

# RESTART & RECOVERY

## FEDERAL FUNDS & COVID-19

### A SYSTEM WORKBOOK FOR STATES

We are grateful to our colleagues at the  
Federal Education Group, PLLC  
for their help in developing this guide.

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The purpose of this workbook is to help states analyze the systems they use to oversee and manage Elementary and Secondary Education Act (ESEA) and Individuals with Disabilities Education Act (IDEA) programs to determine what adjustments might be needed to maximize local spending options in light of the COVID-19 pandemic.

Specifically, this workbook considers:

For ESEA programs

- How state-designed application tools might unintentionally limit Title I and Title II spending on activities that could help local educational agencies (LEAs) respond to COVID-19,\*
- How state educational agencies (SEAs) might adapt the budget and budget amendment processes to give LEAs additional flexibility to adapt their spending as needs change,\*
- How states might provide guidance on nontraditional Title I and Title II spending options to help LEAs meet COVID-related needs,\*
- Waivers states could request from the U.S. Department of Education (ED) to give LEAs additional flexibilities,
- Strategies for promoting local transferability to help LEAs better target spending to meet needs, and
- Strategies for promoting local consolidation of administrative funds to expand local spending options and support coordination across programs.

For IDEA programs

- How states can support LEAs to deliver services in new ways to meet new student needs,
- Addressing misperceptions about IDEA's excess cost requirements that limit spending and services, and
- Addressing misperceptions about IDEA's Supplement, Not Supplant requirement that limit spending and services.

\*Please note that although this workbook addresses state-designed application tools, budget and budget amendment processes, and spending guidance in the context of Title I and Title II of ESEA, these issues might also be relevant for other federal education programs.

THIS DOCUMENT IS ONE OF THREE IN A SERIES:

Restart & Recovery: ESEA and COVID-19  
(discussing ways states can support LEAs in adapting ESEA programs and spending to meet to new and evolving student needs the during the pandemic and beyond)

Restart & Recovery: IDEA and COVID-19  
(discussing ways states can support LEAs in spending IDEA funds to meet the needs of special education students during the pandemic and beyond)

Restart & Recovery: Federal Funds and COVID-19 – A System Workbook for States  
(This document: outlining specific system actions an SEA can take to maximize LEA spending options for federal formula funds)

## TITLE I, PART A &amp; TITLE II, PART A — SPENDING &amp; PROGRAMMING

## SPENDING RESTRICTIONS IN THE LEA-TO-SEA APPLICATION

## WHAT TO LOOK FOR

The design of the LEA-to-SEA application for funding sometimes unintentionally restricts LEAs from spending Title I and Title II funds on permitted activities. Common examples include:

- For Title I:
  - Limiting spending choices to reading and math interventions. (All subjects are permitted, and services are not limited to interventions or remediation.)
  - Making LEAs select “push in” or “pull out” services. (Comprehensive services are allowed.)
  - Application menus that exclude non-academic activities. (Examples of non-academic activities that are permitted include counseling, mentoring, positive behavior initiatives, and mental health supports.)
- For Title II:
  - Limiting spending choices to only a few activities, like class size reduction and professional development, and not including other permitted activities like mentoring, teacher leadership programs, instructional coaches, or recruitment and retention efforts.
- Requiring long narratives to justify spending choices (which can incentivize spending on the same costs from year-to-year regardless of need).

**TIP** Unintentional spending restrictions can be found in drop-down menus, required narrative sections, and checkboxes.

## WHAT APPLICATION RESTRICTIONS CAN LOOK LIKE IN PRACTICE

The application tool asks LEAs to check a box noting whether they will use Title I for “pull out” or “push in” reading and math interventions. **LEAs mistakenly interpret this to mean that Title I cannot be used for comprehensive services such as upgrading curricula or for non-academic services such as counseling, mental health services, or social and emotional supports.**

The application tool's drop-down menu only includes class size reduction and professional development for Title II. **This limits an LEA's Title II spending to the items the SEA lists in the drop-down menu when spending options in the law are more expansive.**

## POSSIBLE ACTIONS IN LIGHT OF COVID-19

Establish a cross-office team (which might include instructional, wellness, and educator support staff, in addition to federal program staff) to find spending restrictions in the application and determine near-term actions to ensure that funds can be used effectively in light of COVID-19.

- If it is feasible to make changes to the existing application system in the near-term, consider:
  - Adding more options to pre-populated spending lists, focusing on costs for what would be helpful in light of COVID-19 (for example, costs related to remote or hybrid learning, professional development and educator support, mental health supports, etc.).
  - Adding an “other” option to pre-populated spending choice lists so LEAs can choose spending options that are not on the list.
  - Deleting long narrative response boxes or other parts of the application if they no longer align to spending needs in light of COVID-19.
- If it is not feasible to make near-term changes to the current system, consider making temporary modifications, so LEAs have access to more spending options. (See worksheet below.)

Designate a project manager for any changes to the grants system (including determining timelines, interacting with vendors, revising instructions, etc.).

Take the opportunity to catalog longer-term issues (like navigability, promoting coordinated spending, etc.).

## TITLE I, PART A &amp; TITLE II, PART A — SPENDING &amp; PROGRAMMING

## BUDGET REQUIREMENTS &amp; AMENDMENTS

## WHAT TO LOOK FOR

LEA needs may change throughout the year given COVID-19. To help LEAs modify their spending accordingly, SEAs might revisit processes that could limit budget flexibility such as:

**Budget details that may be difficult for LEAs to complete in light of changing needs.** Some SEAs require LEAs to provide substantial detail about the items they propose to buy with federal funds – like the number of full-time equivalent staff members (FTEs) a grant will support, the positions or people to be supported, vendor names, and specific quantities of consumables (such as paper or toner). This level of specificity is not required by federal law and could be difficult for LEAs to provide now, given pandemic-related uncertainty. It could also lead to frequent budget amendments as needs change.

**Limits on the timing or number of budget amendments.** Some SEAs set a deadline for budget amendments and do not permit amendments after a certain date, while others permit only a certain number of amendments per year. Given the ever-changing demands of COVID-19, LEAs may need more flexibility to make budget adjustments throughout the school year.

**The number and capacity of staff responsible for reviewing and approving budgets or budget amendments.** LEAs may submit more budget amendments than usual to meet pandemic-related needs, and the increased workload may strain SEA capacity.

**TIP** SEAs have a great deal of discretion over the budget information they collect from LEAs and when LEAs should report budget changes. When designing a budget/budget amendment process, SEAs are encouraged to consider the totality of financial information they collect from LEAs—including budget forms, budget narratives, budget details, periodic expenditure information, and the like.

## EXAMPLE OF HOW BUDGET PROCESSES CAN AFFECT PROGRAM SERVICES

In its LEA-to-SEA application, an SEA requires its LEAs to identify the specific vendors they will use and the types of professional development they will support with the grant funds. **As a result, LEAs feel bound to these professional development activities, even if their needs change during the year.**

## POSSIBLE ACTIONS IN LIGHT OF COVID-19

Allow LEAs to submit less detailed budgets (for example, if LEAs normally detail individual costs, consider allowing them to budget by category instead).

If appropriate, loosen restrictions on submitting budget amendments (in terms of both the number and timing of amendments).

If the SEA identified state-imposed spending restrictions in the LEA-to-SEA application (see prior worksheet—for example, limiting Title I spending to only reading and math interventions) and wants to expand spending options but it is not feasible to change the application this year, consider allowing LEAs to amend their budgets to reflect expanded spending options.

Assign additional staff to review and approve budgets/budget amendments.

## TITLE I, PART A &amp; TITLE II, PART A — SPENDING &amp; PROGRAMMING

## SEA-TO-LEA SPENDING GUIDANCE ON TITLE I &amp; TITLE II

## WHAT TO LOOK FOR

State-developed guidance is typically an LEA's most important source of information about federal grants. To determine whether to issue new guidance or revise existing guidance, SEA are encouraged to consider:

Has the SEA issued guidance to its LEAs on permissible Title I and Title II spending? If so, does that guidance describe the full array of Title I spending options (for example, activities other than reading and math remediation, use of funds for non-academic activities, use of funds for comprehensive supports, etc.) and Title II spending options (for example, use of Title II for activities beyond class-size reduction and professional development, such as mentoring, induction programs, and teacher leadership).

Has the SEA identified specific practices that might be effective in responding to needs arising from COVID-19? If so, can some of these practices be paid for with Title I or Title II funds? Has the SEA communicated this to LEAs?

Has the SEA made changes in policy or practice that LEAs would benefit from knowing more about? For example, if the SEA previously did not permit LEAs to use Title I funds for counselors or peer supports, but now will allow such spending, has this change been communicated to the LEAs?

Has the SEA issued Title I or Title II spending guidance designed for local education leaders, such as superintendents and deputies? Because planning and budget priorities could rapidly change in light of COVID-19, it could be helpful to issue spending guidance that is specifically designed for school leaders who may not have federal program expertise.

Is the SEA's messaging about Title I and Title II uses of funds consistent across all SEA documents and across all SEA offices? For example, if there is a separate monitoring unit, does the monitoring rubric align to other SEA policies and guidance regarding the use of funds?

**TIP** Guidance may appear in many places and formats, including the SEA's website, slide decks, emails, information contained within the SEA application system, monitoring rubrics and findings issued by the SEA, and formal guidance documents.

## STATE GUIDANCE IN UNEXPECTED PLACES

EXAMPLE: An SEA's Title I spending guidance explains that Title I schools may use Title I funds for non-academic supports such as mentoring, counseling, and positive behavioral supports. However, the list of allowable uses of funds in the Title I monitoring instrument is limited to academic interventions for struggling students. LEAs might mistakenly interpret this to mean that Title I funds can be used only to support the activities listed in the Title I monitoring instrument (academic interventions) and not for costs which are listed in the spending guidance.

## POSSIBLE ACTIONS IN LIGHT OF COVID-19

If the SEA has determined that certain practices are needed or would be effective in light of COVID-19 (for example, practices relating to remote or hybrid learning, trauma-informed practice, addressing learning gaps, etc.), the SEA could develop guidance describing when and how Title I and Title II funds can support these practices.

If the SEA has changed a policy or practice – for example, the SEA will now permit certain kinds of Title I spending it did not allow in the past – the SEA might explicitly flag the new policy change for LEAs and explain what it means in practice. Doing so will increase the possibility that LEAs will exercise new spending options.

An SEA could disseminate guidance more widely, and in various formats, to a variety of LEA staff, such as district leaders, chief financial officers, and instructional personnel, in addition to federal program staff.

State leaders could ensure that all SEA guidance, compliance tools, and other communications are cross-checked for consistent messaging (for example, making sure that monitoring rubrics are consistent with use of funds policies and guidance).



## ESEA FISCAL & PROGRAMMATIC WAIVERS

### WHAT TO LOOK FOR

The Coronavirus Aid, Relief, and Economic Security (CARES) Act waivers that ED granted in Spring 2020 were only valid for the 2019-2020 academic year. However, ESEA itself gives the U.S. Secretary of Education broad waiver authority, which could be helpful to LEAs in light of COVID-19 challenges. This worksheet focuses on fiscal and programmatic waivers. Issues to consider include:

#### Which ESEA waivers would be helpful to LEAs?

Presumably, most of the fiscal and programmatic waivers granted in Spring 2020 (such as waiving the Title IV cap on device purchases, the definition of professional development, etc.) will continue to be helpful during the 2020-2021 school year. Are there other waivers that could be helpful? For example, if schools or LEAs are required to develop COVID response plans under state or local law and LEAs want their schools to focus their efforts on those plans, would a waiver of ESSA's Title I schoolwide planning requirements be helpful?

Does the state have a process for reviewing and approving individual waiver requests from LEAs (outside of a blanket request the SEA might make on behalf of all its LEAs)? Under ESEA, if an LEA is interested in a waiver, it must submit the waiver request to the state, and the SEA then sends the waiver request to ED if the SEA believes it is appropriate.

Does the SEA have a simple process in place to waive the poverty threshold for a Title I school to qualify as a schoolwide program school? ESEA permits SEAs to waive the 40 percent poverty threshold for schoolwide program eligibility. Some SEAs have a form which schools and LEAs can submit to the state request such a waiver. For example, see: <https://www.isbe.net/Documents/schoolwidewaivertemplate.pdf>.

What is the SEA's process for requesting maintenance of effort (MOE) waivers on behalf of LEAs that need them? Because of the financial downturn caused by the COVID-19 pandemic, it is likely that many LEAs will need to request waivers of ESEA's MOE requirements. ED can waive an LEA's MOE obligation in cases of "exceptional or uncontrollable circumstances" or "a precipitous decline in the financial resources" of the LEA. States can make a request for such waivers to ED on behalf of an LEA.

**TIP** In a September 3, 2020 letter, Secretary DeVos stated SEAs should not expect waiver requests of ESEA assessment and accountability requirements to be granted during the 2020-2021 school year.

### WAIVERS & COVID-19

In Spring 2020, ED waived the Title IV, Part A requirement for LEAs that receive over \$30,000 in Title IV funding spend on three required categories of costs (well-rounded education, safe and healthy students, and technology); it also waived the spending cap on an LEA's use of funds for technology infrastructure. With these waivers combined, LEAs could spend their entire Title IV, Part A allocation on technology infrastructure (such as devices and connectivity), but this waiver expired at the end of the 2020 academic year. SEAs could request this waiver (and others) on behalf of their LEAs for the 2020-2021 school year.

### POSSIBLE ACTIONS IN LIGHT OF COVID-19

Submit a waiver request to ED on behalf of LEAs requesting waivers of fiscal requirements that were waived in Spring 2020.

Poll LEAs to determine if additional waivers are needed in light of COVID-19.

Designate a point person to manage all individual LEA waiver requests.

Consider establishing a process, with templates, to assist LEAs in requesting MOE waivers.

Issue new or updated guidance on waivers in light of COVID-19.

## ESEA TRANSFERABILITY OPTION

ESEA permits LEAs to transfer all or part of Title II, Part A or Title IV, Part A funds to: Title I, Part A, Title I, Part C, Title I, Part D, Title II, Part A, Title III, Part A, Title IV, Part A and Title V, Part B. Transferring funds might be helpful to some LEAs in light of COVID-19.

### WHAT TO LOOK FOR

Have LEAs exercised transferability authority in the past? If not, does the SEA know why? It is possible that some LEAs do not fully understand how transferability works in their state?

Has the SEA issued guidance to LEAs explaining transferability? While LEA level transferability requirements are relatively straightforward, SEA-developed guidance explaining the requirements – such as the requirements for consultation with private schools, timing requirements, and how the mechanics work in a given state’s system – can help LEAs to take advantage of this option.

Does the LEA-to-SEA application for ESEA funds include an explanation of the transferability option? Including this information not only helps promote LEA knowledge about the option, but it can reduce SEA and LEA paperwork burdens. For example, if an LEA opts to transfer all of its funding from Title II, Part A to another program, it would not have to answer the application’s Title II-related questions.

Does the SEA have a form or process that LEAs may use to notify the SEA that it will transfer funds? While LEA-level fund transfers do not require prior approval by the SEA, ESEA does require LEAs to notify SEAs of a transfer at least 30 days before its effective date.

Does the SEA’s grants management system accommodate transfers? Can LEAs use that system to transfer funds? As noted, LEAs do not need SEA approval to transfer funds, but coordinating transferring funds through SEA systems can make this process easier for LEAs.

**TIP** The Wisconsin Department of Public Instruction maintains a website for LEAs that includes information about transferability, including the technical details of how to transfer funds in their grants management system and how to code the funds: <https://dpi.wi.gov/esea/transferability>.

### TRANSFERABILITY IN LIGHT OF COVID-19 NEEDS

**EXAMPLE:** An LEA could transfer all or a portion of its Title II, Part A funds to Title IV, Part A to increase funding for student access to digital devices and internet connectivity.

**NOTE:** As described in the worksheet above, Title IV, Part A imposes a cap on the amount of funding that can be used for technology infrastructure (including devices and connectivity). If the SEA obtains a waiver from ED of this cap for its LEAs, an LEA could use more funding for devices and connectivity.

### POSSIBLE ACTIONS IN LIGHT OF COVID-19

If transferability is not currently part of the SEA’s systems (for example, is not a part of either the application process or grants management system), consider developing procedures to make transferring funds easier for LEAs.

Consider designating a point person for transferability issues and questions.

Consider issuing guidance on transferability, perhaps highlighting how LEAs might benefit from exercising this option in light of COVID-19 and explaining the technical details of how transferability works in that state (considering the state’s application, grants management system, and accounting requirements).

## ESEA LOCAL CONSOLIDATED ADMINISTRATION OPTION

ESEA permits LEAs to consolidate – or pool – their ESEA administrative funds into one pot of money. Doing so gives LEAs additional spending options, facilitates coordination across programs, and can reduce paperwork burdens for LEA staff paid with administrative funds. While typically only ESEA administrative funds may be consolidated, in July 2020, ED authorized that CARES Act programs – specifically the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor’s Emergency Education Relief (GEER) Fund – as additional administrative funds that can be part of the consolidated administrative pool.

### WHAT TO LOOK FOR

Do any LEAs in the state consolidate their administrative funds? If some LEAs consolidate funds and others do not, does the SEA know why? Is it because some LEAs do not know they can consolidate administrative funds?

Has the SEA issued guidance or hosted a webinar for LEAs explaining the consolidated administration option? SEA-developed guidance explaining the mechanics of how consolidated administration works at the local level, and its spending and paperwork reduction advantages, can help LEAs exercise this option.

Does the SEA have procedures in place to respond to requests from LEAs to consolidate ESEA administrative funds? ESEA requires SEAs to have procedures in place to: 1) respond to requests from LEAs to consolidate ESEA administrative funds, and 2) establish limits on how much LEAs can consolidate from programs that do not set a statutory cap on administration.

Does the SEA’s grants management system include local consolidated administration? Including consolidated administration as an option in the grants management system can make this process easier for LEAs.

Do any LEAs in the state consolidate administrative funds? If some LEAs consolidate funds and others do not, does the SEA know why?

**TIP** SEAs can promote consolidated administration by including it as an option in the LEA-to-SEA application system. Importantly, the system should permit LEAs to budget consolidated administrative funds on the full range of permissible activities (this includes more than just administering the consolidated programs).

### CONSOLIDATED ADMINISTRATIVE ADVANTAGES IN LIGHT OF COVID-19 NEEDS

EXAMPLE: During the beginning of the school year, a district-level employee works primarily on a committee focused on the re-opening needs of students in the LEA’s Title I schools (a Title I type activity). The employee’s work then shifts to supporting effective professional development for teachers responsible for conducting remote classes (a Title II type activity), with a focus on the additional professional development needs of general education teachers who have English Learners in their classrooms (a Title III type activity). Because the employee is paid out of the consolidated administrative pool, the employee does not have to report time breaking out Title I, Part A, Title II, Part A, and Title III, Part A designations. This simplification not only reduces paperwork and saves time; it also makes it easier for the LEA to use staff members more flexibly as needed in response to COVID 19.

### POSSIBLE ACTIONS IN LIGHT OF COVID-19

If the SEA does not have procedures in place for LEAs to request consolidation of ESEA administrative funds:

- Develop procedures (this is required under ESEA and includes establishing limits on administration for programs that have no statutory cap).
- Determine whether the grants management system can be adjusted for 2020-2021 to accommodate consolidated administration or if an alternate method is needed to enable LEAs to exercise this option.
- Issue guidance on consolidated administration highlighting the benefits of this option, particularly in light of the ongoing and changing administrative workload related to COVID-19.



## IDEA SERVICE DELIVERY OPTIONS

IDEA-funded special education services can be delivered in a variety of settings including inside general education classrooms, if appropriate given a student's needs, and delivered by a variety of personnel (such as classroom teachers, content specialists, or special educators) if they are appropriately prepared and trained. However, some states restrict special education services, due to misperceptions of what federal law requires. Such restrictions might be found in state guidance (including guidance for individualized education program (IEP) teams and guidance for program administrators on IDEA spending rules and state policies and regulations (particularly with regard to staff qualifications).

### WHAT TO LOOK FOR

Do LEAs understand and use the full array of service delivery options that IDEA authorizes? For example:

- Does the SEA have data on the types of special education services LEAs typically provide for students in the most common disability categories?
- Do LEAs know that students with disabilities can receive interventions and other services, even if students without disabilities are receiving the same services?
- Does the SEA provide guidance on strategies for embedding special education services in general education settings if appropriate for a student's needs?
- Does the SEA permit LEAs to use IDEA funds to support delivering special education services inside general classrooms if appropriate for a student's needs (for example, to offer training for general education teachers, acquire or create adapted instructional materials, and provide extended learning time for students with disabilities)?

Do LEAs have the option to use a variety of prepared and trained staff members to deliver special education services (such as classroom teachers, reading specialists, etc.)? For example, does the SEA require that special education services be delivered exclusively by special educators? (Note: this is not a federal requirement but may be a state requirement.)

**TIP** Special education is instruction designed to meet the unique needs of a student with disabilities so the student can access the general education curriculum. Special education can be conducted in a variety of settings, including inside general education classrooms, and can be delivered by a range of appropriately trained staff members.

### EXAMPLE OF SERVICE DELIVERY OPTIONS

Before the COVID-19 pandemic, a special education student with a reading disability who needed additional support to access the school's reading curriculum might have been pulled out for interventions with a special educator. But, depending on the student's needs, it might be possible to offer supports inside the regular classroom (which might be remote or in-person) by training the student's classroom teacher on how to modify instruction for the student, providing the student with adapted materials in class, providing the student with appropriate accommodations, or scheduling additional instructional time where the classroom teacher can re-teach or pre-teach lessons to support the student's learning. Any of those supports could be a special education service under federal law even though delivered in class by the classroom teacher.

### POSSIBLE ACTIONS IN LIGHT OF COVID-19

Consider whether state guidance, policies, and regulations incentivize LEAs to silo special education services and/or limit coordination with general education services.

If so, consider whether state guidance, policies, and regulations should be adjusted and/or whether to provide additional guidance on IDEA's full range of service delivery options including the option to support coordinated initiatives.

## IDEA EXCESS COST REQUIREMENTS

LEAs must use IDEA funds to pay for the “excess cost” of providing special education and related services to eligible students with disabilities. This is the cost above and beyond what an LEA spends on average to educate students generally, and it is measured through a process that looks at an LEA’s aggregate spending. It is not determined by looking at individual expenses; however, many states mistakenly apply a three-part test to determine whether each individual cost an LEA supports with IDEA is “excess.” This three-part test does not come from federal law and limits the services LEAs can pay for with IDEA funds.

### WHAT TO LOOK FOR

IDEA does not require LEAs to verify individual costs are “excess” before using IDEA to pay for them. An SEA can review IDEA excess cost and spending guidance it has issued to LEAs to make sure the following three part test is not included in guidance:

- In the absence of special education and related services, would the cost exist?
- Is the expenditure also generated by students without disabilities?
- If it is a child-specific service, is the service documented in the student’s IEP?

This three-part test is not required by federal law and is inconsistent with IDEA’s excess cost requirements.

**TIP** LEAs are not required to demonstrate that individual costs charged to IDEA are “excess.” Instead, IDEA’s excess cost requirement is tested by looking at an LEA’s aggregate spending through a specific test defined in IDEA regulations.

### EXAMPLE OF HOW MISPERCEPTIONS OF EXCESS COST LIMIT STUDENT SERVICES

Federal law permits an LEA to use IDEA funds to deliver some services – such as a multi-sensory, structured language-based reading intervention – for students with disabilities, while using a different funding source to deliver the same intervention to general education students who have reading challenges. Some SEAs, however, might mistakenly prohibit such spending on the inaccurate belief that, to be considered an excess cost, IDEA-funded services must be used exclusively for students with disabilities.

### POSSIBLE ACTIONS IN LIGHT OF COVID-19

Check all state materials for the inaccurate description of “excess cost” as a test of individual costs. These materials might include state guidance and technical assistance materials, SEA website information, the LEA-to-SEA application (including instructions for completing the application), budget documents, state monitoring documents, state presentations, and state policy documents.

If inaccuracies are present, consider changing the language to clarify that LEAs are not required to demonstrate that individual costs charged to IDEA are “excess.” It also would be helpful to provide guidance on how the change affects IDEA spending (for instance, by giving examples of activities LEAs could support with IDEA funds that they may not have realized were options).

## IDEA “SUPPLEMENT, NOT SUPPLANT” REQUIREMENT

LEAs must use IDEA funds to supplement state, local, and other federal funds and not to supplant those funds. LEAs comply with this requirement by meeting their IDEA maintenance of effort (MOE) obligations. In other words, an LEA that satisfies MOE satisfies Supplement, Not Supplant requirement as well. There is no separate Supplement, Not Supplant test for IDEA at the local level.

While there is no requirement that each individual IDEA cost must be tested for compliance with Supplement, Not Supplant, many states inaccurately believe that IDEA’s Supplement, Not Supplant requirement means that IDEA cannot pay for activities required by law, activities that were previously supported with state or local funds, or activities for students with disabilities if another funding source pays for the same activity for nondisabled students. This is not correct and can limit the services LEAs can pay for with IDEA funds.

### WHAT TO LOOK FOR

IDEA does not require LEAs to verify individual costs are “supplemental” before using IDEA funds to support them. SEAs can review IDEA Supplement, Not Supplant and spending guidance they have issued to LEAs to make sure the following types of questions are not included in guidance:

- Does the cost relate to an activity that is required by law?
- Was the cost previously supported with state or local funds?
- Will IDEA pay for a cost for students with disabilities while another funding source pays the same cost for nondisabled students?

These questions are not required by federal law under IDEA.

**TIP** LEAs are not required to demonstrate individual costs charged to IDEA are “supplemental.” Instead, LEAs comply with IDEA’s Supplement, Not Supplant requirement by meeting their maintenance of effort obligations.

### EXAMPLE OF HOW MISPERCEPTIONS OF SUPPLEMENT, NOT SUPPLANT CAN LIMIT STUDENT SERVICES

Federal law permits an LEA to use IDEA funds to pay for an intervention for a student with disabilities even if that intervention was funded with state or local funds last year. Federal law also permits an LEA to coordinate IDEA funds with other funds for whole school initiatives (like implementing a positive behavior support system or designing learning environments to meet the needs of diverse learners in general education settings).

### POSSIBLE ACTIONS IN LIGHT OF COVID-19

Check all state materials to determine if they inaccurately describe IDEA’s Supplement, Not Supplant requirement as a test of individual costs. These materials might include state guidance and technical assistance materials, SEA website information, the LEA-to-SEA application (including instructions for completing the application), budget documents, state monitoring documents, state presentations, and state policy documents.

If inaccuracies are present, consider changing the language to clarify that LEAs comply with IDEA’s Supplement, Not Supplant requirement by meeting their IDEA MOE obligations. It also would be helpful to provide guidance on how this affects IDEA spending (for instance, by showing examples of activities that LEAs could support with IDEA funds that they may not have realized were options).