement plans under section 1111(d)(2); and

''(C) with any remaining funds, pay such costs for other low-achieving students served by the local educational agency.

''(d) APPLICATION.—A local educational agency desiring to receive an award under subsection (b) shall submit an application to the State educational agency at such time and in such manner as the State educational agency shall require. At a minimum, each application shall describe how the local educational agency will—

''(1) provide adequate outreach to ensure parents can exercise a meaningful choice of direct student services for their child's education;

''(2) ensure parents have adequate time and information to make a meaningful choice prior to enrolling their child in a direct student service;

''(3) in the case of a local educational agency offering public school choice under this section, ensure sufficient availability of seats in the public schools the local educational agency will make available for public school choice options;

''(4) prioritize services to students who are lowest-achieving;

''(5) select providers of direct student services, which may include one or more of—

''(A) the local educational agency or other local educational agencies;

''(B) community colleges or other institutions of higher education;

''(C) non-public entities;

''(D) community-based organizations; or

''(E) in the case of high-quality academic tutoring, a variety of providers of such tutoring that are selected and approved by the State and appear on the State's list of such providers required under subsection (e)(2);

''(6) monitor the provision of direct student services; and

''(7) publicly report the results of direct student service providers in improving relevant student outcomes in a manner that is accessible to parents.

''(e) PROVIDERS AND SCHOOLS.—A State educational agency that reserves an amount under subsection (a) shall—

''(1) ensure that each local educational agency that receives an award under this section and intends to provide public school choice under subsection (c)(3)(E) can provide a sufficient number of options to provide a meaningful choice for parents;

''(2) compile and maintain an updated list of State-approved high-quality academic tutoring providers that—

''(A) is developed using a fair negotiation and rigorous selection and approval process;

''(B) provides parents with meaningful choices;

''(C) offers a range of tutoring models, including online and on campus; and

''(D) includes only providers that—

''(i) have a demonstrated record of success in increasing students' academic achievement;

''(ii) comply with all applicable Federal, State, and local health, safety, and civil rights laws; and

''(iii) provide instruction and content that is secular, neutral, and non-ideological;

''(3) ensure that each local educational agency receiving an award is able to provide an adequate number of high- quality academic tutoring options to ensure parents have a meaningful choice of services;

''(4) develop and implement procedures for monitoring the quality of services provided by direct student service providers; and

''(5) establish and implement clear criteria describing the course of action for direct student service providers that are not successful in improving student academic outcomes, which, for a high-quality academic tutoring provider, may include a process to remove State approval under paragraph (2).''.

APPENDIX B:

Comparison of the School Improvement and Direct Student Services Set-Asides Under ESSA

	School Improvement	Direct Student Services
Set-aside amount	7% of a state's Title I allocation (except that, beginning in FY 2018, the set-aside may not result in any LEA receiving a reduction in its Title I local allocation)	Up to 3% of a state's Title I allocation
State consultation requirement	No consultation requirement	Before setting aside funds, the SEA must consult with LEAs.
Percentage of set-aside that must flow through to LEAs	95% (unless SEA enters into an agreement with LEAs to allocate a smaller amount)	99%
Mechanism for allocating funds to LEAs	Formula or competitive grants; grantees must reflect the geographic diversity of the state and grants must be of sufficient size to enable effective implementation.	Grants; specific mechanism not specified.
Duration of grants to LEAs	Up to 4 years	Not specified
Priorities for SEAs to use in making grants to LEAs	• LEAs with the highest numbers or percentages of schools identified for Comprehensive or Targeted Support and Improvement • LEAs demonstrating the greatest need for the funds • LEAs demonstrating the strongest commitment to using program funds to enable the lowest-performing schools to improve student outcomes	• LEAs with the highest percentage of schools identified for Comprehensive or Targeted Support and Improvement.
Authorized activities	None explicitly specified. LEAs will use the funds to improve low-performing schools.	• Enrollment and participation in academic courses not otherwise available in a school, including advanced courses and career and technical education courses • Credit-recovery and academic acceleration courses that lead to a regular diploma • Activities to assist students in

		completing postsecondary-level instruction and exams, including AP and IB courses and reimbursing low-income students for the costs of exams for those programs • Components of a personalized learning approach (which may include high-quality academic tutoring)[3] • Transportation to a new school for a student previously enrolled in a school identified for Comprehensive Support and Improvement (if the LEA is making public school choice available to those students and is not using funding from its Title I allocation to provide that transportation)
SEA role and responsibilities	• Establish the grant allocation method • Monitor and evaluate LEAs' uses of funds • As appropriate, reduce barriers and provide flexibility to schools implementing Comprehensive and Targeted Improvement plans • Include in the state's Title I report card a listing of the LEAs and schools receiving funds from the set-aside, the amount of funds each school received, and the types of strategies implemented with program funds in each school	• Ensure that each LEA receiving a grant that intends to provide public school choice can provide a sufficient number of options • Compile and maintain a list of state-approved high-quality academic tutoring providers • Ensure that each LEA receiving a grant is able to provide an adequate number of high-quality tutoring options • Develop and implement procedures for monitoring the quality of services provided by direct student services (DSS) providers • Establish and implement criteria for courses of action for providers that do not raise student outcomes
Within-district priorities	None specified	• First, paying the costs of DSS for students enrolled in schools identified for Comprehensive

[3] Note that although section 1003A(c)(3)(D) states that components of a personalized learning approach "may include high-quality academic tutoring" (implying that inclusion of tutoring in an LEA's direct student services program is optional), section 1003A(e)(3) requires the SEA to ensure that each LEA receiving a grant "is able to provide an adequate number of high-quality academic tutoring options" (implying that the inclusion of tutoring as part of a local program is mandatory).

		support and improvement • Second, paying the costs of DSS for students enrolled in schools identified for Targeted support and improvement • With any remaining funds, paying the costs of DSS for other low-achieving students In addition, an LEA must describe, in its application, how will prioritize services to the lowest-achieving students.
Local application	Must describe how the LEA will carry out its Title I school improvement activities, including: • How it will it will develop Comprehensive Support and Improvement plans for the schools identified as in need of Comprehensive support and improvement that will receive school improvement set-aside funding • For its schools identified for Targeted Support and Improvement that will receive program funds, how it will support those schools in developing or implementing their support and improvement plans • How it will monitor schools receiving funds under the program, including how it will take action to improve Targeted Support and Improvement schools that do not achieve successful action of their plan after an LEA-determined period of time • How it will use a rigorous review process to recruit, screen, select, and evaluate any external partners with which it will partner • How it will align other federal, state, and local resources with the activities it supports under	Must describe: • How the LEA will provide adequate outreach to ensure that families can exercise a meaningful choice of direct student services • How the LEA will ensure that families have adequate time and information to make a meaningful choice of DSS • In the case of an LEA providing public school choice to students enrolled in Comprehensive Improvement schools, how the LEA will ensure the sufficient availability of seats in public schools for students exercising that choice • How the LEA will prioritize services to the lowest-achieving students • How the LEA will select providers of DSS • How the LEA will monitor provision of DSS • How the LEA will report, in a manner that is accessible to families, the results of DSS providers in improving student outcomes

	the program; and • As appropriate, how it will modify practices and procedures in order to provide operational flexibility that enables full and effective implementation of Comprehensive and Targeted Support and Improvement plans.	
Service providers	The funds are under the control of the LEA and may be used entirely by the LEA. However, as described above (under the description of the local application), LEAs are explicitly authorized to partner with external providers.	DSS may be provided by: • The LEA, or other LEAs • Community colleges or other IHEs • Non-public entities • Community-based organizations • Providers of high-quality academic tutoring that are on the state's list of approved providers Except in the area of academic tutoring, the providers are selected by the LEA and may include the LEA itself. (The SEA might, through the grant process, structure the criteria that an LEA may use in selecting providers). Providers of tutoring must be selected from the state-approved list.
Who decides which activities a school will carry out or which services a child will receive?	The LEA determines which activities will be supported with program funds.	The LEA determines the services to be made available (except that it appears that each LEA must include tutoring in its menu of services). Families then select from the available services.
Supplement, not supplant	In its application, the LEA must assure that each school that will be served under the program will receive all of the state and local funds that it would otherwise receive.	No supplement, not supplant requirement in the statutory language for DSS. However, because the funding will be set aside from Title I, Part A (which does have a supplement, not supplant requirement), a prohibition on supplanting may apply.

APPENDIX C:

Comparison of Supplemental Educational Services Previously Authorized Under NCLB VS. Direct Student Services Currently Authorized Under ESSA

	Prior NCLB -- Supplemental Educational Services (SES)	Current ESSA -- Direct Student Services (DSS)
Source and amount of funding	An LEA with at least one school identified, for two or more years, as in need of improvement was required to reserve at between 5 and 20% of its Title I allocation to provide SES.	An SEA may reserve up to 3% of the state's allocation for DSS. The SEA then makes DSS grants to LEAs.
Authorized services	Tutoring and other supplemental academic enrichment services that are: (1) in addition to instruction provided during the school day; and (2) high-quality, research-based, and specifically designed to increase the academic achievement of low-income children	• Enrollment and participation in academic courses not otherwise available in a school, including advanced courses and career and technical education courses • Credit-recovery and academic-acceleration courses that lead to a regular diploma • Activities to assist students in completing postsecondary-level instruction and exams, including AP and IB courses and reimbursing low-income students for the costs of exams administered under those programs • Components of a personalized learning approach (which may include high-quality academic tutoring)[4] • Transportation to a new school for a student previously enrolled in a school identified for Comprehensive Support and Improvement (if the LEA is making public school choice available to those students and is not using funding from its Title I allocation to provide that transportation)

[4] Note that although section 1003A(c)(3)(D) states that components of a personalized learning approach "may include high-quality academic tutoring" (implying that inclusion of tutoring in an LEA's direct student services program is optional), section 1003A(e)(3) requires the SEA to ensure that each LEA receiving a grant "is able to provide an adequate number of high-quality academic tutoring options" (implying that the inclusion of tutoring as part of a local program is mandatory).

	Prior NCLB -- Supplemental Educational Services (SES)	Current ESSA -- Direct Student Services (DSS)
Which students receive services?	LEAs were required to offer SEA to all low-income students enrolled in schools identified for at least two years as in need of improvement, and were required to apply fair and equitable procedures for selecting students if not all eligible students could be served.	• In making grants, SEAs must give priority to LEAs with the highest percentage of schools identified for Comprehensive or Targeted Support and Improvement under Title I. • LEAs must use their grants: o First, to pay the costs of DSS for students enrolled in Comprehensive Support and Improvement Schools; o Second, to pay the costs of DSS for students enrolled in Targeted Support and Improvement Schools; and o With any remaining funds, to pay the costs of DSS for other low-achieving students. • LEAs must also prioritize services to the lowest-achieving students.
Authorized provider	A non-profit entity, for-profit entity, or LEA that has a demonstrated record of increasing student achievement, is capable of providing SES, and is financially sound	• The LEA, or another LEA • A community college or another IHE • A non-public entity • A provider of high-quality academic tutoring as identified by the SEA
Approval of SES/tutoring providers	SEAs were required to develop and implement objective criteria for approving SES providers (based on a demonstrated record of effectiveness), monitor the performance of approved providers, and withdraw approval from any provider that failed to increase students' academic proficiency for 2 consecutive years.	The SEA must compile and maintain a list of state-approved providers of high-quality tutoring. In offering tutoring as a component of its DSS program, an LEA may only use tutoring providers that are on the state's list.
SEA role and responsibilities	• Promote maximum participation by providers • Develop and implement criteria for approving providers, monitor provider performance, and withdraw	• Ensure that each LEA receiving a grant that intends to provide public school choice can provide a sufficient number of options. • Compile and maintain a list of state-approved providers of high-

	Prior NCLB -- Supplemental Educational Services (SES)	Current ESSA -- Direct Student Services (DSS)
	approval from providers that fail to raise student proficiency (see above) • Provide annual notice to potential SES providers of the opportunity to provide services	quality academic tutoring • Ensure that each LEA receiving a grant is able to provide an adequate number of high-quality tutoring options.
Who determines what services a child receives?	Families selected SES providers from among the providers on the state list who were available to provide services in the student's district.	Families will select DSS from among the services made available by the district.

APPENDIX D:

State-by-State Funding Available for Direct Student Services (3%) Based upon FY 2017 Title I Estimates

Alabama	7,242,852.15
Alaska	1,269,913.56
Arizona	10,035,141.78
Arkansas	4,748,939.67
California	54,127,179.42
Colorado	4,594,456.50
Connecticut	3,783,834.63
Delaware	1,449,342.27
District of Columbia	1,360,726.53
Florida	25,045,270.65
Georgia	15,956,770.44
Hawaii	1,642,718.55
Idaho	1,772,975.73
Illinois	20,492,631.12
Indiana	7,784,295.75
Iowa	2,911,044.12
Kansas	3,354,897.87
Kentucky	6,555,083.01
Louisiana	8,849,190.93
Maine	1,609,295.94
Maryland	6,782,128.11
Massachusetts	7,068,882.90
Michigan	14,728,741.68
Minnesota	5,022,278.85
Mississippi	5,530,793.25
Missouri	7,246,663.50
Montana	1,407,887.22
Nebraska	2,161,588.20
Nevada	3,702,025.80
New Hampshire	1,316,257.98
New Jersey	10,486,750.23
New Mexico	3,439,420.44
New York	35,026,215.48
North Carolina	13,120,563.75
North Dakota	1,114,194.48
Ohio	17,514,664.38

Oklahoma	4,913,130.39
Oregon	4,457,432.85
Pennsylvania	17,696,457.78
Rhode Island	1,544,317.50
South Carolina	7,352,708.19
South Dakota	1,368,711.99
Tennessee	9,250,206.48
Texas	42,207,848.10
Utah	2,707,530.81
Vermont	1,078,125.21
Virginia	8,066,391.75
Washington	7,010,432.73
West Virginia	2,719,740.18
Wisconsin	6,632,861.58
Wyoming	1,060,471.68
US Total	438,321,984.09