



The Education Trust

Closing the gaps in opportunity and achievement, pre-k through college.

November 7, 2016

James Butler
U.S. Department of Education
400 Maryland Avenue SW, Room 3W246
Washington, D.C. 20202

Docket ID ED-2016-OESE-0056-0001

Dear Mr. Butler,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking (NPRM) published in the Federal Register on Sept. 6, 2016, regarding Title I - Improving the Academic Achievement of the Disadvantaged — Supplement Not Supplant.

Equitable school funding is a key part of efforts to ensure that all students graduate high school ready for college or a meaningful career, and is a long-standing priority of The Education Trust. Although money isn't the only thing that matters for student success, inequities in funding are foundational to all sorts of other inequities in our schools. Moreover, extensive research has shown that *equal* funding for high-need schools is not sufficient — these schools need additional resources to help combat the effects of concentrated poverty.

Recognizing this fact, Congress established the Title I, part A program to provide additional resources to high-need schools, and required schools and districts to use these funds to supplement, not supplant state and local dollars. Nearly a half-century later, however, this supplement, not supplant provision has yet to be truly enforced. In fact, as numerous studies (including the U.S. Department of Education's own analyses) show, districts around the country continue to shortchange their Title I schools when it comes to state and local dollars, leading those schools to use Title I funds to fill in the resulting gaps — the very definition of supplanting.

We appreciate the Administration's attempt to strengthen enforcement of the supplement, not supplant provision. While the proposed regulations are a step forward in some ways, they are far from sufficient to ensure that Title I schools within each district actually receive their fair share of state and local dollars so that federal funds can be used as intended: to provide additional services and support for students who most need them.

The proposed regulations improve upon the status quo by requiring districts to consider actual school spending when determining whether they are in compliance. Looking at actual dollars — rather than, for example, at the number of staff positions or units of materials — incentivizes districts to examine their budgeting practices, and may lead them to uncover spending patterns that disadvantage their high-poverty schools. But because the proposed regulations allow districts to choose one of a number of ways of demonstrating compliance — one of which can be a method developed by their state — there is no guarantee that districts will need to actually address the funding disparities they uncover.

Given states' often poor track record on funding equity, the draft rule's allowance for an "SEA-established compliance test" is especially problematic. By allowing states to define what it means to use Title I funding in a supplemental way, this option could easily result in a step backward on equity. Depending on the compliance tests states come up with, districts could, in fact, be allowed to claim that they are equitably funding their schools while doing anything but.

What's more, the state-defined option is not the only one that could result in the sanctioning of lower state and local spending in high-poverty schools. Neither the "Distribution of State and local funds based on characteristics of students" nor the "Distribution of State and local funds based on personnel and non-personnel resources" option ensures equitable funding for Title I schools. We urge the final rule to clearly state that, no matter the

method for distributing state and local funds to schools within each district, the result is such that Title I schools have at least as much actual funding as do the average of all non-Title I schools.

Thank you for your attention. We look forward to continuing to work with the Administration to ensure that ESSA represents a step forward in the fight for educational justice.

Cordially,

A handwritten signature in black ink, appearing to read "K. Haycock", with a long horizontal flourish extending to the right.

Kati Haycock
The Education Trust