



Technology for  
Education Consortium

**SRI Education™**  
A DIVISION OF SRI INTERNATIONAL

## EdTech Funding Under ESSA November 2016



**On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA)**, replacing No Child Left Behind (NCLB). NCLB had been in effect since 2001. ESSA is intended to significantly change education policy and is one of the few federal legislative actions with significant bipartisan support.

TEC's **EdTech Funding Under ESSA** is a periodic report tracking ESSA developments and the potential impact on education technology spending and policy. This report is produced jointly by the Technology for Education Consortium (TEC) and SRI International.

SRI International has reviewed the 1,061-page long ESSA legislation and is actively following U.S. Department of Education and Congressional communication as components of the new law are clarified and funded. TEC will publish these ESSA reports periodically as the new law transitions into effect during the 2016-17 school year. This report provides background information, followed by the full report.

**The first EdTech Funding Under ESSA memo from October 2016 can be found [here](#).**

## Introduction

This memo provides an update on funding of educational technology under the Every Student Succeeds Act (ESSA). ESSA, signed into law in December 2015, reauthorized the Elementary and Secondary Education Act of 1965 (ESEA).

In the November 2016 report, we discuss the implications for educational technology funding in ESSA of the following: **(1)** the non-regulatory guidance issued on October 26 on by the U.S. Department of Education (ED) regarding ESSA's Student Support and Academic Enrichment (SSAE) Grants; **(2)** the recent presidential and Congressional elections.

## Key Points

The guidance<sup>1</sup> issued by ED on ESSA is aimed at providing states and localities with information to support their implementation of SSAE; however it is non-binding and does not create or impose any new legal requirements.

- The SSAE guidance does the following:
  - Reiterates the existing 15% spending cap on technology infrastructure;
  - Emphasizes that remaining funds dedicated to educational technology be used for professional development;
  - Suggests that the 15% technology infrastructure cap applies to the funds dedicated to educational technology, rather than the total funds dedicated to SSAE. However, there is disagreement among some stakeholders as to whether this interpretation is consistent with the legislation.
  
- Congress has yet to appropriate money for FY17; therefore, funding for SSAE and ESSA overall is still undetermined.
  
- The exact implications of the new Trump administration for educational technology in ESSA are uncertain. ESSA was passed by a bipartisan coalition, including a House Republican majority, and the legislation devolves a great deal of responsibility to states from the federal government, so it is unlikely that there will be any drastic changes to ESSA. However, it is likely that there will be changes to ESSA implementation, including both regulations and guidance. Possible implications include:
  - Revisiting regulations and guidance issued by ED on implementation of ESSA, particularly any viewed as restricting state flexibility.
  - Potentially greater support of block grants such as SSAE that provide greater flexibility for spending at the state and local level.

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<sup>1</sup> U.S. Department of Education, Office of Elementary and Secondary Education, *Non-Regulatory Guidance: Student Support and Academic Achievement Grants*, Washington, D.C., 2016.

<http://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf>

## I. Non-regulatory SSAE grant guidance

Newly authorized under the ESSA, SSAE grants, also known as Title IVa, aim to “improve students’ academic achievement by increasing the capacity of States, local education agencies, schools, and local communities to---

- (1) provide all students with a well-rounded education;
- (2) improve school conditions for student learning; and
- (3) **improve the use of technology in order to improve the academic achievement and digital literacy of all students.”** (Every Student Succeeds Act of 2015)

The October 26 non-regulatory guidance discusses key provisions of the SSAE, including allowable use of funds and examples of such uses, the role of the state agency, fiscal responsibilities, and local application requirements. The document also provides links to resources and tools to support implementation. However, this guidance is non-binding and does not create or impose new legal requirements. *It is likely that some of this guidance is modified or ignored under the Trump administration to give more flexibility to states.*

## II. Guidance highlights

**In the guidance document, ED reiterates the 15% spending cap on technology infrastructure purchased with SSAE funds; and emphasizes the use of the remaining funds to support professional development to build capacity and improve use of educational technology.**

- The guidance reiterates the 15% spending limit on technology infrastructure and/or software. However, the guidance further specifies that the remaining 85% of educational technology funds be used to support professional development. This suggests that the 15% cap applies to the funds spent on educational technology, and not the overall SSAE amount. At this time, there is debate among stakeholders as to whether the interpretation of the 15% rule in the recent guidance is consistent with the legislation. This interpretation may change under the Trump administration. The specific text of the FAQ is below.

### ***(4) What is the scope and applicability of the Special Rule in section 4109(b)?***

*At least 85 percent of the educational technology funds must be used to support professional learning to enable the effective use of educational technology. LEAs or consortiums of LEAs may not spend more than 15 percent of funding in this section on devices, equipment, software applications, platforms, digital instructional resources and/or other one-time IT purchases.*

*Specifically, the statute states that LEAs may not use more than 15 percent for purchasing technology infrastructure as described in section 4109 (a)(2)(B) which states: "purchasing devices, equipment, and software applications to address readiness shortfalls" and in section 4109 (a)(4)(A) which states: "blended learning technology software and platforms, the purchase of digital instructional resources, initial professional development activities, and one-time information technology purchases." (Non-Regulatory Guidance Student Support and Academic Enrichment Grants, pg. 37)*

- Additionally, the guidance did not specifically address stakeholders’ disagreement as to whether the 15% cap applies *only* to purchases intended to address “readiness shortfalls.” As noted in previous memos, some industry advocates have said that if a district is not addressing a readiness shortfall with the expenditure, then the district should not be subject to the 15% cap. While the guidance does not specifically speak to the interpretation of “readiness shortfall,” the guidance does state that 85% of funds “must be used to support professional learning.”

**The guidance notes that SSAE funds alone may not be sufficient to support all of the innovative activities authorized under the program, and suggests leveraging other federal, state, and local resources to offer the activities authorized under SSAE.**

- The guidance notes that states, localities or schools may partner with other organizations—such as non-profits, institutions of higher education, museums, and community organizations—and leverage funds from additional sources to support activities under SSAE. Districts, for example, may be able to use funds within other ESSA Titles to support SSAE goals including the use of educational technology. The November 2014 Dear Colleague letter from the Office of Educational Technology (OET), which provides recommendations for supporting educational technology with other titles (specifically Titles I, II, and III, as well as the Individuals with Disabilities Education Act [IDEA]) was recently updated in October to note that the guidance provided therein is still up to date with ESSA.<sup>2</sup>

**The guidance notes that funds used for Title IVa must be used to supplement, not supplant existing funds.**

- ED is currently in the process of finalizing regulations on the interpretation of language in ESSA requiring that funds distributed through ESSA supplement-not-supplant existing funds. Specifically the legislation states that “...SEAs and LEAs may not use SSAE program funds for the cost of activities in the three SSAE program content areas – well-rounded education, safe and healthy students, and technology – if the cost of those activities would have otherwise been paid with State or local funds in the absence of the SSAE program funds.”<sup>3</sup> These supplement-not-supplant regulations will likely be revisited by the Trump administration and Republican members of Congress.

### III. Implications of the election

On November 8, Donald J. Trump was elected President of the United States, and Republicans retained control of both the House and Senate. While ESSA passed with bipartisan Congressional support, the new administration will likely attempt to influence some aspects of its implementation. It’s likely that the new administration (and Education Secretary nominee Betsy DeVos) will further reinforce the shift in ESSA towards greater state and local responsibility for education. Both House and Senate committees are expected to continue to hold oversight hearings during the upcoming

<sup>2</sup> See <http://techedconsortium.org/wp-content/uploads/2016/09/EdTechFundingUnderESSAfromTECandSRI.pdf>.

<sup>3</sup> U.S. Department of Education, Office of Elementary and Secondary Education, *Non-Regulatory Guidance: Student Support and Academic Achievement Grants*, Washington, D.C., 2016.  
<http://www2.ed.gov/policy/elsec/leg/essa/essassaagrantguid10212016.pdf>

115th Congress regarding ESSA implementation and monitoring. The ESSA implementation regulations that the ED is currently finalizing will likely be revisited and the Trump administration may issue new regulations to guide implementation.

Educational technology has not been a key educational issue for President-elect Trump. However, block grants such as Title IVa, which provides the dedicated educational technology funding within ESSA, tend to be more popular among Republicans because of the greater flexibility provided to states. Subsequently, it is possible that Title IVa is funded closer to the \$1 billion proposed by the House appropriations committee in July, as opposed to the \$300 million proposed by the Senate appropriations committee in June, which was regarded as a more bipartisan agreement.<sup>4</sup> The current continuing resolution (CR) that is funding the government will last through December 9. Congress is expected to pass another CR to fund the government through early next year. At that point, the 115<sup>th</sup> Congress will pick up the appropriations process, and pass a FY2017 omnibus appropriations bill,<sup>5</sup> which will allow Congress to fund new programs, such as Title IVa. In the month ahead, it is expected that the Trump administration and Congressional leaders will begin to discuss their priorities for ESSA, and we may learn more about proposed funding levels for Title IVa.



**The Technology for Education Consortium (TEC)** is a non-profit organization whose mission is to bring transparency, efficiency, and collaboration to K-12 schools engaged in evaluating and purchasing edtech products and services. We believe that greater transparency and better information will allow school districts to improve results, reduce costs and support new product development.

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*EdTech Under ESSA reports are published monthly on TEC's resources [page](#). We hope this report has been helpful. If you have any questions or would like additional*

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<sup>4</sup> The total authorized amount for Title IVa is \$1.65 billion.

<sup>5</sup> An omnibus appropriations bill packages many smaller regular appropriations bills into a large single bill that can be passed with only one vote in each house of Congress.

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