

REALLOCATING CHOICE AND SES SET-ASIDES

BACKGROUND

When a school(s) is in improvement, the LEA must reserve a minimum of 20% of its total allocation (not including carryover) for Choice-related transportation and Supplemental Educational Services (SES) combined; unless a lesser amount is needed by the LEA to provide for all students who request these services.

REQUESTS TO REALLOCATE CHOICE AND SES SET-ASIDES

LEAs that later determine the level of funding reserved is not needed to fully meet all requests for Choice related transportation and/or Supplemental Education Services must **send an email to the Title I Program Manager** outlining the good faith efforts the LEA has taken to:

1. Partner, to the extent practicable, with outside groups, such as faith-based organizations, other community-based organizations, and business groups, to help inform eligible students and their families of the opportunities to transfer or to receive SES.
2. Ensure that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES, including by:
 - a) providing timely, accurate notice to parents;
 - b) ensuring that sign-up forms for SES are distributed directly to all eligible students and their parents and are made widely available and accessible through broad means of dissemination, such as the Internet, other media, and communications through public agencies serving eligible students and their families; and
 - c) providing a minimum of two enrollment windows, at separate points in the school year, that are of sufficient length to enable parents of eligible students to make informed decisions about requesting SES and selecting a provider.
3. Ensure that eligible SES providers are given access to school facilities, using a fair, open, and objective process, on the same basis and terms as are available to other groups that seek access to school facilities.

LEAs must provide the amount of funds they are requesting to reallocate and an assurance that the remaining funds will be spent on allowable activities.

LEAs must also maintain records demonstrating that the above requirements have been met.

Since the reallocation involves a significant change in the use of funding, DEDOE Amendment rules also apply. As such, LEAs must include an explanation of how the reallocated funds will be utilized and the LEA's business manager must be copied on the request.

Please note that DDOE Title I staff reserves the right to require LEAs to make additional attempts to encourage participation with parents of eligible students.

Additional guidance below excerpted from US ED [non-regulatory guidance Supplemental Education Services](#).

L-1. What are the responsibilities of an LEA if it spends less than its 20 percent obligation on choice-related transportation, SES, and parent outreach and assistance?

Unless it meets the criteria described below, an LEA that does not meet its 20 percent obligation in a given school year must spend the unexpended amount in the subsequent school year on choice-related transportation, SES, or parent outreach and assistance (subject to the limitation described in L-24). The LEA must spend the unexpended amount in addition to the funds it is required to spend to meet its 20 percent obligation in the subsequent school year [34 C.F.R. §200.48(d)(1)].

To spend less than the amount needed to meet its 20 percent obligation and to use the unexpended amount for other allowable activities in a given school year, an LEA must meet, at a minimum, all of the following criteria [34 C.F.R. §200.48(d)(2)(i)]:

1. Partner, to the extent practicable, with outside groups, such as faith-based organizations, other community-based organizations, and business groups, to help inform eligible students and their families of the opportunities to transfer or to receive SES. (See L-4 through L-6.)
2. Ensure that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES, including by: (a) providing timely, accurate notice to parents (see L-7); (b) ensuring that sign-up forms for SES are distributed directly to all eligible students and their parents and are made widely available and accessible through broad means of dissemination, such as the Internet, other media, and communications through public agencies serving eligible students and their families (see G-7 and G-8); and (c) providing a minimum of two enrollment windows, at separate points in the school year, that are of sufficient length to enable parents of eligible students to make informed decisions about requesting SES and selecting a provider. (See L-8 through L-10.)
3. Ensure that eligible SES providers are given access to school facilities, using a fair, open, and objective process, on the same basis and terms as are available to other groups that seek access to school facilities. (See L-11 through L-14.)

In addition, an LEA that spends less than the amount needed to meet its 20 percent obligation and does not intend to spend the unexpended amount in the subsequent school year must maintain records that demonstrate it has met the criteria above [34 C.F.R. §200.48(d)(2)(ii)], and must notify the SEA that it has met the criteria and intends to spend the remainder of its 20 percent obligation on other allowable activities [34 C.F.R. §200.48(d)(2)(iii)]. The LEA must include in its notice to the SEA the amount of that remainder [34 C.F.R. §200.48(d)(2)(iii)]. An LEA does not need to obtain approval from its SEA to spend less than its 20 percent obligation.

L-21. Are there LEAs that spend less than their 20 percent obligation that are not subject to the criteria in 34 C.F.R. §200.48(d)(2)(i)?

There may be circumstances in which an LEA does not spend its full 20 percent obligation yet is not subject to the criteria in 34 C.F.R. §200.48(d)(2)(i). Such circumstances may include, but are not limited to, the following:

1. The LEA is not able to provide public school choice because it has only one school at each grade level **and** cannot provide SES because it is not served by any providers, including providers that employ technology, such as distance learning, to deliver their services.
2. The LEA enrolls sufficient numbers of eligible students to spend all funds reserved for choice-related transportation and SES, but has funds left over at the end of the year because one or more providers

did not fulfill their contractual obligations or because enrolled students did not begin or complete services. However, if an LEA experiences significant student attrition in its SES program early in the school year, leading to lower than anticipated expenditures, we would expect it to hold a second enrollment period and sign up a sufficient number of students to use its full 20 percent obligation.

3. The LEA is meeting demand by providing choice-related transportation or SES to all eligible students. (See L-22.)

L-22. How do the criteria for spending less than the 20 percent obligation apply in the case of an LEA that can provide choice-related transportation or SES to all eligible students without spending the full 20 percent?

In the case of an LEA that is able to provide choice-related transportation or SES to all eligible students without spending its full 20 percent obligation, the criteria would apply to the LEA only with respect to the amount of funds that is needed to serve all eligible students. The LEA would be permitted to use the difference between the 20 percent obligation and the needed amount immediately for other allowable activities. For example, if an LEA could provide choice-related transportation or SES to all eligible students with an amount equal to 10 percent of its Title I, Part A allocation, it would be required to reserve only that amount and would be able to use the other half of its 20 percent obligation immediately for other allowable activities. To spend less than the amount equal to 10 percent of its Title I, Part A allocation, however, the LEA would need to meet the criteria or spend the unexpended amount in the subsequent school year.

Note that an LEA seeking to use a portion of its 20 percent obligation immediately for other allowable activities must base the amount that it reserves for choice-related transportation and SES on the assumption that **all** eligible students will choose to transfer schools or obtain SES.

L-23. If an LEA must spend the unexpended amount of its 20 percent obligation in a subsequent school year, must it use the same source of funds to meet this requirement?

No. The requirement to spend the unexpended amount of the 20 percent obligation in a subsequent school year focuses on the **amount** that must be spent on choice-related transportation and SES, not the specific funds or source of funds that an LEA uses to satisfy that amount. In other words, what is actually “carried over” is a funding commitment, not actual funds. LEAs not meeting the criteria must add the amount of any unused portion of the 20 percent obligation to the amount that must be spent on choice-related transportation and SES in the subsequent year. For example, if an LEA has \$100,000 in unused fiscal year 2009 Title I, Part A funds that were reserved as part of its 20 percent obligation in the 2009-2010 school year, it does not have to carry over those specific Title I funds to the next school year. Rather, the LEA could use that \$100,000 in fiscal year 2009 Title I funds for other Title I activities in the 2009-2010 school year, so long as it adds the same \$100,000 **amount**--from any allowable Federal, State, or local source--to its 20 percent obligation for the 2010-2011 school year.

L-24. If an LEA must spend the unexpended amount of its 20 percent obligation in a subsequent school year, may it count costs for parent outreach and assistance in the subsequent school year toward meeting its unexpended obligation?

An LEA is able to count costs for parent outreach and assistance toward meeting its unexpended obligation in the subsequent school year, but **only** if it did not reach the 1 percent cap in the first year (based on the LEA’s Title I, Part A allocation in that year). However, we do not expect that many LEAs will find themselves in this situation. In general, if an LEA must spend funds in a subsequent school year because it failed to meet the criteria in 34 C.F.R. §200.48(d)(2)(i), the LEA has probably already spent up to the 1 percent cap on parent outreach and assistance. In this circumstance, the LEA may not count

costs for parent outreach and assistance toward meeting its unexpended obligation in the subsequent school year (although it may count costs for parent outreach and assistance toward meeting its 20 percent obligation for the subsequent school year, subject to the 1 percent cap discussed in K-20); the LEA must use all of the unexpended funds in the subsequent school year for SES and choice-related transportation.

For example, if, during the 2009-2010 school year an LEA spent an amount equal to 15 percent of its Title I, Part A allocation on choice-related transportation, SES, and parent outreach and assistance and did not meet all the criteria in 34 C.F.R. §200.48(d)(2)(i), it must spend the remaining 5 percent of its 20 percent obligation from the 2009-2010 school year on choice-related transportation or SES during the 2010-2011 school year, in addition to its 20 percent obligation for the 2010-2011 school year; it may not spend its unexpended funds in the subsequent school year on parent outreach and assistance. However, it may use 1 percent of its 20 percent obligation for the 2010-2011 school year on parent outreach and assistance during the 2010-11 school year.

ADDITIONAL RESOURCES

[US ED Non-Regulatory Guidance: Supplemental Education Services Requirements and Responsibilities for Meeting the SES/Choice 20 Percent Obligation](#)