

# Federal Funding Hot Topics



# Agenda

- **Dept. of ED Updates**
- **Notice of Federal Interest Reporting**
- **Supplement not Supplant**
- **Allowability**
- **Food, Meals, and Beverages**
- **Promotional Items and Advertising**
- **Attending Meetings and Conferences**
- **Travel**
- **Field Trips**
- **Incentives**
- **Pay, Salaries and Benefits**
- **Equipment and Property**
- **Cost Sharing**
- **Closeout Costs**
- **Unallowable . . . Unless?**



# Department of ED Updates



December 1, 2023

# Recent Communications from ED

- Reductions are strategic cuts to offices and programs that will not directly impact student and families
- Critical functions for elementary and secondary education will not be impacted
- OESE employees who oversee the allocation, monitoring and management of ESEA title formula funding and discretionary programs were not impacted.
  - These funds will continue to flow normally and program functions will not be disrupted.
- Office of English Language Acquisition and management of ESEA's Title II will return to OESE.



# Recent Communications from ED

- Office of Special Education Programs or the Rehabilitation Services Administration was not part of the reduction.
  - Committed to ensuring uninterrupted services to meet needs and develop the potential of children and youth with disabilities
- Congress has passed a Continuing Resolution(CR) which keeps federal grant programs at the same funding levels for FY25



# Notice of Federal Interest Reporting



December 1, 2023

# Notice of Federal Interest Reporting

- The Notice of Federal Interest (NFI) reporting requirement (2 CFR § 200.330) provides:
  - must report annually, for at least the first **15 years**, on the status of the real property in which the Federal government has made a monetary investment and therefore has an ongoing interest.
- These requirements:
  - Ensure a facility can continue to be used for educational purposes after a grant has ended;
  - Establish the level of public investment in the facility that may be recouped if the property is subsequently transferred to private ownership;
  - promote nondiscrimination, including accessibility, while the property is used for a grant's educational purpose.



# Notice of Federal Interest Reporting

- All grantees/subgrantees that have a renovation, major remodeling, construction, or real property project of \$1 million or more in funds from these programs must record all NFIs by **January 28, 2025**.
- The State educational agency (SEA) must annually collect from the local educational agencies (LEAs):
  - [Real Property Status Report](#) (Cover Page) (SF-429)
  - Other applicable Standard Form 429 Attachment (A or C).
  - These forms must be submitted to the SEA other grantee by their deadline (and annually after the end of the grant).
- The Agency is currently in the process of developing an application in eGMS to collect the required NIF information. We will provide updates in the May FSGR Monthly call.





# Supplement not Supplant

Not all SNS provisions are the same.



December 1, 2023

# SNS Requirement Examples

## Program Examples

	Title I,A	Migrant Education	Title II,A	Title III,A	Title IV,A	REAP/ SRSA	21 <sup>st</sup> CCLC	IDEA	Perkins
<b>SNS Standard</b>	State and Local Funds	ESSA Sec. 1118(b)	ESSA Sec. 1304(c)(2)						
	Non-Federal Funds			ESSA Sec. 2301		ESSA Sec. 4110	Subgrantees ESSA Sec. 4202(b)(2)(G)		Sec. 211
	Federal, State and Local Funds				ESSA Sec. 3115(g)		ESSA Sec. 5232	SEA ESSA Sec. 4204	SEA 34 CFR 300.164(a); LEA 300.202(a)

# ESSA Title I, A SNS Sec. 1118(b)

- Standard: Federal funds must be used to supplement and in no case supplant state, and local resources

## Title I, A SNS Sec. 1118(b)(1)-(2)

- Test: The LEA shall demonstrate that the methodology used to allocate State and local funds to Title I schools ensures that the school receives all the State and local funds it would otherwise receive if it were not receiving Title I funds.
  - Presumptions of supplanting do not apply to Title I, A at the school-level!



# ESSA Title I, A SNS Sec. 1118(b) (cont.)

## Methodology 2 Part Test!

- School-level expenditures
  - Methodology for allocating funds – if neutral with regard to Title I status, then schools are in fact meeting supplement not supplant.
- District-level expenditures
  - Districtwide initiatives must be expended in a way that ensures all applicable schools receive the same amount of state/local funding on a neutral basis with respect to Title I status.



# All Other ESSA Titles

## 2 CFR 200, Subpart F Compliance Supp.

- Auditors presume supplanting occurs if federal funds were used to provide services . . .
  - Required to be made available under other federal, state, or local laws
  - Provided with nonfederal funds in prior year
  - **[Title I, C and Perkins only]** Provided services to eligible students with federal funds, and the same services were provided to non-eligible students with nonfederal funds.

# Presumptions of Supplanting

These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-federal funds had the federal funds not been available.



# SNS Exceptions

- **Title I, A and Migrant:** An SEA and LEA may exclude from determinations of compliance with the supplement not supplant requirement supplemental state or local funds spent in any school attendance area or school for programs that meet the intent and purposes of the MEP, as identified in Title I of ESEA
- **Title I, A only:** Certain LEAs are excluded from the methodology test, such as single school LEAs, grade spans with single schools, or districts with only Title I schools.

# SNS Example

- **Scenario:** My district wants to support the state's mandated Summer School and High Dosage Tutoring initiatives with Title I funds. Is this supplanting if the district supports its non-Title I schools with local funds and require Title I to support the initiative in Title I Schools.
- **Answer:** No
- **Rationale:** Since the Summer School and High Dosage Tutoring initiatives are Title I like (targeting students who are failing) the district is allowed to allocate local funds to support only to its non-Title I and allow Title I to support the activity in its Title I schools.





# Allowability



December 1, 2023

# Basic Factors of Allowability - 200.403

To be allowable, a cost must:

- Be **necessary, reasonable** and **allocable**
- Comply with the cost principles and Federal award
- Be consistent with policies and procedures applying uniformly to Federal and nonFederal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Administrative closeout costs may be incurred until due date of the final reports.** All other costs must be incurred during the approved budget period



# Allowable

- **A district is merging schools and transitioning Title I equipment purchased with Title I funding.**
  - **To meet the allocability requirements noted in 200.403, the Title I purchased equipment must be transitioned to a Title I participating school.**
  - **Title I purchased equipment cannot be utilized to provide services to students in non-Title I schools.**

# Reasonable/Necessary

- **There is a professional development opportunity at the Teacher Leader Summit (TLS), but there is also a vendor offering a training for the same initiative in Long Beach, California.**
  - **Resolve 1: send 10 staff to TLS for training**
  - **Resolve 2: send 10 staff to Long Beach for training**

# Reasonable/Necessary

- **A district has 10 schools (8 Title I and 2 non-Title I sites) - the need is they need a delivery van for Title I equipment.**
  - **Resolve 1:** District purchases one van to serve all schools. Title I purchases an additional van to ensure timely delivery of equipment.
  - **Resolve 2:** Since there are more Title I schools, Title 1 purchase 2 vans to serve all schools.
  - **Resolve 3:** District purchases 1 van for non-Title I, and Title I purchases 4 additional vans to serve the remaining Title I schools.

# Food, Meals, and Beverage



December 1, 2023

# ED's New Guidance on Food, Conferences and Meetings

- **New guidance!**
- Frequently Asked Questions (FAQs) to Assist U.S. Department of Education (ED) Grantees to Appropriately Use Federal Funds for Food, Conferences, and Meetings - August 2024
- <https://www.ed.gov/media/document/faqs-food-and-conferences>

# ED's Guidance on Food, Conferences and Meetings (cont.)

Food and beverage costs are not of a type generally recognized as ordinary and necessary for the operation of the grantee or the proper and efficient performance of the Federal award.

- A grantee needs to substantiate with specificity the rationale for why paying for food and beverages with Department funds is necessary to meet the goals and objectives of a grant.
- Hosting an event: First consider structuring the agenda for the meeting so that there is time for participants to bring or purchase their own food, beverages, and snacks.
- Consider a location in which participants have easy access to food and beverages.





# Allowable Food Examples

## Food costs for a working lunch at a day-long meeting:

- The grantee may be able to justify that it is reasonable and necessary to provide meals or a snack to attendees if the grantee is able to demonstrate that:
  - The lunchtime session is **necessary** to achieve the goals of the project
  - Attendance at the lunchtime session is necessary to achieve full participation by attendees and
  - The business carried out at the lunchtime session could not be carried out at another reasonable time

# Allowable Food Examples (cont.)

## Food costs at a family engagement event:

- If a family meeting would occur during a typical mealtime, or if the grantee has evidence that attendance at the event would be affected by the absence of food or snacks, the grantee may be able to justify that is reasonable and necessary to provide light refreshments or meals to participants.

## Costs of light snacks at a day-long meeting:

- If the grantee has evidence that providing light snacks (e.g., granola bars and water) at the meeting will result in improved participation, such as more time spent on grant activities and less time needed for breaks during the sessions, the grantee may be able to justify that is reasonable and necessary to provide light snacks to participants

# Unallowable Food Examples

- **Food costs at regular staff meetings:** Food costs for recurring business meetings, staff meetings, or other day-to-day activities are generally not reasonable
- **Food costs for remote meetings:** Food costs for meetings conducted remotely, such as sending food to individual meeting participants' locations, are generally not justified
- **Entertainment:** Celebrations, receptions, banquets, and other social events generally are not events where purchasing food with ED grant funds is appropriate
- **Food costs at networking sessions:** Purely social focus is not justified
- **Alcohol:** In all cases, use of Federal funds for alcoholic beverages is unallowable 1

# ED's Guidance on Food (cont.)

**What if the costs of meals are included in hotel meeting rooms? What if the hotel provides complimentary beverages?**

- It would not be acceptable for a vendor to embed the cost of beverages in other costs, such as meeting space, without those costs being separately allowable.
- The grantee should work with the hotel to have the food and beverage costs removed and have the price for the meeting space appropriately adjusted.

**May indirect cost funds be used to pay for food and beverages?**

- No. They are more appropriately treated as direct costs rather than indirect costs. Federal grant funds cannot be used to pay for food and beverages unless doing so is reasonable and necessary

**Can we provide participants with the option of paying for their food?**

- Yes.



# Promotional Items and Advertising



# Advertising and Public Relations – 200.421

Allowable only when there is a programmatic purpose:

- Recruitment of personnel
- Procurement of goods and services
- Disposal of materials
- Program outreach (e.g., recruiting project participants)
- Public relations (in limited circumstances)
- Costs of promotional items and memorabilia are not allowable
- Costs of advertising solely to promote the recipient/subrecipient are not allowable

# Attending Meetings and Conferences



# Conferences – 200.432

- Generally allowable
- Allowable conference costs include rental of facilities, costs of meals and refreshments, transportation . . . unless restricted by the Federal award
- Costs related to identifying **and providing** locally available dependent-care resources **for participants** are allowable **as needed**
- Recommend setting clear policies!
- Conference hosts must exercise discretion in ensuring costs are appropriate, necessary, and managed to minimize costs to Federal award





# Conferences (cont.)

- **Examples of technical information include, but are not limited to, the following, each of which must be related to implementing the program or project funded by the grant:**
  - **Specific programmatic, administrative, or fiscal accountability requirements**
  - **Best practices in a particular field**
  - **Effective methods of training or professional development**
  - **Effective grant management and accountability**

# Conferences (cont.)

## Other considerations:

- **“Grantees should consider whether a face-to-face meeting or conference is the most effective or efficient way to achieve the desired result and whether there are alternatives, such as webinars or video conferences, that would be equally or similarly effective and more efficient in terms of time and costs than a face to-face meeting.”**
- **“If a grantee charges a fee for attendance at a particular meeting or conference paid for with Federal grant funds, any income generated must be treated as program income.”**

# Travel



# Travel – 200.475

- Travel costs may be charged on actual cost basis, a per diem or mileage basis or a combination of the two, provided the method used is applied to an entire trip and not selected days of the trip
  - The method used must be consistent with state/local activities and established written policies
- Travel charges must be consistent with entity's **established** written policies
  - Must also document and justify that participation of an individual is necessary for the federal award and costs are reasonable and consistent with written policies.

# Travel (cont.)

- **Allows costs for “above and beyond regular dependent care” if:**
  - **Costs are directly related to federal award travel**
  - **Consistent with **established written** policy for all travel and**
  - **Costs are temporary during travel period**
  
- **However, consider strong internal controls**
  - **Require documentation showing an actual dependent**
  - **Carefully review any dependent care charges**

# Travel (cont.)

- **New ED Guidance**
- **“Among other considerations, grantees should consider how many people should attend a meeting or conference on its behalf. The number of attendees should be reasonable and necessary to accomplish the goals and objectives of the grant. The grantee should also determine whether it is necessary to attend the entire meeting or conference, or whether attending only a portion of the meeting or conference is reasonable and necessary.”**
- **“To determine whether the expenses are ‘reasonable,’ grantees should consider how the costs (e.g., lodging, travel, registration fees) compare with other similar events and whether the public would view the expenses as a worthwhile use of Federal funds.”**

# Field Trips



# Entertainment – 200.438

- Prior approval requirement removed
- Costs of entertainment, including amusement, diversion, and social activities and any associated costs (such as gifts), are unallowable **unless they have a specific and direct programmatic purpose and are included in a Federal award.**
  - Field trips
  - Parties and entertainment for parents
  - Staff parties



# Incentives



# Prizes – 200.438

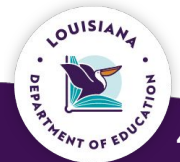
- **Prizes.**
  - **Costs of prizes or challenges are allowable if they have a specific and direct programmatic purpose and are included in the Federal award. Federal agencies should refer to OMB guidance in M-10-11 “Guidance on the Use of Challenges and Prizes to Promote Open Government,” issued March 8, 2010, or its successor.**

# Attendance Incentives

- **An LEA may not use Title I funds to pay students a stipend or provide some other type of award as an incentive for student participation in a Title I program because that would be tantamount to paying students to attend class.**
  - **As a way of encouraging parents of Title I students to participate in school activities in the evening, an LEA may use Title I funds to provide light refreshments.**

# Performance Incentives

- **An LEA may use Title I funds to provide nonmonetary rewards of a nominal value (e.g., a plaque, a gift certificate for a pizza or a book, etc.) to recognize Title I students for good performance.**
- **If, however, State or local laws or regulations prohibit non-Federal funds from being used to provide nominal awards to reward student performance, then Title I funds may not be used for this purpose.**
  - **Title I Funds and Incentives Letter (2008)**



# Pay, Salaries and Benefits



# Salaries – 200.430(g)

- **Allowable with time and effort documentation (unless waived by ED)**
- **Compensation costs must be based on records that accurately reflect the work performed**
  - **Supported by system of internal controls which provides reasonable assurance charges are accurate, allowable, and allocable**
  - **Incorporated into official records**
  - **Reasonably reflect total activity for which employee is compensated**
  - **Encompass all activities (federal and non-federal)**
  - **Comply with established accounting policies and practices**
  - **Support distribution among specific activities or cost objectives**

# Salaries (cont.)

- Reconciliation – budget estimates may be used for interim accounting purposes if:
  - Internal controls are in place to perform **periodic** after-the-fact reviews of interim charges based on budget estimates (200.430(g)(1)(vii)(C))

# Salary Advances – 34 CFR 76.707

Type of Cost	Date of Obligation
Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property
Personal services by an employee	When the services are performed
Personal services by a contractor	On the date on which the State or subgrantee makes a binding written commitment to obtain the services
Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work
Travel	When the travel is taken
Pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, subpart E.	On the first day of the grant or subgrant period of performance.



# Fringe Benefits – 200.431

- **Examples: Leave, employee insurance, pensions, and unemployment benefits**
- **Costs of fringe benefits are allowable if they are reasonable and are required by law, an organization-employee agreement, or an established policy**
- **Must allocate fringe benefits to awards consistent with the benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such awards**

# Leave (Medical, Military, Sick, FLMA)

- **Compensation paid to employees during periods of authorized absences from the job**
- **Allowable if...**
  - **They are provided under established written leave policies;**
  - **The costs are equitably allocated to all related activities, including Federal awards; and,**
  - **The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the recipient or subrecipient or a specified grouping of employee.**
    - **OMB correction to UGG updates**



# Memberships, Subscriptions and Professional Activity Costs – 200.454

- **Costs of the recipient's or subrecipient's (not an individual's) membership in business, technical, and professional organizations are allowable.**
- **Costs of the recipient's or subrecipient's (not individual's) subscriptions to business, professional, and technical periodicals are allowable.**
- **Costs of membership in any civic or community organization are allowable.**
- **Costs of membership in any country club or social or dining club or organization are unallowable.**
- **Costs of membership in organizations whose primary purpose is lobbying are unallowable.**



# Equipment and Property



# Maintenance and Repair Costs – 200.452

- **Costs for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable**

# Furniture

- **General purpose equipment – 200.1**
  - **Examples: Office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles**
  - **Capital expenditures for general purpose equipment, buildings, and land are allowable as direct costs, but only with the prior written approval of the Federal agency or pass-through entity**

# Construction/Real Property

- **34 CFR 76.600** Where to find the construction regulations
  - Makes clear that State acts as “Secretary” for state administered programs in accordance with 75.600 through 75.618
- **34 CFR 75.600** Construction
  - Section has been updated, clarified and reorganized
- **34 Part 77 – EDGAR Definitions**
  - **Construction (NEW!)**
  - **Minor remodeling updated**

# Real Property and Federal Interest

- **Reporting Federal Interest 200.330**
  - **Must report annually, for at least the first 15 years, on the status of the real property**
- **Recording Federal Interest: 200.316**
  - **Recipients are required to locally record notices of Federal interest (or other public notices of record, such as liens) – provides some federal agency discretion**
- **ESSER March 2024 “Dear Colleague” letter to grantees**
  - **Grantees and subgrantees using less than \$1 million in COVID-19 relief funds for a renovation, major remodeling, construction, or other real property project are EXEMPT from recording the federal interest**





# Real Property and Federal Interest (cont.)

- **ESSER March 2024 “Dear Colleague” letter to grantees**
  - Intended to reduce administrative burden
  - “All grantees and subgrantees that have a renovation, major remodeling, construction, or real property project of \$1 million or more in funds from these programs must record all NFIs by January 28, 2025.”

# Cost Sharing



# Cost Sharing in Another Program

- **200.403(f)**
  - **Federal funds may not “be included as a cost or used to meet cost-sharing or matching requirements of any other Federal award in either the current or prior period, except as specifically provided by Federal law or regulation”**

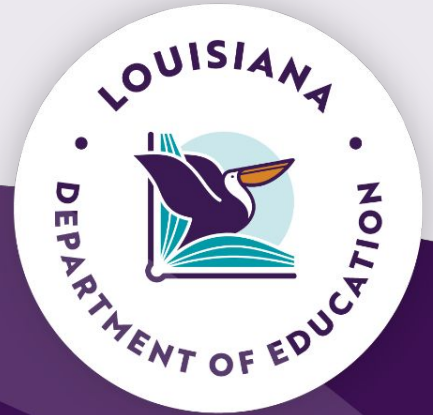
# Closeout Costs



# Termination and Standard Closeout Costs – 200.472(b)

- Administrative costs associated with the closeout activities of a Federal award are allowable.
- The recipient or subrecipient may charge the Federal award during the closeout for the necessary administrative costs of that Federal award (for example, salaries of personnel preparing final reports, publication and printing costs, costs associated with the disposition of equipment and property, and related indirect costs).
- These costs may be incurred until the due date of the final report(s).
- If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the Federal agency.

# Unallowable ... Unless?



# Unallowable . . . Unless

- **Student Activity Costs**
  - **Costs incurred for intramural activities, student publications, student clubs, and other student activities are unallowable unless expressly authorized in the Federal award.**
- **Alcohol**
  - **No**
  - **Never**
  - **No exceptions**
  - **(sorry!)**

# Unallowable . . . Unless (cont.)

- **Gift Cards/ Gift Certificates**
  - **Not generally allowable unless specific programmatic purpose**
    - **Must ensure limited to only purchasing allowable items.**
    - **Consistent with State law**
    - **Must be necessary, reasonable, etc.**
- **Lobbying – 200.450**
  - **Lobbying to obtain federal awards is unallowable • None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action (31 USC 1325)**



# Unallowable . . . Unless (cont.)

- **Fines, Penalties, Damages – 200.441**
  - **Costs resulting from recipient or subrecipient violations of, or alleged violations of, or failure to comply with federal, State, local, tribal, or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the federal award, or with the prior written approval of the federal agency.**
  - **200.435 – Costs related to the defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements are often unallowable**

# Contact Information

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