

Secretary Betsy DeVos  
US Education Department  
Office of Elementary and Secondary Education  
400 Maryland Ave SW  
Washington, DC 20202

RE: ESSA Title I-A Supplement, Not Supplant Non-Regulatory Guidance

March 5, 2019

Dear Secretary Devos,

On behalf of AASA, The School Superintendents Association, I write in response to your draft non-regulatory guidance related to the ‘supplement, not supplant’ (SNS) provision within Title I Part A of the Every Student Succeeds Act (ESSA). We commend the use of non-binding guidance to provide necessary clarification, as well as the use of a draft, providing practitioners and experts with an opportunity to respond to the proposal.

AASA, The School Superintendents Association represents the nation’s 14,000 public school superintendents, the schools they run, and the students they serve. We were extremely engaged in the years-long effort to reauthorize the Elementary and Secondary Education Act (ESEA) into its current iteration, ESSA. Specific to this draft guidance, we followed closely and responded to the initial efforts to provide formal regulation related to the SNS provisions of ESSA Title I, back in 2016. We opposed those initial draft regulations, finding them overly prescriptive and punitive, and well beyond the scope and intention of the underlying statute—those efforts ultimately stalled and failed. We appreciate this administration’s diligence in following up on those regulations, and using non-binding guidance as the vehicle to provide the clarification and technical assistance schools will need.

In reviewing the draft guidance, we are pleased it does not establish a spending test and instead adheres closely to the statute. While the guidance does not require a spending test, it does require all districts to provide an allocation methodology (and provides two examples of these methodologies), a requirement that will ensure that districts and their communities alike can better see and understand how the district allocates its funds across schools. This draft guidance, even with its light touch, does represent another transition, and we encourage USED to support LEAs as they transition to these new tests, and remain engaged with LEA and SEA staff alike, responding promptly to inquiry and further clarifying this draft guidance document as implementation informs the work.

As implementation of this guidance unfolds, we do want to highlight an important opportunity for USED: enforcement will matter. To the extent that LEAs and SEAs work with auditors and other oversight entities, it is critical USED ensure that oversight is consistent, and that auditors understand ESSA’s Title I SNS rule and its application to each district’s context. It is imperative that auditors are familiar with this guidance and apply it appropriately. We know that under federal law many LEAs are

required to have a single audit and we want to ensure that these independent auditors are familiar with the guidance. Accordingly, it will be important for USED to ensure that the OMB Compliance Supplement appropriately reflects the SNS guidance as a resource for auditors.

We applaud your light touch in this draft document, the way it respects both the intent of the underlying statute and the flexibility school districts need to make funding, personnel, and other administrative decisions, and how your approach avoids unnecessary federal regulation. Please direct any questions to me, via [nellerson@aasa.org](mailto:nellerson@aasa.org).

Sincerely,

A handwritten signature in cursive script that reads "Noelle Ellerson Ng".

Noelle Ellerson Ng  
Associate Executive Director