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Implications of Community Eligibility for the Education of Disadvantaged Students Under Title I

By Wayne Riddle¹

Overview

The Healthy, Hunger-Free Kids Act of 2010 created a new option, known as the Community Eligibility Provision (CEP), for how schools can operate the National School Lunch and School Breakfast Programs. Under CEP, free meals are provided to *all* students at participating schools for four years. Community eligibility was initially phased in a few states at a time and became available in all states beginning with the 2014-2015 school year, when more than 14,000 schools serving more than 6.6 million children participated in the program.

A school, group of schools, or an entire local educational agency (LEA or school district) may offer community eligibility if the number of children enrolled for free school meals without a paper application, referred to as “Identified Students,” is at least 40 percent of the total enrollment. Identified Students include those whose families participate in other federal programs such as the Supplemental Nutrition Assistance Program (SNAP), where their incomes have already been thoroughly scrutinized, and those who are identified by other programs as extremely vulnerable, such as programs for homeless and migrant children. CEP is designed to ensure access to school meals by students from low-income families and simplify administration of the school meal programs by eliminating the use of applications to collect family income information and the need to track children by eligibility category in the lunchroom.

Implementation of CEP by LEAs and schools has important implications for the largest federal K-12 education program — Education for the Disadvantaged under Title I, Part A, of the Elementary and Secondary Education Act (ESEA).² The most important implications relate to allocation of Title I funds among schools and Title I policies requiring schools to be accountable for these funds by reporting achievement levels specifically for students from low-income families and taking appropriate actions when those achievement levels are inadequate.

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² For a summary of the implications of CEP for Title I, see Zoë Neuberger and Wayne Riddle, “Summary of Implications of Community Eligibility for Title I,” Center on Budget and Policy Priorities, July 1, 2015, <http://www.cbpp.org/sites/default/files/atoms/files/6-2-14fa.pdf>.

For the vast majority of public schools, approval to receive free and/or reduced-price lunches (FRPL) has been the sole, or at least the primary, indicator of low family income under Title I. When LEAs and schools implement CEP, these data are no longer collected, and school districts must identify alternative methods for assessing the income level of students served by a school. The U.S. Department of Education (USED) has published comprehensive policy guidance on the intersections between CEP and Title I programs that provides a wide range of options for states and LEAs to implement CEP in eligible schools.

In July 2012, USED published initial policy guidance in the form of a letter to the Chief State School Officers that was intended to address some of these implications and issues. This letter was supplemented by policy letters to some of the individual states implementing CEP, but concerns arose about whether that guidance was sufficient to resolve all potential Title I issues associated with CEP implementation. In response, USED published a comprehensive new policy guidance document in January 2014 and revised this guidance in March 2015.³ This policy guidance describes a range of options available to states and LEAs administering CEP and Title I programs, with the intention of assuring that CEP can expand with minimal interference with Title I.

The options allowed under the USED guidance include using counts of Identified Students (either alone, or multiplied by 1.6 to approximate the number of children who would be approved for free and reduced-price lunches); counts of students from low-income families based on state or local income surveys; and Medicaid, Temporary Assistance for Needy Families (TANF) assistance, Census (where available), or composite data authorized under the ESEA statute.⁴ For some accountability-related purposes, states and LEAs may consider all students in CEP schools to be from low-income families.

Section I of this report describes the basic provisions of the CEP. Section II explains the uses of data on students from low-income families in the allocation of Title I funds to states, LEAs, and individual schools within LEAs; the implications of CEP implementation for Title I allocation policies; and the options provided under USED policy guidance to support CEP implementation. Section III describes the Title I school accountability policies, the uses of data on the achievement of students from low-income families in those policies, the implications of CEP implementation for Title I accountability policies, and USED policy guidance to address those implications and support CEP implementation.

Section I: Community Eligibility

The Healthy, Hunger-Free Kids Act of 2010 authorized the Community Eligibility Provision (CEP) for lunch and breakfast programs in K-12 schools.⁵ Under CEP, free breakfasts and lunches must be provided to *all* students at participating public and private schools. CEP was initially phased in a few states at a time and became available in all states beginning with the 2014-2015

³ See *The Community Eligibility Provision and Selected Requirements Under Title I, Part A, of the Elementary and Secondary Education Act of 1965, as Amended*, revised March 2015, <http://www.fns.usda.gov/sites/default/files/cn/SP35-2015av2.pdf>.

⁴ The USED guidance refers to Identified Students as “directly certified students.”

⁵ For much more comprehensive information on the CEP program, see Madeleine Levin and Zoë Neuberger, “Community Eligibility: Making High-Poverty Schools Hunger-Free,” Food Research Action Center and Center on Budget and Policy Priorities, October 1, 2013, <http://www.cbpp.org/cms/?fa=view&id=4026>.

school year, when more than 14,000 schools serving more than 6.6 million children participated in the program.⁶

A school, group of schools, or an entire local educational agency (LEA or school district) may operate under CEP if the LEA chooses to do so and if at least 40 percent of the total enrollment is approved for free school meals without an application. Students enrolled without an application are referred to as “Identified Students” because they have been identified by another program as low-income or especially vulnerable. The share of enrolled students who are Identified Students is referred to as the “Identified Student Percentage.”

Identified Students include those whose families receive Supplemental Nutrition Assistance Program (SNAP) benefits, Temporary Assistance for Needy Families (TANF) cash assistance, Food Distribution Program on Indian Reservation benefits, or Medicaid in areas approved for the U.S. Department of Agriculture’s (USDA’s) Medicaid Direct Certification Demonstration Projects. Students may also be approved without an application if they are in foster care or are migrant, homeless, runaway, or attending a Head Start program. For purposes of CEP, Identified Student Percentages need to be updated only once every four years, although LEAs are encouraged to update these data more often.⁷

Identified Students are always a subset of the students who would qualify for free or reduced-price school meals if their families completed an application. For example, some families who are eligible for SNAP benefits do not receive them but could complete a school meals application for their children to receive free meals at school. Also, the income eligibility limit for reduced-price meals is higher than for the programs that are used to determine which students are Identified Students.

CEP schools serve meals free to all students and are reimbursed by the USDA based on the Identified Student Percentage multiplied by 1.6, which is intended to reflect the average ratio of the number of Identified Students to the number of students receiving free or reduced-price school meals.⁸ CEP is designed to ensure access to school meals by students from low-income families and simplify administration of the school meal programs by eliminating the use of applications to collect family income information and the need to track children by eligibility category in the lunchroom.

Implementation of CEP by LEAs and schools has important implications for the largest federal K-12 education program — Education for the Disadvantaged under Title I, Part A, of the Elementary and Secondary Education Act (ESEA).⁹ Under ESEA Title I, approximately \$14.4

⁶ CEP was available only in Illinois, Kentucky, and Michigan in the 2011-12 school year. Beginning with the 2012-13 school year, the District of Columbia, New York, Ohio, and West Virginia were added, and for 2013-14, CEP became available in Florida, Georgia, Maryland, and Massachusetts.

⁷ If the updated Identified Student Percentage is higher than previously, schools and LEAs may use the increased percentage as the basis for reimbursement by USDA. If it is lower, schools and LEAs can continue to use their original percentage for the full four-year period.

⁸ The 1.6 multiplier is applicable through at least June 30, 2015 and will remain in place for any four-year CEP cycle that has begun by that date. For cycles beginning after that date, USDA may change the multiplier within the range of 1.3-1.6.

⁹ The absence of data from meal applications that results when LEAs implement CEP has implications for state and local education agencies, as well as researchers, but that is beyond the scope of this report. USED has formed a working group to identify alternative measures of socioeconomic status. More information about the working group is available

billion will be allocated to all states and over 90 percent of all LEAs for fiscal year 2015 (school year 2015-16). Determination of the aggregate number of students from low-income families enrolled in individual schools, as well as the identification of individual students from low-income families, are important elements of Title I. Concentrations of students from low-income families are used as a proxy for identifying schools with large proportions of students with low achievement levels, and Title I funds are targeted on these schools. Identification of the achievement levels of students from low-income families is also a crucial part of Title I school accountability policies. Under the ESEA statute, these data on students from low-income families are to be updated annually and status determinations made for each individual student.

As discussed below, “low income” is defined differently for different Title I purposes and at different levels of geography. In the allocation of Title I funds to states and LEAs, “low income” is almost always defined on the basis of the Census Bureau’s poverty standards. For purposes of Title I’s accountability policies, measures of low income are selected by the states and are almost always the same measures as used for school-level allocation of Title I funds.

Under Title I, federal funds are to be used to improve the achievement of the most educationally disadvantaged students in participating schools. With the exception of two specific cases discussed below with respect to accountability policies, family income is not considered when selecting individual students to be served within participating schools. If a Title I school has a percentage of students from low-income families that is 40 percent or higher, the Title I program may be operated on a schoolwide basis, meaning services may be provided to all enrolled students. Thus, CEP is somewhat analogous to schoolwide programs under Title I.

For the vast majority of public schools, approval to receive free and/or reduced-price lunches (FRPL) has been the sole, or at least the primary, indicator of low family income under Title I. When these data are no longer collected as a result of CEP implementation, this raises important questions for Title I implementation. First, CEP schools need to identify an alternative data source. Second, the data used for CEP schools must be comparable enough to the data used for non-CEP schools to assure fairness.

These data choices affect allocation of Title I funds among schools and Title I policies requiring schools to be accountable for these funds by reporting achievement levels specifically for students from low-income families and taking appropriate actions when those achievement levels are inadequate.

on the website of the National Center for Education Statistics at https://nces.ed.gov/forum/alternative_ses.asp. In June 2015, this working group published a report, “Forum Guide to Alternative Measures of Socioeconomic Status in Education Data Systems,” available at <https://nces.ed.gov/pubs2015/2015158.pdf>.

For a discussion of alternative data options currently available to states and localities for school meals programs, see Jessie Hewins, Madeleine Levin, Becca Segal, and Zoë Neuberger, “The Community Eligibility Provision: Alternatives to School Meal Applications,” Center on Budget and Policy Priorities and Food Research and Action Center, June 19, 2014, <http://www.cbpp.org/cms/index.cfm?fa=view&id=4155>.

Section II: Implications of CEP Implementation for Selecting Title I Schools and Allocating Funds Among Them

School meals data never have any effect on state total Title I grants or, in the vast majority of instances, the grants to LEAs. School meals data do, however, have a major impact on allocations of Title I funds to individual schools within LEAs. This section explains how data on students receiving free or reduced-price school meals are used in the allocation of Title I funds to LEAs, how allocations are made within LEAs to individual schools, and how allocations can be made for CEP schools.

Allocating Title I Funds to States and LEAs

Title I grants to states are calculated by USED; school meals data never have any effect on state total grants. In the great majority of cases, the grants to LEAs are also calculated by USED, with no consideration of school meals data.¹⁰

There are two minor exceptions to this rule. First, in all states, state educational agencies (SEAs) may, with USED approval, reallocate grants among their “small” LEAs — defined as LEAs serving areas with a total population of fewer than 20,000 persons.¹¹ In states exercising this option, total funds calculated by USED for such small LEAs are aggregated, then reallocated based on the statutory formulas but using alternatives (approved by USED) to the statutory population factor used by USED that does not include any counts of children eligible for free and reduced-price school lunches. Currently, 11 states (Alaska, Iowa, Kansas, Maine, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, and Oklahoma) exercise this option to use alternative population data for reallocation of funds among their small LEAs; all of these except Alaska use counts of children eligible for free and reduced-price school lunches as at least a partial population factor.¹² Thus, school lunch data are used to allocate at least some Title I funds among the small LEAs of ten states. This provision potentially affects a relatively small proportion of total Title I grants (a maximum of approximately 3.0 percent of Title I grants for fiscal year 2014).

The second exceptional circumstance under which school lunch data may affect the amount of Title I funds allocated to LEAs involves adjustments that some SEAs must make each year to the allocations calculated by USED for some of their LEAs. These involve recent LEA boundary changes that have not yet been incorporated into the Census database for LEAs (which usually takes two to three years), charter schools that are treated as separate LEAs under the laws of some states but are not in the Census LEA database (because they are not based on exclusive geographical boundaries), and some special purpose LEAs that provide particular educational services (such as

¹⁰ In general, these LEA amounts may be reduced by state educational agencies to account for funds reserved for state administration, program improvement, and academic achievement awards; to adjust for recent shifts in LEA boundaries; and to provide grants to charter schools treated as separate LEAs under state law (such charter schools are not considered in the calculation of grants by USED).

¹¹ The authority for such reallocation of funds among small LEAs is found in ESEA Title I, Part A, Sections 1124(a)(2)(B), 1124A(a)(4)(c), and 1125(d), plus program regulations (34 CFR Section 200.74). Detailed procedures for implementing this option may be found in *State Educational Agency Procedures for Adjusting Basic, Concentration, Targeted, and Education Finance Incentive Grant Allocations Determined by the U.S. Department of Education*, May 23, 2003, <http://www2.ed.gov/programs/titleiparta/legislation.html>.

¹² This description of the use of free and reduced price data is based on oral communications from USED staff and policy letters posted on the USED website at <http://www2.ed.gov/policy/elsec/guid/stateletters/index.html>.

vocational and technical education or education for certain students with disabilities) to multiple “regular” LEAs in certain states. In making these adjustments, the Title I statute mentions using only statutory child counts (Census poverty, etc.) on a proportional basis. However, in at least some cases, free and reduced-price school meals data have been used for this purpose to allocate funds to some LEAs, including all funds for charter schools that are treated as separate LEAs under state law.

Allocating Title I Funds to Schools Within LEAs

Free and reduced-price meal eligibility data have a major impact on Title I allocations at the stage of distributing Title I funds to individual schools within LEAs. Unlike most federal elementary and secondary education programs, most Title I funds are allocated to individual schools, although LEAs retain substantial discretion to control the use of a share of Title I grants at a central district level.¹³

While there are several rules related to school selection, LEAs generally must rank their public schools by their percentage of students from low-income families and serve them in rank order.¹⁴ All participating schools generally must have a percentage of children from low-income families that is higher than the LEA’s average or 35 percent, whichever is lower.¹⁵ LEAs can generally choose to focus Title I services on selected grade levels (e.g., only elementary schools), but they usually must provide services in all schools, whatever their grade level, where the percentage of students from low-income families is 75 percent or more.

Once schools are selected, Title I funds are allocated among them in proportion to each eligible school’s number of students from low-income families. In a very large majority of cases, the data used to determine which students are from low-income families at this stage are not the same as the Census data used to identify school-age children in poor families for purposes of calculating allocations to states and LEAs. This is because Census data are not typically available on the number of school-age children enrolled in a school — or living in a residential school attendance zone — with income below the standard federal poverty threshold. Such “population in poverty” estimates, as used in the standard formulas for allocation of funds to states and LEAs (discussed above), are usually available only for LEAs, counties, and states.

Thus, LEAs must use available proxies for the low-income status of students’ families. The Title I statute allows LEAs to use the following data sources to measure what share of a school’s students is low income for purposes of school selection and allocations:

- Census poverty estimates (in the rare instances where relevant estimates are available);
- approval to receive free or reduced-price school lunches;

¹³ Detailed guidance regarding the selection of schools to receive Title I grants and the allocation of funds among them may be found in *Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools*, U.S. Department of Education, 2003, <http://www2.ed.gov/programs/titleiparta/legislation.html>.

¹⁴ The most substantial exception is that there is an exemption from all of the Title I school selection requirements for small LEAs — defined in this case as those with enrollments of 1,000 or fewer students. Such small LEAs do not have to meet any of the school ranking requirements discussed in this report, which apply to all other LEAs.

¹⁵ This minimum percentage is reduced from 35 percent to 25 percent for schools participating in certain desegregation plans.

- receipt of TANF assistance; or
- eligibility for Medicaid.

LEAs may also develop and use a composite of two or more of these measures — for example, counting school-age children in families receiving either TANF or Medicaid benefits.

Census poverty estimates have several advantages over other measures of low income for the Title I program. They apply a consistent set of income thresholds throughout the nation. Moreover, they are applied equally to all school-age children, regardless of their enrollment or immigration status and whether their parents have applied for any form of public assistance.

However, in the allocation of funds to individual schools within LEAs, authorized alternatives to the Census poverty measure are used, primarily because it is rarely possible to determine how many students attending a particular school are in poor families by relying on a Census poverty measure. The alternatives may have income thresholds that are lower or, in the case of free and reduced-price lunch approval, higher, than the Census poverty measure. In the case of Medicaid and TANF, income thresholds vary by state. Children are counted under these measures only if their parents apply for, and are eligible for, assistance under the relevant program. In the case of free and reduced-price school meals, enrollment varies widely by age level (with much lower enrollment by high school students than elementary or middle school students).

At the level of individual schools, the most commonly used criterion for determining whether students are from low-income families is approval for free or reduced-price school meals. Some LEAs consider only students approved for free meals, while others consider students approved for free or reduced-price meals. According to the most recent relevant data, approximately 90 percent of LEAs receiving Title I funds use free or free and reduced-price school meals data — sometimes alone, sometimes in combination with other authorized criteria — to select Title I schools and allocate funds among them.¹⁶ The income eligibility thresholds for free and reduced-price lunches are higher than the poverty levels used in the standard allocation formulas to states and LEAs: 130 percent of the poverty line for free lunches (or \$31,525 annually for a family of four for the 2015-16 school year) and 185 percent of the poverty line for reduced-price lunches (or \$44,863 annually for a family of four for the 2015-16 school year).¹⁷

After data have been compiled on the percentage and number of students from low-income families who are either enrolled in an LEA's public schools or residing in the attendance areas served by such schools, available Title I funds are allocated among these schools in rank order, beginning with the schools with the highest percentage of students from low-income families, until no further funds are available. As noted above, LEAs may choose to consider only schools of selected grade levels (e.g., only elementary schools) in determining eligibility for grants, as long as all schools in which 75 percent or more of their students are from low-income families receive grants.

¹⁶ U.S. Department of Education, *Study of Education Resources and Federal Funding: Final Report*, 2000, p. 33, <http://files.eric.ed.gov/fulltext/ED445178.pdf>.

¹⁷ See *Federal Register*, Volume 80, Number 61, March 31, 2015, page 17027, <http://www.gpo.gov/fdsys/pkg/FR-2015-03-31/pdf/2015-07359.pdf>. Higher income thresholds apply to families in Alaska and Hawaii.

While funds are allocated among eligible schools in proportion to their number of students from low-income families, the size of the grant per student from a low-income family need not be the same for all eligible schools. LEAs may choose to provide higher grants per child from a low-income family to schools with higher percentages of such students. In this process, many LEAs must provide to each school a minimum amount per student from a low-income family.¹⁸

Similarly, the share of funds to be used by each recipient LEA to serve educationally disadvantaged students attending *private schools* is determined on the basis of the number of low-income children enrolled in private schools and living in the residential areas served by public schools selected to receive Title I grants. LEAs may use for this purpose either the same source of data used to select and allocate funds among public schools (i.e., usually free or free and reduced-price school lunch data) or one of a specified range of alternatives, such as data from an income survey of private school families, private school scholarship applications, or estimates based on the assumption that the percentage of students attending a private school who are from low-income families is the same as that for public school students who reside in the same geographic area.¹⁹

USED Guidance on Allocating Title I Funds When Schools Participate in CEP

For schools participating in CEP, the counts of students approved to receive free and reduced-price meals discussed above are no longer available.²⁰ USED's March 2015 revised policy guidance lists several alternative sources of data that states and LEAs may use for selection of Title I schools and allocating funds among them. These alternative data sources are listed below, along with major advantages and disadvantages of each approach.

- 1. Identified Student Percentage multiplied by 1.6.** The 1.6 multiplier is an estimate of the ratio of the total number of students approved for free and reduced-price school lunches to the number of students approved for free meals *without an application*. For schools that participate in CEP individually, this percentage is identical to the percentage of meals for which they can claim reimbursement at the free rate from USDA. A school that participates in CEP as part of a group must calculate this percentage for the individual school and will use this individual percentage in the context of Title I, while using its group percentage in the context of operating the school meal programs. Where the Identified Student Percentage multiplied by 1.6 is used

¹⁸ In general, LEAs must provide to each school an amount per student from a low-income family that is equal to 125 percent of the amount per student from a low-income family received under Title I by the LEA. LEAs that provide grants only to schools with a low-income student percentage of 35 percent or more need not comply with this requirement.

¹⁹ According to the USED policy guidance document, *Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools*, p.16, "To obtain a count of private school children, an LEA may use: (1) The same poverty data it uses to count public school children. (2) Comparable poverty data from a survey of families of private school students that, to the extent possible, protects the families' identity. The LEA may extrapolate data from the survey based on a representative sample if complete actual data are not available. (3) Comparable data from a different source, such as scholarship applications so long as the income level for both sources is generally the same. (4) Proportional data based on the poverty percentage of each public school attendance area applied to the total number of private school children who reside in that area. (5) An equated measure of low-income correlated with a measure of low-income used to count public school children." See also the USED policy guidance document, *Title I Services to Eligible Private School Children*, Oct. 17, 2003, www.ed.gov/programs/titleiparta/psguidance.doc.

²⁰ For the first year in which a school operates under CEP, FRPL data from the prior school year remain available and may be used to ease the transition to CEP for participating schools and their LEAs.

for CEP schools, non-CEP schools in the LEA may use any other authorized data source, such as children approved to receive free and reduced-price lunches. Alternatively, LEAs may use the number of Identified Students multiplied by 1.6 as the share of the school's enrollment that are from low-income families for *all* schools, whether or not they participate in the Community Eligibility Provision, assuring comparable treatment of all schools.

Advantage: This approach allows LEAs to continue using FRPL or other data that they have used in the past for non-CEP schools, while using a measure for CEP schools that is, on average, comparable. Alternatively, LEAs may use the same measure — Identified Student Percentage multiplied by 1.6 — for both CEP and non-CEP schools, assuring comparability between these two groups of schools.

Disadvantage: The estimated ratio of students approved for free meals without an application to FRPL students may not be applicable to individual schools or LEAs, especially if the LEA has been counting only free meal recipients (see below). In addition, this approach may involve using different data sources for CEP and non-CEP schools. Alternatively, if LEAs use the Identified Student Percentage multiplied by 1.6 for all of their public schools, such use of a new data source may result in changes in the identification of Title I schools and allocation of funds among them.

2. Identified Student Percentage without use of the 1.6 multiplier (if used consistently for both CEP and non-CEP schools). Because students approved for free meals without an application are a subset of students who would qualify for free or reduced-price school meals if their families completed an application, this approach is likely to lower the percentage of students considered low-income at all schools. Therefore, districts that adopt this approach to identifying low-income students may also wish to fund schools with lower shares of low-income students than previously. The use of the Identified Student Percentage multiplied by 1.6 for all schools would obviate this concern. As noted above, a school that participates in CEP as part of a group must calculate this percentage for the individual school and will use the individual figure in the context of Title I and the group percentage in the context of operating the school meal programs.

Advantage: The same data are used for CEP and non-CEP schools, assuring comparable treatment, as would the use of the Identified Student Percentage multiplied by 1.6 if used for all schools. Also, the programs that identify students have rigorous eligibility criteria and their data have been found to be highly accurate.

Disadvantage: This would generally require the use of new data sources for all schools; while the results may be more accurate than when using FRPL data, shifts in the identification of Title I schools and allocation of funds among them are more likely under this approach.

3. Shares of students from low-income families as determined by state or local income surveys (although these are discouraged out of concern for administrative burdens).²¹

²¹ If state or local income surveys are used, they must be accurate and must have an income threshold that is consistent with the census poverty definition or the threshold used for free or reduced-price lunches, TANF assistance, or Medicaid. States or LEAs conducting such a survey must not in any way indicate that the survey is required by either USED or USDA, school nutrition funds may not be used for such surveys, and they must clearly indicate that receipt of

Advantage: States and LEAs could design and administer income surveys to meet their needs, not only for Title I but potentially also for other programs (such as state school finance formulas).

Disadvantage: This approach brings back the administrative burdens of implementing and responding to annual income surveys, which CEP was intended to eliminate. Also, there may be issues with the reliability and accuracy of state or LEA income surveys.

4. The Medicaid, TANF, Census (where available), or composite data authorized under the ESEA statute, as discussed in the previous section.

Advantage: These data sources are already explicitly authorized under the Title I statute. In particular, with the recent expansion of Medicaid eligibility in roughly one-half of the states under the Affordable Care Act, LEAs and states may want to give fresh consideration to the possibility of using that measure of low income.

Disadvantage: While these data sources have been authorized for many years, very few LEAs have chosen to rely on them. Census data, in particular, are very rarely available for individual schools.

With respect to the first option listed above, when comparing the Identified Student Percentage multiplied by 1.6 to total enrollment in order to determine a school's low-income student percentage, this percentage is capped at 100 percent if it would otherwise exceed that amount. For example, if a school has 400 students and 300 of these are Identified Students, the school's low-income student percentage for the purpose of selecting schools to participate in Title I would be 100 percent, not 120 percent ($(300 / 400) * 1.6 = 1.2$).

However, in the allocation of Title I funds among participating schools, LEAs may distinguish among CEP schools where the low-income student percentage is capped at 100 percent for school selection purposes. While many LEAs allocate the same amount of Title I funds per student from a low-income family to each school chosen to participate in the program, others allocate higher amounts per low-income student to schools with higher percentages of such students. For example, considering for the moment only non-CEP schools, a LEA might allocate \$1,200 per student from a low-income family to schools where the share of such students is 60 percent to 80 percent of total enrollment, and \$1,500 per student to schools where the low-income student percentage is 80 percent to 100 percent.

USED's policy guidance allows LEAs to vary the Title I grant per child from a low-income family among CEP schools where the Identified Student Percentage multiplied by 1.6 is capped at 100 percent, based on variations in the share of the schools' total enrollment that consists of Identified

free school meals is not tied to the survey. Title I funds may be used to conduct an income survey, but only under very specific circumstances (e.g., the survey cannot be needed to meet any state or local requirements, it must be necessary to properly operate the Title I program in the school district, and costs must be reasonable).

Students. At the same time, all CEP schools capped at 100 percent must receive a per-child grant that is at least as high as that for any non-CEP school at or below 100 percent.

For example, an LEA might allocate \$1,600 per student from a low-income family to CEP schools where the Identified Student Percentage is 80 percent or above, \$1,400 per student from a low-income family to CEP schools where the Identified Student Percentage is between 62.5 percent and 80 percent as well as non-CEP schools where the low-income student percentage is 100 percent, and \$1,200 per student from a low-income family to all other participating schools (all of which would have a low-income student percentage of less than 100 percent). In this case, the CEP schools in the first two groups would all be capped at a 100 percent low-income student percentage for school selection, but higher grants per low-income child would be provided to schools with a higher percentage of Identified Students.

Overall, LEAs are encouraged to update Identified Student data annually, even though this is required only once every four years by USDA for CEP schools, and to consider using these data for Title I purposes in both CEP and non-CEP schools.²²

With respect to the third option listed above, it is a significant change from past policies to explicitly allow states and LEAs to use their own family income surveys for purposes of school ranking and allocations under Title I. However, a major reason why use of such surveys has not been specifically authorized in the past is that they were rarely available. It is not clear how many states or LEAs currently conduct such surveys, although more may decide to do so in order to generate data no longer provided by FRPL counts for CEP schools. If significant numbers of states or LEAs choose to establish such surveys, they would be useful if well-designed and conducted, even though they would conflict to some degree with CEP's goal of reducing administrative burdens associated with income surveys. The use of state or local income survey data in all schools would resolve concerns about use of different data for CEP and non-CEP schools.

Private Schools

In addition to public schools, private schools may be eligible to participate in CEP if their percentage of Identified Students is 40 percent or more. Thus, in determining the share of their Title I grant that must be used to serve private school students, LEAs may have to consider a variety of scenarios in which public and private schools may or may not be CEP schools. Options for counting students in low-income families for CEP private schools include those described above for CEP public schools. Nevertheless, the basic principles regarding equitable determination of low-income student counts for participating public and private schools remain unchanged, and USED's March 2015 policy guidance offers several illustrative examples.

State Adjustments of LEA Grants as Calculated by USED

With respect to SEAs' possible use of FRPL data to adjust USED allocations for some of their LEAs due to recent boundary changes, creation of new LEAs, or for the allocation of Title I funds to charter schools treated as separate LEAs under state law, USED's policy guidance would allow use of any of the alternatives to FRPL data for CEP schools discussed above.

²² There are advantages in the context of the school meal programs to updating direct certification data annually.

For states that use alternatives to Census poverty estimates to allocate Title I funds among their small LEAs (total population below 20,000), USED's March 2015 policy guidance provides two options in cases where those states use school meals data in their formulas. First, states may use the number of Identified Students as their measure of low family income for all schools. Second, states may use the number of Identified Students multiplied by 1.6 for CEP schools, and for non-CEP schools use either the number of Identified Students multiplied by 1.6 or an unduplicated combination of Identified Students plus FRPL students.

Comparability of Data for CEP and Non-CEP Schools

With some of the options allowed under USED's policy guidance for Title I school selection and allocations in LEAs with CEP and non-CEP schools, there is potential concern about a lack of comparability in the low-income student data used for CEP and non-CEP schools. In the selection of schools to participate in a program, and the allocation of funds among participating schools, it is always preferable, when possible, to use consistent data sources for all of the schools involved. LEAs following USED's CEP policy guidance will in some cases be using different data sources on low-income students for CEP and non-CEP schools (for example, Identified Students * 1.6 for CEP schools and students approved for free or reduced-price meals for non-CEP schools). Also, while the data for non-CEP schools are updated annually, the data for CEP schools might be updated only once every four years (although the USED guidance encourages more frequent updates).

One particular potential concern regarding comparability of data sources for CEP and non-CEP schools is that the standard multiplier of 1.6 is meant to approximate the share of students who would be approved for free or reduced-price meals if the school were processing applications. If the Identified Student Percentage multiplied by 1.6 is used in cases where LEAs consider only children approved to receive *free* meals, not children approved to receive *free or reduced-price meals*, counts (not free plus reduced-price lunch counts) for Title I allocations to non-CEP schools, the low-income student percentage at CEP schools would tend to be inflated relative to the low-income student percentage at non-CEP schools. Such inflation, to the extent that it may occur, would be to the benefit of CEP schools but would disadvantage non-CEP schools.

Section III: Implications of CEP Implementation for Title I School Accountability Policies

A key aspect of Title I is an emphasis on outcome accountability requirements. These requirements focus on student achievement, especially for students from a variety of specified demographic groups. This emphasis applies both to states where Title I is governed fully by the ESEA's statutory requirements and to the much larger number of states currently operating Title I programs under a series of accountability waivers granted since 2011 by the U.S. Secretary of Education. While they are attached specifically to participation in the Title I program, these accountability requirements have a substantial impact on major aspects of K-12 education policies in all states.

States participating in Title I are required to meet a variety of requirements for assessing the achievement levels of public school students, reporting results of achievement tests to parents and the public, and taking actions intended to improve the performance of schools where achievement results are deemed inadequate. At each step of this process, it is necessary to consider the achievement levels not only of students overall, but also specifically for students in several

designated demographic groups. Prominent among the specified demographic groups are students from low-income families.

Therefore, determination of whether individual students are from low-income families is a critical component of the Title I outcome accountability policies. As with the process of allocating Title I funds to schools, student approval for free or reduced-price school meals has been the primary source of information on the low-income status of students for Title I accountability purposes. When, as with CEP, those data are longer collected, appropriate alternatives have to be identified.

This section briefly describes the ESEA’s outcome accountability requirements. It then discusses questions that have arisen with respect to these policies in schools and LEAs implementing CEP as well as policy guidance from USED intended to address those issues. It will focus at different times on three groups of states.

- **All States.** Many of these requirements apply to all states participating in Title I.
- **ESEA Statute.** Many requirements are applicable only to the small minority of states operating Title I fully under the accountability provisions of the ESEA statute, as enacted under the No Child Left Behind Act of 2001.
- **ESEA Accountability Waivers.** A large majority of states and LEAs are administering Title I under accountability policies modified by ESEA accountability waivers. In states that have obtained waivers beginning in 2011, many statutory requirements do not apply, but several additional requirements are applicable to these states.²³ As of July 8, 2015, USED has approved the ESEA accountability waiver applications of 43 states, the District of Columbia, Puerto Rico, and a group of eight (mostly large) LEAs in California.²⁴

Curriculum Content Standards and Assessments

All states participating in Title I must implement assessments of student achievement, linked to state content and academic achievement standards, for all public school students in each of grades 3-8 plus at least once in grades 10-12, in reading and mathematics and at three grade levels (at least once in each of grades 3-5, 6-9, and 10-12) in science. Achievement standards associated with the required assessments must establish at least three performance levels for all students — advanced, proficient, and basic.

All states participating in Title I, as well as all LEAs in those states, must report assessment results and certain other data to parents and the public through annual “report cards.” States are to publish report cards for the state overall; LEAs are to publish report cards for the LEA overall and for

²³ The designated ESEA requirements that can be set aside in states that obtain such waivers include some of the most significant outcome accountability requirements, such as the requirement that states set performance standards for schools and LEAs aiming toward a goal of 100 percent student proficiency in reading and mathematics by the end of the 2013-14 school year and take a variety of *specific* actions with respect to all schools and districts that fail to make adequate yearly progress toward this goal.

²⁴ To receive these ESEA accountability waivers, states must apply to USED and must meet certain requirements not currently in the ESEA statute that relate to high-quality standards and assessments, differentiated accountability, teacher and principal evaluation, and elimination of administrative burdens.

individual schools. The report cards must generally include information on students' academic performance disaggregated by race, ethnicity, and gender, as well as disability, migrant, and English proficiency status — and specifically for *students from low-income families*.

In states operating Title I programs under ESEA accountability waivers, curriculum content standards and assessments must meet the additional requirement of evaluating whether students are “college and career-ready.” These must include content standards in at least reading and mathematics, aligned “high-quality” assessments, and achievement standards for at least grades 3-8 and once in high school. These are the same subject areas and grades for which standards and assessments are required under the ESEA statute (with the exception of science standards and tests at 3 grade levels), but the rigor and quality of the standards and assessments are intended to be higher than those required under the ESEA statute. Waiver states are also required to implement English language proficiency standards and assessments for English language learners, as well as alternate standards and assessments for students with the most significant cognitive disabilities, that are coordinated with the college- and career-ready standards and assessments. The college- and career-ready standards and assessments adopted by states might be the Common Core State Standards currently supported by a majority of the states, standards and assessments otherwise adopted by a significant number of states, or other standards and assessments developed by states and approved by a state network of institutions of higher education. In other words, states are not required to specifically adopt the Common Core State Standards in order to qualify for a waiver.

School Performance Standards

In all states participating in Title I, the annual assessment results for all public schools must be used to determine whether achievement levels meet state performance standards. In states operating under the provisions of the ESEA statute, as well as some states operating under ESEA accountability waivers, this is done by applying measures of adequate yearly progress (AYP). AYP measures take the form of minimum percentages of students overall, and in each designated demographic group, who must meet a proficient or higher level of achievement in reading and mathematics each year, plus graduation rates for high schools.

States operating Title I under ESEA accountability waivers must also continue making annual accountability determinations for all public schools, but they may base these decisions on “ambitious but achievable” annual targets. These alternative state measures of school performance often take the form of multifaceted performance indexes that vary widely in scope, complexity, and transparency. They often consider not only student proficiency and graduation rates, but also individual student growth, aggregate progress in raising student achievement or reducing achievement gaps, test participation rates, and various indicators of college- and career-readiness for high schools. Many waiver states, as well as some states operating fully under the ESEA statute, measure progress by schools based in part on students' academic *growth* rather than on whether students as a group have met absolute benchmarks.

The primary purposes of both AYP requirements under the ESEA statute and alternative state performance measures in waiver states are to determine whether schools are making sufficient progress and to select low-performing schools for interventions or especially high-performing schools for rewards. AYP and alternative state performance standards must be applied to all public schools if a state receives Title I grants. However, *consequences* for failing to meet performance standards need only be applied to schools receiving Title I funds.

In states making AYP determinations under the ESEA statute, AYP calculations based on assessment scores must be disaggregated; that is, they must be determined separately and specifically not only for all students but also for several demographic groups of students within each school. The specified demographic groups, in addition to the “all students” group, are students from low-income families, limited English proficient (LEP) students, students with disabilities, and students in major racial and ethnic groups.

States operating Title I programs under ESEA accountability waivers often combine some of the ESEA’s designated subgroups, or use one or more new subgroups, for some or all of their primary accountability determinations. Several waiver states base some of their most significant accountability decisions on the achievement of just two to three student groups — all students and one or two broadly defined “disadvantaged” student groups. In many cases, this broader student group specifically includes students in low-income families. While this replaces the statutory approach of basing all accountability *decisions* on the separate performance of numerous student subgroups, including students from low-income families, the assessment results for all of these “disadvantaged” student subgroups designated in the ESEA statute must be *reported* each year and must be taken into account in determining performance consequences for public schools. In particular, there must be consequences for schools where gaps in the achievement of students from low-income families, compared to other students, are especially high.

State performance measures for schools, whether they use the AYP measure of the ESEA statute or alternative measures developed by waiver states, must be predicated on regular movement by schools toward an ultimate goal. In states administering Title I programs under the ESEA statutory provisions, the ultimate goal is that all students must reach a proficient or higher level of achievement by the end of the 2013-14 school year. Virtually all of the states receiving ESEA accountability waivers have adopted an alternative multi-year goal. Many waiver states have chosen a reduction of the number of non-proficient students overall and in each of the designated demographic subgroups by half over six years as their alternative goal.

School Performance Consequences

In states operating Title I programs under both the ESEA statute and ESEA accountability waivers, states must identify schools that fail to meet performance standards and take a variety of actions intended to improve those schools’ performance.

The ESEA statute requires states to identify schools that fail to meet state AYP standards for two consecutive years for program improvement and to take a variety of further actions with respect to these schools. Failure to meet AYP standards may be based on the achievement of all students or of students in any of the statute’s designated demographic groups, including students from low-income families.

Students attending schools that have failed to meet AYP standards for two consecutive years or more must be provided with options to attend other public schools that have not been designated as needing improvement or as being unsafe. School choice options are to be made available to all students in a school that has failed to meet AYP standards for two consecutive years or more, but if spaces are limited, priority must be given to students from low-income families. If a Title I school fails to meet AYP standards for a third year, students from low-income families in the school must

be offered the opportunity to receive instruction from a supplemental educational services provider of their choice, in addition to continuing to be offered public school choice options.

States receiving ESEA accountability waivers are no longer required to identify all schools that fail to meet AYP standards for two consecutive years or more for performance consequences. Instead, states must develop and implement differentiated accountability systems to identify and take action with respect to at least two groups of low-performing schools. The first group, Priority schools, consists of schools with the lowest performance. The number of Priority schools must equal at least 5 percent of all Title I schools in the state, and these schools must undergo comprehensive interventions. The second group, Focus schools, consists of schools in which the gaps in achievement or graduation rates among student subgroups specified in the ESEA statute are greatest or the achievement or graduation rates among these subgroups are lowest. The number of Focus schools must equal at least 10 percent of all Title I schools in the state, and these schools must be subject to targeted interventions.

Specific actions, such as public school choice and supplemental educational services for students in schools identified for accountability consequences, become optional in waiver states, and few waiver states continue to require these specific interventions.

In many waiver states, some of the primary accountability determinations, such as the selection of Priority schools, are based on the performance of all students plus students in a limited number of demographic subgroups. In these states, there may be no specific or separate consideration of the achievement of students from low-income families in these determinations. However, all waiver states must take into account the achievement of each of the ESEA's statutory subgroups, including students in low-income families, in the selection of Focus schools. Focus schools must include those where the performance of students from low-income families is especially low, or where gaps between the performance of students from low-income families and other students are especially large.

USED Guidance on Accountability Policies When Schools Participate in CEP

As described above, there are two major ways in which data on students from low-income families are used in Title I accountability policies. First, student assessment results are aggregated specifically for students from low-income families, and these results may lead to schools being identified for performance consequences. Second, particularly in states operating Title I under the statutory provisions, individual students may be selected to receive supplementary educational services or priority for school choice options on the basis of their family's low income. As with the allocation of Title I funds, states and LEAs have generally identified students from low-income families for these accountability purposes based on approval for free or reduced-price school meals, data that are no longer available for CEP schools.

Regarding Title I accountability issues, USED's policy guidance is relatively brief but provides flexibility for states and LEAs. One option, given the high rate of students from low-income families in CEP schools, is to simply consider all students in these schools to be from low-income families for accountability purposes, including eligibility for supplemental educational services and school choice priority, where relevant. While this is a reasonable approach, given the high percentages of students from low-income families in CEP schools, such a policy tends to conflict with the heavy emphasis placed by the ESEA on measuring achievement *gaps* between students from low-income

families and other students in establishing performance consequences for schools. This emphasis on identifying and acting to reduce achievement gaps in schools is especially great in the majority of states that have received ESEA accountability waivers.

Thus, states and LEAs are also allowed the options of identifying students from low-income families in CEP schools through state or LEA income surveys or CEP's Identified Students (preferably updated annually), including eligibility for supplemental educational services and school choice priority, where relevant. This would identify a somewhat narrower group of students, who would likely have the lowest family income levels, for Title I school accountability purposes.

Further, while USED's policy guidance does not explicitly provide for this, it is likely that states and LEAs could use data from different sources for different Title I accountability purposes. For example, they might consider only Identified Students as being from low-income families for reporting on achievement gaps between economically disadvantaged and other students or selecting schools for performance consequences, while identifying all students as being from low-income families for determining eligibility for supplemental educational services. This approach of using data from different sources allows for a focus on closing achievement gaps without narrowing the number of students who qualify for supplemental educational services or public school choice priority. Implications of CEP for data on students from low-income families in student assessment, reporting, and accountability also apply to broader activities of education research as well as assessment under the National Assessment of Educational Progress. USED has formed a working group to identify alternative measures of socioeconomic status.²⁵

Conclusion

Community eligibility has significant potential to expand access to school meals for students from low-income families while reducing administrative burdens by eliminating school meal applications. While eliminating applications raises questions for important aspects of the largest federal K-12 education aid program, the ESEA Title I program, the policy guidance published by USED in March 2015 provides a wide range of options for states and LEAs to implement CEP with minimal interference with Title I funding allocations or accountability measures.

²⁵ More information about the working group is available on the website of the National Center for Education Statistics at https://nces.ed.gov/forum/alternative_ses.asp. In June 2015, this working group published a report, "Forum Guide to Alternative Measures of Socioeconomic Status in Education Data Systems," available at: <https://nces.ed.gov/pubs2015/2015158.pdf>.