American Recovery and Reinvestment Act (ARRA) Funding Questions & Answers

Index

I. General Information

I.1 How long will the additional funds be available?

Funds allocated under the State Fiscal Stabilization Fund (SFSF), Title I Part A, and IDEA will remain available for obligation until September 30, 2011, followed by a 90-day liquidation period.

I.2 What do I need to be concerned about when deciding how to spend the funds?

Because funds are available for only two years, care should be taken to invest ARRA funds in ways that do not result in unsustainable continuing commitments after the funding expires.

II. Title I Part A Funds

II.1 What kinds of things can I do with Title I funds that are also consistent with ARRA principles?

Following are examples of Title I initiatives that are consistent with ARRA principles:

- Establishing or expanding fiscally sustainable extended learning opportunities for Title I-eligible students in targeted assistance programs, including activities provided before school, after school, during the summer, or over an extended school year
- Providing professional development to teachers in Title I targeted assistance programs on the use of data to inform and improve instruction for Title I-eligible students
- Using reading or mathematics coaches to provide professional development to teachers in Title I targeted assistance programs

- Establishing a system for identifying and training highly effective teachers to serve as instructional leaders in Title I schoolwide programs and modifying the school schedule to allow for collaboration among the instructional staff
- Establishing intensive, year-long teacher training for all teachers and the principal in a Title I elementary school in corrective action or restructuring status in order to build teachers' capacity to address academic achievement problems

II.2 When will I find out how much ARRA Title I funding I will receive in 2010-2011?

ARRA funds are for 2009-2010, and remain available for obligation until September 30, 2011. The Recovery Act makes no provision for additional funds in 2010-2011.

A. Carryover limitation

II.A.1 Title I funds have a 15% carryover limitation. Does this mean I have to spend 85% of the increased amount by September 30, 2009?

- The carryover limitation will be applicable to ARRA funds as of September 30, 2010.
- North Carolina is an Ed-Flex state, and has the ability to grant a waiver of this provision to LEAs more frequently than once every three years if good cause for the waiver can be established.

II.A.2 What funds will the 15% carryover limitation be calculated on?

The 2009-2010 Title I allocation consists of the regular Title I allocation PLUS the ARRA Title I funds. The carryover limitation at September 30, 2010 will be calculated on the combined amount.

II.A.3 When should I apply for a carryover waiver?

DPI will notify you if you need to request a waiver from the Title I program administrators.

B. Supplement Not Supplant

II.B.1 Can I use the additional Title I funds to replace the state/local funds that are no longer available?

No. These funds are to supplement, not supplant, services provided with non-federal funds. In general, it is presumed that supplanting has occurred when an LEA uses Federal funds to provide services that the LEA provided with non-Federal funds in the prior year.

II.B.2 Can "supplement not supplant" be waived?

No. However, the OMB Circular A-133 Compliance Supplement clarifies instances in which the presumption of supplanting may be rebutted.

II.B.3 How would I rebut the presumption of supplanting?

The presumption of supplanting is rebuttable if the LEA can demonstrate that it would not have provided the services in question with non-Federal funds had the Federal funds not been available.

C. Maintenance of Effort

II.C.1 What is the current requirement for NCLB Maintenance of Effort (MOE)?

Section 9521 of NCLB requires recipients of federal funds to maintain their effort from state and local funds at a level of not less than 90% of the previous fiscal year.

II.C.2 With state and local funds being cut for this year and next year, do I need to worry about not meeting the MOE requirement?

- A provision may be made for LEAs to count expenditures of Education Stabilization funds used for elementary or secondary education as non-federal funds for purposes of determining whether the LEA has met the maintenance of effort requirement (with prior approval from the secretary of education). DPI is currently reviewing guidance on this provision.
- The US Department of Education has issued guidance regarding the availability of waivers for the NCLB MOE requirement. DPI will apply for waivers for its LEAs who fail to meet NCLB MOE, once the required data is available.

D. Other Title I issues

II.D.1 Are there Title I requirements that can be waived?

The Secretary of Education will consider a request for a waiver with regard to the use of ARRA Title I funds in these areas:

- One or more of the set-aside requirements in Title I Part A that apply to the use of funds by LEAS, including LEA Improvement (10% minimum required), and/or Choice/SES (causes LEA to hold 20% of funds until "parent demand" is determined).
- Calculating the per-pupil amount for supplemental educational services (SES) without regard to some or all of the Recovery Act funds.

II.D.2 Would I need to apply to the Secretary for this waiver?

The Program Monitoring Section is currently preparing waivers on the requirements shown above.

II.D.3 Are there Title I requirements that cannot be waived?

Yes. The requirements which cannot be waived are--

- Comparability of services
- Equitable participation of students and staff in private schools
- Reservation of funds for parental involvement

- Serving eligible school attendance areas in rank order under section 1113(a)(3) of the ESEA
- Supplement, not supplant (addressed above)

III. IDEA Funds

III.1 Are there restrictions on the use of the additional IDEA funds provided in the Recovery Act?

Yes. IDEA funds provided under the ARRA may only be used for the excess costs of providing special education and related services to children with disabilities, except where IDEA specifically provides otherwise (in the case of Coordinated Early Intervening Services).

III.2 My LEA is required to use 15% of our IDEA funds for Coordinated Early Intervening Services (CEIS). Which portion of the IDEA funds will this be calculated on?

The reservation for CEIS will be calculated on the total IDEA funds (Pre-K and school-aged) – the regular allocation plus the additional amounts included in the Recovery Act.

A. IDEA Maintenance of Effort (MOE)

III.A.1 With state/local funds being cut, is there any flexibility with the IDEA MOE requirement?

For any fiscal year in which the federal allocation received by a LEA exceeds the amount received for the previous fiscal year, the LEA **may** reduce the level of local or State and local expenditures by not more than 50 percent of the excess. In order to exercise this flexibility, the LEA must receive a determination under section 616 of "Meets Requirements." LEA EC directors know if LEA programs "meet requirements."

III.A.2 What funds will I have flexibility with?

The amount of local or State and local funds equal to the reduction in MOE expenditures must be used to carry out activities authorized under the Elementary and Secondary Education Act (ESEA) of 1965.

III.A.3 Do the funds I use for CEIS impact this flexibility at all?

Yes. The amount of funds an LEA chooses to expend for coordinated early intervening services (CEIS) counts toward the maximum amount of State and local expenditures that the LEA may reduce. Additionally, an LEA that is **required** to use 15% of its IDEA funds for CEIS is **prohibited** from using this MOE flexibility.

III.A.4 Can you give me an example?

If an LEA received $2,000,000 in IDEA funds in 2008-09, and receives $3,000,000 in 2009-10, the LEA may reduce the State/local expenditures that would be counted for IDEA MOE by $500,000 (50% of the $1 million increase). However, if this LEA uses 15% of its IDEA funds for CEIS ($450,000 in the 09-10 example), the allowable MOE reduction would be limited to $50,000 ($500,000 - $450,000). An LEA which is required to use 15% of its IDEA funds for CEIS is prohibited from reducing its MOE, according to guidance from the US Department of Education.

III.A.5 Can I apply for a waiver of the IDEA maintenance of effort requirement?

No. LEA-level maintenance of effort may not be waived, according to the guidance issued by the US Department of Education.

III.A.6 Are there other instances when an LEA may reduce its level of effort?

Yes. The IDEA allows an LEA to reduce the level of expenditures if the reduction is attributable to any of the following:

- The voluntary departure (retirement or otherwise) or departure for just cause, of special education or related services personnel.
- A decrease in the enrollment of children with disabilities.
- The termination of the obligation of the LEA to provide a program of special education to a particular child that is an exceptionally costly program, because the child –
  - Has left the jurisdiction of the LEA;
  - Has “aged out”; or
  - No longer needs the program of special education.
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.
- The assumption of cost by the high cost fund operated by the SEA (PRC 114).

III.A.7 Is there anything else I need to know about using the IDEA MOE flexibility?

States will be expected to collect and report information on the use of funds freed-up for other uses under this MOE flexibility.

IV. State Fiscal Stabilization Funds (SFSF)

IV.1 How may an LEA use the Education Stabilization Funds?

LEAs may use their share of the SFSF education funds for any activity authorized under these federal programs:

- Elementary and Secondary Act of 1965 (ESEA)
- Individuals with Disabilities Education Act (IDEA)
- Adult Education and Family Literacy Act (Adult Education Act)
- Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act).

IV.2 Can Education Stabilization funds be used for construction and/or modernization, renovation, and repair of public school facilities?

Yes. Construction of public school buildings is allowable as an authorized activity under Title VIII of the ESEA (Impact Aid). In addition, the ARRA expressly authorizes an LEA to use Education Stabilization funds for modernization, renovation, and repair of public school facilities. Both construction and modernization, renovation, and repair are subject to the prohibitions below.

IV.3 What does the law prohibit an LEA from using Education Stabilization funds for?

The ARRA prohibits an LEA from using Education Stabilization funds for—

- Payment of maintenance costs;
- Stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- Purchase or upgrade of vehicles;
- Improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities; or
- School modernization, renovation, or repair that is inconsistent with State law.

IV.4 Can Education Stabilization Funds be used to replace state funds that are being cut?

Because the ESEA includes Impact Aid authority (Title VIII of the ESEA), an LEA may use Education Stabilization funds for activities that would be allowable under Impact Aid. This flexibility applies to all LEAs that receive Education Stabilization funds, and is not limited to those LEAs that also receive Impact Aid funds. Under Impact Aid authority, an LEA may use Education Stabilization funds for educational purposes consistent with State and local requirements.

It is important to note that all ARRA funds, including Education Stabilization funds that an LEA uses for activities authorized under Title VII of ESEA, will be subject to stringent reporting requirements, which is in contrast to the minimal reporting requirements in place for funds appropriated under Impact Aid. The LEA must (a) maintain records that separately track and account for its Education Stabilization Funds and (b) report on the specific uses of those funds.

IV.5 Can I pay salaries with Education Stabilization funds?

Yes. LEAs may use Education Stabilization funds to pay salaries to avoid having to lay off teachers and other school employees.

IV.6 If I pay salaries with Education Stabilization funds, will those employees have to comply with time & effort reporting requirements?

Yes. Education Stabilization funds are federal funds, and the OMB cost principles apply. We believe, however, that most employees who are paid with Education Stabilization funds will have a "single cost objective," and can meet time and effort requirements by completing semi-annual certifications.

IV.7 Since Education Stabilization funds are awarded to LEAs based on the state funding formula, are they treated as state funds?

No. The Education Stabilization funds are Federal funds, and their uses are governed by Federal laws and other applicable Federal requirements (such as the OMB cost principles).

IV.8 Since Education Stabilization funds are federal funds, do I need to worry about not meeting the NCLB MOE requirement?

A provision may be made for LEAs to count expenditures of Education Stabilization funds used for elementary or secondary education as non-federal funds for purposes of determining whether the LEA has met the maintenance of effort requirement (with prior approval from the secretary of education). DPI is currently reviewing guidance on this provision.

IV.9 Since employees paid with Education Stabilization Funds (PRC 140) must complete time and effort documentation, what is their cost objective? *(question added 11/16/09)*

Employees paid from Education Stabilization Funds (PRC 140) who work on a single cost objective will complete semi-annual certifications that they worked solely on "ARRA Education Stabilization – Title VIII of ESEA."

V. Reporting

The Department of Education will provide additional guidance on reporting requirements for ARRA funds. So far, we know that –

- ◊ An unprecedented level of accountability will apply to the ARRA funds.
- ◊ Each state and LEA that receives funds must ensure that funds are used prudently and in accordance with the law, and report on how those funds were spent, including project descriptions and cost.
- ◊ LEAs will be required to provide a school-by-school listing of per-pupil educational expenditures from state and local sources. (Further guidance on this requirement is expected.)