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A. Introduction

1. *What is transferability?*

Transferability is an option under the Elementary and Secondary Education Act (ESEA) that permits local educational agencies (LEAs) to transfer some or all of the funding they receive under certain ESEA programs to other ESEA programs.

LEAs may transfer up to 100% of funds **from**:

- Title II, Part A, Supporting Effective Instruction, and
- Title IV, Part A, Student Support and Academic Enrichment.

LEAs may transfer these funds **to**:

- Title I, Part A, Improving Basic Programs;
- Title I, Part C, Migrant Education;
- Title I, Part D, Neglected and Delinquent;
- Title II, Part A, Supporting Effective Instruction;
- Title III, Part A, English Language Acquisition;
- Title IV, Part A, Student Support and Academic Enrichment; and/or
- Title V, Part B, Rural Education.

Transferability is authorized by Section 5103 of ESEA (refer to Appendix A of this guidance for Section 5103 language). Guidance from the U.S. Department of Education (USED) is available at:

- ESSA Fiscal Changes & Equitable Services Guidance (2016):
<https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf> (see Section VI for transferability information), and
- Guidance on the Transferability Authority (2004):
www.ed.gov/programs/transferability/finalsummary04.doc.¹

2. *Why might transferability be helpful?*

Transferability provides LEAs flexibility to target resources to student needs. It facilitates the development and implementation of integrated approaches for addressing local educational needs and priorities.

¹ The Guidance on Transferability was developed under the No Child Left Behind (NCLB) Act, which was the prior version of ESEA. It is still applicable except as changed by the Every Student Succeeds Act (ESSA), which is the most recent set of amendments to ESEA.

3. Does transferability provide LEAs with additional federal funding?

No, it does not. Transferability does not affect the overall amount of funds an LEA receives, but it provides them with greater flexibility in using certain ESEA funds.

Example: If an LEA receives \$1,000,000 of Title I, Part A funds, \$500,000 of Title II, Part A funds and \$25,000 of Title III, Part A funds, their total allocation amount for the three programs together is \$1,525,000. If the LEA transfers \$100,000 of Title II, Part A funds to Title III, Part A, then their total allocation amount for the three programs is still \$1,525,000.

4. Are there limits on the amount of funds an LEA can transfer?

All LEAs have the option to transfer all or a portion of their Title II, Part A and Title IV, Part A funds to one or more of the ESEA programs identified in item A.1.² Examples of allowable transfer scenarios could include:

- An LEA may transfer 100% of their Title IV, Part A funds to Title I, Part A.

An LEA may transfer 50% of their Title II, Part A funds to Title I, Part A, and 25% of the Title II, Part A funds to Title III, Part A; with 25% remaining in Title II, Part A.

5. Is there a limit on the number of times an LEA may transfer funds into, or from, an individual program during a fiscal year?

No, there are no statutory limitations on the number of times an LEA may transfer funds into, or from, an individual program during a fiscal year. However, each transfer should be made only after the LEA has engaged in thorough and purposeful planning and has conducted meaning consultation with private schools.

As state education agencies (SEAs) are responsible for the efficient and effective administration of the federal award through the application of sound management practices, excessive transfers may lead to DDOE discussing with the LEA concerns about purposeful planning and financial management. Conditions may be issued on an LEA's funding in situations of excessive transfers, if the DDOE has demonstrated due diligence in providing technical assistance and documentation regarding fiscal irresponsibility related to program statute, administrative requirements, and cost principles for federal funding.

6. After transferring funds into a program, is an LEA limited in any way in transferring funds from the same program?

Yes. Once an LEA transfers funds *into* any of the following programs, it cannot transfer funds out of the program:

- Title I, Part A, Improving Basic Programs;
- Title I, Part C, Migrant Education;
- Title I, Part D, Neglected and Delinquent;
- Title III, Part A, English Language Acquisition; and
- Title V, Part B, Rural Education.

² All LEAs being permitted to transfer up to 100% of Title II, Part A and Title IV, Part A funds is a change from NCLB, which was the version of ESEA prior to ESSA. Under NCLB, LEAs could only transfer up to 50% of their eligible funds. Now LEAs can transfer up to 100% of their eligible funds. Also under NCLB, there were further restrictions on how much certain LEAs could transfer. Those restrictions no longer apply under ESSA.

B. The LEA Transfer Process

1. What steps must an LEA take before transferring funds?

Before transferring funds, an LEA must:

- Consult with private school officials in accordance with Section 8501 of ESEA (refer to Section IV of this guidance document for more information about equitable services for private schools);
- Determine the program(s) from which funds are to be transferred and to which funds will be transferred;
- Determine the amount, and federal fiscal year, of funds to be transferred;
- Establish the effective date for the transfer; and
- Notify DDOE per the process listed in B.2. of the transfer at least 30 days before the effective date of transfer.

2. What is the process to notify DDOE when transferring to and from programs in the Consolidated Grant Application?

For transfers to and from programs in the Consolidated Grant Application (CGA), the process consists of:

- a. The submittal of the CGA serves as the LEA notification to transfer funds. For the initial CGA, the LEA must complete all applicable sections of the application and submit no sooner than the DDOE designated application time frames. The funding transfer in FSF and start date of funds will be dependent upon when the programs impacted by the transfer in the application are either substantially approvable or approved and processing time frames.
- b. To initiate the transfer in the CGA, go to the Administration section and Allocation page of the application. Complete the bottom section of the table to indicate the amount to transfer funds from and to. This step will allow eGrants to automatically make the necessary adjustments to the budget amount available for the receiving program(s).
 - If transferring funds from Title II and/or Title IV funds **to** Title I, complete the Title I pages in sequence with the Funds Transferred to Title I page being the last one completed.
 - If transferring funds from Title II **to** Title III and/or Title IV, upload a completed Transfer Budget Summary form to the Related Documents page.
 - If transferring funds from Title IV **to** Title II and/or Title III, upload a completed Transfer Budget Summary form to the Related Documents page.
 - DDOE will create a new project in FSF for the program appropriation transferring funds, with a title indicating the funds were transferred.
 - A separate Subgrant Award Notice (SAN) form will be issued for the new project in FSF and the subgrantee project title will clearly indicate that this is the program from which funds were transferred.

Example 1: If 100% of Title IV, Part A funds are transferred to Title I, Part A, a SAN will be completed for Title I indicating the original allocation amount for only the Title I funds and SAN for the Title IV, Part A funds with the Subgrantee Project Title: Transferred funds to Title I.

Example 2: If 75% of Title IV, Part A funds are transferred to Title I, Part A, a SAN will be completed for:

- Title I indicating the original allocation amount for only the Title I funds, and a Subgrantee Project Title of "Title I Consolidated Grant".
- A SAN for the 25% of funds for Title IV, Part A with the Subgrantee Project Title of "Title IV Consolidated Grant"; and
- A SAN for the transferred 75% of Title IV, Part A funds with the Subgrantee Title of "Transferred Funds to Title I, Part A".

- c. If an LEA decides to transfer funds after the initial CGA is approved or for subsequent transfers, the notification process is completed by submitting a revised CGA through eGrants. The funding transfer in FSF and start date of funds will be dependent upon when the programs impacted by the transfer in the application are either substantially approvable or approved and processing time frames.
- To initiate the transfer in the CGA, go to the Administration section and Allocation page of the application. Complete the bottom section of the table to indicate the amount to transfer funds from and to. This step will allow eGrants to automatically make the necessary adjustments to the budget amount available for the receiving program(s).
 - If transferring funds from Title II and/or Title IV funds **to** Title I, complete the Title I pages in sequence with the Funds Transferred to Title I page being the last one completed.
 - If transferring funds from Title II **to** Title III and/or Title IV, upload a completed Transfer Budget Summary form to the Related Documents page.
 - If transferring funds from Title IV **to** Title II and/or Title III, upload a completed Transfer Budget Summary form to the Related Documents page.
 - If funds are transferred to a program that had a \$0 allocation amount for the last approved CGA, then the LEA must now complete the applicable questions and budget for the program(s) now with an allocation amount.
 - DDOE will create a new project in FSF for the program appropriation for transferring funds for all initial transfers, with a title indicating the funds were transferred. A SAN will be issued for the new project.
 - For subsequent transfers, an amended SAN will be issued for the programs affected by the transfer.

3. What is the process to notify DDOE when transferring to programs not in the Consolidated Grant Application?

For transfers **to** programs not in the CGA (Title I, Part C Migrant, Title I, Part D Neglected and Delinquent and Title IV, Rural Education), the notification process consists of:

- a. The LEA emails DDOE at eGrants@doe.k12.de.us a Notification of Transferability that contains the below information and is signed by the Chief School Officer and Chief Financial Officer. Although the format of the notification is at the discretion of the LEA, a notification template is available to use at: <https://www.doe.k12.de.us/domain/552>. Requests with incomplete information will be returned and time frames will reflect the date a complete form is submitted.
- The program(s) and federal fiscal year **from** which the funds will be transferred;
 - The amount and/or percentage of funds to be transferred;
 - The program(s) to which the funds will be transferred;
 - The effective date for the transfer; and
 - The Transfer Budget Summary form will also need to be submitted indicating the increase to the FSF activities and account codes.
- b. The Title Programs and Grant Support Workgroup will forward the notification form to all programs involved.

4. Once the transfer occurs, does an LEA have to submit a subsequent notification and revised funding application, which may be the CGA or paper application for non-CGA programs, if the allocation amount for programs impacted by the transfer changes?

Yes. If the final allocation amount changes after the transfer has occurred, an LEA must resubmit their notification per the procedures listed in B.2. The revised application must include updates to the questions and budgets impacted by the allocation change.

If an LEA notifies the SEA that it intends to transfer funds, must the LEA notify the SEA if it subsequently changes its plans to transfer those funds?

Yes. If an LEA has notified DDOE it intends to transfer funds, but then does not do so, it must promptly notify DDOE that it will not transfer funds.

Once an LEA has notified DDOE of an impending transfer, DDOE must be re-notified following the steps listed in B.2. if any of the following changes occur:

- Changes to the amounts to be transferred among programs;
- Changes to the programs involved; or
- Changes to the effective date.

5. Once it is notified of an LEA's intent to transfer funds, must the SEA transfer funds from one account to another in the state's financial system?

SEAs are not required to transfer funds on behalf of the LEA. However, since SEAs and LEAs must maintain documentation that identifies funds at the CFDA level and all state agencies in Delaware, including LEAs, use a centralized financial system (FSF), DDOE will facilitate transfers providing LEAs comply with the procedures listed in B.2.

6. What are an LEA's responsibilities for funds that it transfers?

An LEA must:

- a. Spend transferred funds in accordance with requirements of the receiving program, including statutory set-asides.
- b. Maintain records of transfers that will permit the US ED and DDOE to carry out normal monitoring, evaluation, and auditing activities.
- c. Produce reports as requested by DDOE for financial and program reporting.

7. How does an LEA account for transferred funds in reports that it submits to DDOE?

DDOE will determine the nature of the performance and financial reports its LEAs must submit in order to account for transferred funds.

C. Effects of an LEA Transfer

1. What rules and requirements govern funds that an LEA transfers from one program to another?

Transferred funds become funds of the program to which they are transferred into and are subject to all the rules and requirements of the programs to which the funds are transferred.

Example: If an LEA transfers 100% of its Title II, Part A funds to Title I, Part A, then the transferred funds are treated as Title I, Part A funds governed by Title I requirements.

2. How does transferring funds affect set-aside provisions?

LEAs can transfer funds into programs that have set-aside requirements.

Example: Title I, Part A requires LEAs to set aside at least 1% for parental involvement.³ Any money transferred into Title I must be included in the calculation.

³ This requirement applies to LEAs that receive at least \$500,000 in Title I, Part A funding.

3. What effect does an LEA's transfer of funds have on its future formula allocations under the programs covered by the transferability authority?

An LEA's transfer of funds does not affect its future grant allocations under the programs covered by the transferability authority. Transferred funds are not taken into consideration when DDOE allocates formula grant funds in subsequent years, and transferability has no effect on statutory hold-harmless provisions governing grant allocations.

4. Does the transferability authority affect maintenance-of-effort calculations?

Maintenance-of-effort is based on nonfederal funds only. Transferring federal funds among programs will not affect the maintenance-of-effort calculation.

5. Can an LEA transfer funds from an account for one fiscal year to an account for a different fiscal year?

No. Funds may not be transferred from a program for one fiscal year to another program for another fiscal year. Allocated funds retain the identity of the fiscal year for which they were appropriated. For example, when FY 2017 funds are transferred from one program to another, they remain FY 2017 funds.

6. Does a fund transfer extend the period of availability of the affected funds?

No. Transferability does not extend the period during which an LEA may obligate funds because transferred funds retain the identity of the fiscal year for which the funds were appropriated. Funds may be transferred only to an allocation of the same fiscal year.

D. Equitable Services

1. What are the responsibilities of an LEA for the provision of equitable services to private school children and teachers with respect to funds being transferred?

Except for Title I, Part D (Neglected and Delinquent) and Title V, Part B (Rural Education), the programs covered by the transferability authority are subject to equitable services.

As such, before an LEA may transfer funds from Title II, Part A (Supporting Effective Instruction) or Title IV, Part A (Student Support and Academic Enrichment), it must engage in timely and meaningful consultation with appropriate private school officials. "Meaningful" in the context of the intent to transfer should include information regarding the LEAs plan to transfer funds and how the transfer will impact the private schools. LEAs shall maintain records documenting that meaningful consultation has occurred. A private school may disagree with the LEA's intent to transfer funds. DDOE may become involved in situations where meaningful consultation did not occur or in events of excessive transfers.

Once an LEA transfers funds, it must provide private school students and teachers equitable services under the program(s) to which, and from which, the funds are transferred, based on the total amount of funds available to each program after the transfer.

2. Can an SEA or LEA transfer only those funds that are to be used for equitable services to private school students or teachers?

No. An SEA or LEA may not transfer funds to a particular program solely to provide equitable services for private school students or teachers. Rather, an SEA or LEA, after consulting with appropriate private school officials, must provide equitable services to private school students and teachers based on the rules of each program and the total amount of funds available to each program after a transfer.

Appendix – Title V

TITLE V—FLEXIBILITY AND ACCOUNTABILITY PART A—FUNDING TRANSFERABILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

SEC. 5101. SHORT TITLE.

This part may be cited as the “State and Local Transferability Act”.

SEC. 5102. PURPOSE.

The purpose of this part is to allow States and local educational agencies the flexibility to target Federal funds to the programs and activities that most effectively address the unique needs of States and localities.

SEC. 5103. TRANSFERABILITY OF FUNDS.

(a) TRANSFERS BY STATES.—

(1) IN GENERAL.—In accordance with this part, a State may transfer all, or any lesser amount, of State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State’s allotments for such fiscal year under any other of such provisions:

- (A) Part A of title II.
- (B) Part A of title IV.
- (C) Section 4202(c)(3).

(2) ADDITIONAL FUNDS.—In accordance with this part, a State may transfer any funds allotted to the State under a provision listed in paragraph (1) for a fiscal year to its allotment under any other of the following provisions:

- (A) Part A of title I.
- (B) Part C of title I.
- (C) Part D of title I.
- (D) Part A of title III.
- (E) Part B.

(b) TRANSFERS BY LOCAL EDUCATIONAL AGENCIES.—

(1) AUTHORITY TO TRANSFER FUNDS.—

(A) IN GENERAL.—In accordance with this part, a local educational agency may transfer all, or any lesser amount, of the funds allocated to it under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) ADDITIONAL FUNDS.—In accordance with this part, a local educational agency may transfer any funds allotted to such agency under a provision listed in paragraph (2) for a fiscal year to its allotment under any other of the following provisions:

- (i) Part A of title I.
- (ii) Part C of title I.
- (iii) Part D of title I.
- (iv) Part A of title III.
- (v) Part B.

(2) APPLICABLE PROVISIONS.—A local educational agency may transfer funds under subparagraph (A) or (B) of paragraph (1) from allocations made under each of the following provisions:

- (A) Part A of title II.
- (B) Part A of title IV.

(c) NO TRANSFER OF CERTAIN FUNDING.—A State or local educational agency may not transfer under this part to any other program any funds allotted or allocated to it for the following provisions:

- (1) Part A of title I.
- (2) Part C of title I.
- (3) Part D of title I.
- (4) Part A of title III.

(5) Part B.

(d) MODIFICATION OF PLANS AND APPLICATIONS; NOTIFICATION.—

(1) STATE TRANSFERS.—Each State that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) LOCAL TRANSFERS.—Each local educational agency that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(e) APPLICABLE RULES.—

(1) IN GENERAL.—Except as otherwise provided in this part, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.

(2) CONSULTATION.—Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 8501, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.