

# of Education School Finance E-Newsletter

# Special ARRA (Stimulus) Edition

# State Fiscal Stabilization Funds - Allowable Uses

LEAs may use SFSF for purposes allowed under four federal statutes: IDEA, Perkins (Career Technical Education), Adult and Family Literacy Act or ESEA/NCLB ESEA. Title VIII, of NCLB/ESEA allows districts to use the funds for school renovation, modernization, and construction. Because a district may consider SFSF to be available for any activity authorized under ESEA – Impact Aid, the funds may be used to support both current expenditures and other expenses such as capital expenditures. Among other things, the SFSF may be used for activities such as: paying the salaries of administrators, teachers, and support staff; purchasing textbooks, computers, and other equipment; supporting programs designed to address the educational needs of children at risk of academic failure, limited English proficient students, children with disabilities (subject to the cautions outlined below), and gifted students; and meeting the general expenses of the district. However, section 14003 of the ARRA prohibits an LEA from using Education Stabilization funds for:

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- Payment of maintenance costs;
- Stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- · Purchase or upgrade of vehicles;
- Improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities;
- School modernization, renovation, or repair that is inconsistent with state law; or
- To provide financial assistance to students to attend private elementary or secondary schools, unless the funds are used to provide special education and related services to children with disabilities as authorized by the IDEA.

#### Caution on Using SFSF for District-Level IDEA Maintenance of Effort (MOE)

To qualify for IDEA funding, the state and districts must meet maintenance of effort (MOE) with regard to expenditures for special education and related services for children with disabilities. With respect to SFSF provided to states, a state may use Education Stabilization funds distributed through the foundation program for purposes of meeting the IDEA state-level MOE requirement. However, when the state uses these funds to meet its MOE, a local district may not use those same funds to meet the district level MOE. Ohio is using a portion of the Education Stabilization funds distributed through the foundation program for special education to meet its IDEA MOE. *ODE recommends that no expenditures for special education be moved from any state or local fund to SFSF* to ensure that the district does not lose future IDEA funding for failing to meet MOE requirements.

# USDOE unveils new guidance on key ARRA funds

On July 24, 2009, the USDOE released the draft application for the Race to the Top (RTTT) fund, as well as detailed guidance and fact sheets on other key programs in the stimulus including Phase II of the State Fiscal Stabilization Fund (SFSF), and State Longitudinal Data Systems (LDS). This guidance and draft applications are available for download at <a href="https://www.ed.gov">www.ed.gov</a>. This information may also be accessed on <a href="https://www.ed.gov">ODE Stimulus Update Web site</a>. For those wishing to submit comments on the new guidance to the USDOE, the deadline is August 28, 2009. Comments submitted electronically must be posted at the federal eRulemaking Portal at <a href="https://www.regulations.gov">www.regulations.gov</a>. ODE is in the process of reviewing the guidance. If ODE submits comments, they will be posted on the <a href="https://www.regulations.gov">ODE</a>. Stimulus Update Web site and shared with stakeholders through other communications.

## **Comment on Supplement, Not Supplant**

It has come to ODE's attention that some LEAs may be exploring the adoption of resolutions regarding the use of ARRA Title I stimulus funds to "supplant" expenditures that may have been funded with local or state revenue in the previous year. Please note that under Title I, LEAs must comply with maintenance of effort (MOE) and supplement, not supplant requirements within the law. In addition to a resolution regarding the continuation of a program, to legally supplant, an LEA must be able to provide documentation on historical and projected revenue and expenditure growth to support the board adopted resolution. Using Title I funds to pay for a position in the current year which had been funded with state or local funds in a prior year raises a presumption of supplanting. To rebut this presumption, a district would need to show that in the absence of the Title I funds, the district would not have maintained the personnel or services in question. A decline in state and local revenue would be part of the needed evidence. The district would also need to be able to explain its decision, assuming federal funds were not available, to eliminate a particular position or program. In other words, why would the district not have funded this position with state or local funds? The second part of this inquiry, which is based upon guidance from the USDOE, is designed to ensure that the LEA is acting in good faith to fund a position with federal funds, when that same position had previously been funded with state or local funds.

Any district considering the option mentioned above should carefully review and follow the supplement not supplant guidance on the <a href="ODE Stimulus Update Web site">ODE Stimulus Update Web site</a>.

# Title I and IDEA: Maintenance of Effort (MOE) and Supplement, Not Supplant (SNS).

Under both Title I and IDEA, LEAs must comply with maintenance of effort and supplement, not supplant requirements within the law. Below is a grid of the requirements of MOE and SNS.

Program	Maintenance of Effort	Supplement, Not Supplant
IDEA	Requires a district to spend no less than they spent last year out of local and state funds for special education and related services cost. (There is a state and local MOE requirement). The state also has to maintain its MOE in special education funding.)	Federal funds must be used to supplement local and state funds when paying for special education and related services, not supplant (replace) except that, under certain circumstances, 50% of any increase in IDEA funding can be used to replace what was spent with local or state funding in the prior. Federal funds cannot be used to lower the amount of state and local obligations except that 50% of any increase in IDEA funding can be used to replace what was spent with local or state funding in the prior year at the local level
Title I	To meet MOE, combined fiscal effort (per student or the aggregate expenditures of the LEA and the State) cannot be less than 90% of the combined fiscal effort for the second preceding fiscal year. For example, Compare expenditures of State and local funds in FY 2008 (SY 2007-08) with those expenditures from FY 2007 (SY 2006-07) when determining whether an LEA has maintained effort with respect to receiving its FY 2009 Title I, Part A allocation.  If an LEA fails to meet MOE requirement, the SEA must reduce the amount of funds allocated in any fiscal year in the exact proportion it failed to maintain expenditures.	Generally, an LEA may not use Title I, Part A funds for activities that it would have conducted in the absence of these federal funds (Title I, Part A). Several situations give rise to a presumption of supplanting (i.e., a presumption that the LEA would conduct the activity with non-Federal funds if it had no Title I, Part A funds available):  • the activity is required by local, State, or other Federal law;  • the LEA conducted the activity in the prior year with non-Federal funds;  • the LEA uses non-Federal funds to provide the same activity for non-Title I students or in non-Title I schools that it provides with Title I, Part A funds for Title I students in Title I schools.

#### **Title I ARRA Waiver Guidance**

The USDOE released Title I (ARRA) waiver guidance in July 2009. ODE provided LEAs with the opportunity to comment on the Title I waiver guidance on the CCIP and the ODE Stimulus Update Web site. Based in part on the comments ODE received from LEAs, ODE submitted waiver requests to the USDOE on July 31, 2009.

ODE is awaiting determination if its listing of waiver requests will be approved. Contingent on USDOE approval, LEAs will be able to submit individual waiver requests to ODE for the following:

## **ODE Waivers Requests for Title I**

Waiver	Rationale
Reduce the poverty threshold requirement for school-wide eligibility from 40% to 20% poverty.	Encourage more participation of middle schools and high schools in Title I, Part A and more specifically in the school-wide
Allow Title I schools in improvement status to calculate their 10% professional development set aside under a different formula.	Requiring significantly more funds to be spent on professional development may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled.
To allow LEAs in improvement status to exclude some or all of the Title I, Part A ARRA funds in calculating their 10 % professional development set-aside.	Same as above
Allow LEAs to exclude some or all of their Title I, Part A ARRA funds in calculating their 20 percent obligation for public school choice related transportation and SES.	This waiver would provide LEAs with flexibility to spend ARRA funds on other allowable Title I, Part A activities that the LEA believes best address the particular needs of its students.
To allow LEAs to exclude some or all of their Title I, Part A ARRA funds in calculating the per-pupil amount for SES.	Reducing the per-pupil amount will allow LEAs to provide SES to a greater number of students.
Request a one-year waiver to allow LEAs with one or more schools in improvement to offer SES, in addition to public school choice, to eligible students in Title I schools in the first year of improvement. Also, count the funds spent providing SES to eligible students in those schools toward the LEA's obligation to spend an amount at least equal to 20% of Title I for SES and choice-related transportation.	It provides an incentive for an LEA to offer SES to eligible students one year earlier than the law requires, thereby enabling more students within an LEA to enroll in SES. Ohio believes that parents of children attending schools in the first year of improvement will be eager to enroll their children in SES.
Allow the state to approve schools or LEAs in improvement status as providers of SES.	Identified schools and LEAs may be able to establish that they have an effective program that can help improve academic achievement of students.
Redirect up to 45% of ARRA Title VIII funds under 1003 (g) to district improvement.	Currently only SI funds go to schools in improvement status. No similar support is provided to school districts. Ohio, following its approved Differentiated Accountability model, designed its Statewide System of Support to guide and facilitate the creation of strong leadership, data-driven needs identification, focused plans, systematic plan implementation and evaluation at the LEA and building levels.
Allow SEA to grant a LEA a waiver of the carryover limitation more than once every three years.	This may help more schools and LEAs within the State make AYP by enabling them to direct their funds thoughtfully to activities that will help their students meet the annual measures.

## Deadline for Clean Diesel School Bus Fund approaching

Districts have until Sept. 1, 2009, to apply for remaining funds for the Ohio Clean Diesel School Bus Fund grant program, which installs pollution control equipment on buses. For more information on applying for these funds, go to: <a href="http://www.epa.state.oh.us/oeef/html/stimulus.html">http://www.epa.state.oh.us/oeef/html/stimulus.html</a>.

#### Reminder: cash management requirements must be met

After receiving clarification on cash management requirements for ARRA funds, ODE has changed the funding percentage to allow draws of ARRA funds through the CCIP. As a reminder, cash requests must conform to the Department's policies on cash management, including use for immediate cash needs. Additionally, initial payments are not made for ARRA funds automatically; thus, all funds must be requested by districts. Penalties may occur if cash management requirements are not met. If there are any questions, please contact the Office of Grants Management at (614) 752-1483.

#### OEDS ready to accept entry of DUNS numbers

ODE has established the necessary field in the Ohio Educational Directory System (OEDS) for entering your DUNS number. All LEAs must have a DUNS number in order to receive federal stimulus funds. Instructions for entering the DUNS into OEDS can be found on the ODE Stimulus Update Web site under Data and Reporting Guidance. ODE requests that you input your DUNS number into OEDS by September 1, 2009.

Additional guidance will be provided as it becomes available. If you have specific questions about the DUNS number, please contact D&B Government Customer Response Center at 1-866-705-5711. For questions about OEDS, please contact your data custodian or the OEDS System Administrator at <a href="mailto:OEDSR.Support@ode.state.oh.us">OEDSR.Support@ode.state.oh.us</a>. For all other stimulus related inquiries, please contact <a href="mailto:Recovery@ode.state.oh.us">Recovery@ode.state.oh.us</a>.