




The National Coalition
on
School Diversity

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**TITLE I FUNDING AND SCHOOL
INTEGRATION: THE CURRENT
FUNDING FORMULA'S DISINCENTIVES
TO DECONCENTRATE POVERTY
AND POTENTIAL WAYS FORWARD**

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In the aftermath of *Brown v. Board of Education* and the civil rights movement, Congress enacted the Elementary and Secondary Education Act (ESEA) to prioritize educational opportunity for all Americans. Title I of the ESEA is the single largest federal investment in K-12 schools, making it a key tool for driving opportunity and closing the achievement gap.¹ Title I provides financial assistance to schools based on the number of low-income students they enroll.² Schools receiving the grants are required to comply with federal non-discrimination statutes, theoretically incentivizing equity in schools and districts across the country.³

The precise amount of Title I funds a school receives per low-income student depends on several factors. Two key factors are district size and the level of concentrated poverty in the district and school. While well intentioned, these and other more complicated factors in Title I's funding formulas can disincentivize innovative interdistrict programs that promote racial and economic integration. In short, Title I allocations can shrink as districts reduce their overall levels of school poverty. These formulas may also discourage districts from taking steps to integrate schools internally, within the district (see discussion below). As a notable Brooklyn school learned in 2018, increasing diversity cost it almost \$120,000 when its poverty level dipped from 60% to 59%.⁴

Since 2011, the National Coalition on School Diversity has urged Congress to change the formula, stating that "Title I's funding formulas provide incentives for school

districts to maintain high poverty levels and no incentive to deconcentrate poverty or foster voluntary transfer or assignment policies with surrounding districts."⁵ NCSD's policy brief built on the work of Professor Derek Black, who had explored the issue in depth in a 2010 law review article.⁶ Unfortunately, Congress left the existing Title I funding formula intact when the ESEA was finally reauthorized in 2015. NCSD has continued to press this issue, most recently in *Crafting a Policy Agenda for 2019 and Beyond*,⁷ and the Century Foundation also recently included the issue in *A Bold Agenda for School Integration*.⁸

The need to reform Title I's funding formulas is well known. Congress authorized a program to study those funding flaws as part of the 2015 reauthorization of ESEA.⁹

Though no report has been released, the issue is gaining new attention with the release of education platforms of two leading Democratic presidential candidates – Senators Elizabeth Warren and Bernie Sanders – who have called out the formula as a problem that needs to be addressed.¹⁰ Senator Warren's education plan states, "to ensure that school districts won't have to choose between integration and federal funding, my plan will guarantee that districts will retain access to Title I funds even if their successful integration efforts cause the districts to fall below current Title I funding thresholds."¹¹ Senator Sanders' education plan includes a proposal to "triple Title I funding to ensure at-risk schools get the funding they need and end funding penalties for schools that attempt to desegregate."¹²

HOW TITLE I FUNDING MAY OPERATE TO DISCOURAGE RACIAL AND ECONOMIC INTEGRATION

The Title I Concentration Grants formula allocates dollars to school districts if the district has at least 15% of its students in poverty, or 6,500 poor children, whichever is less.¹³ Targeted Grants use the same data as Concentration Grants, but weigh the data so that LEAs with higher numbers of poor children or higher percentages of poor children receive more funds. Districts with high numbers of low-income children are often districts that are underfunded by their states (particularly in relation to need), and have a weak local tax base. These districts are ill-equipped to lose even a modest amount of federal funding. If a high-poverty district decides to participate in an interdistrict integration program that reduces, even by a few percentage points, the concentration of low-income students in the district, the consequences could be costly.¹⁴

Under the current formula, districts lose money for each low-income student who transfers. In addition, they receive a lower amount for each low-income pupil who remains if the overall percentage of poverty in the district dips below important thresholds as a result of the transfers. The same phenomena can also occur at the

local level, as the Brooklyn example above demonstrates.

Even if they suffer no financial consequences, schools and districts can also lose much needed planning and spending flexibility as a result of integration. Most notably, schools with 40% or more low-income students can use the funds to support universal school-wide programs, while schools with less than 40% low-income students must use the funds on targeted assistance programs that serve only their low-achieving students.¹⁵ The latter comes with numerous administrative costs and limits on programmatic decision making.¹⁶

In addition, nothing in the current funding formula countermands this school-based segregation incentive, since allocations to local education agencies (LEAs) are based on school districts' overall poverty level, rather than the poverty levels of individual schools.¹⁷ This means that districts receiving Title I funds can concentrate all of their low-income students in a small cluster of schools without facing any penalty of losing funds.¹⁸

WHAT CAN BE DONE?

Professor Black has put forth a proposal for a “hold harmless” rule, which would hold harmless in overall Title I funding any school or school district that enacts policies aimed at deconcentrating low-income students.¹⁹ The “hold harmless” proposal would offer schools and districts a transition period of at least three years. For instance, high-poverty school districts that participated in interdistrict integration partnerships and facilitated the transfer of some portion of their low-income students to other districts would remain eligible (for three years) for the same level of Title I funding they received prior to the transfers. Other districts should also be incentivized to enroll those transfer students by receiving Title I funding in excess of their normal per pupil supplement.²⁰ In effect, the Title I dollars are attached to individual students, and are doubled for three years, with the same funding remaining in the sending school or district and an equal amount traveling to the new school or district. This would ensure that districts

that successfully reduce their overall poverty rates through affirmative integration collaborations would not be penalized for those reductions. Such a district or school should also retain any all-school Title I spending and accountability flexibility that it previously had due to school-based low-income enrollments in excess of 40%.

The above proposals rest on the voluntary actions of districts, but they could also be drastically increased by offering students an affirmative right to participate in these transfer programs. The No Child Left Behind Act²¹ included a right of transfer for students in failing schools. The provision proved ineffective, however, because other districts were not required to accept those students. The best approach would be to amend the funding structure to align with Professor Black's "hold harmless" rule, while also mandating that any district currently receiving Title I funds also be required to accept transfers, assuming space availability.

CONCLUSION

Title I formulas currently allow districts to concentrate poverty into single schools or small clusters of schools, and discourage intradistrict and interdistrict cooperation that could aid in desegregation and deconcentration efforts because schools on both sides of student transfers have either no financial incentive or financial disincentives to participate in such efforts. New proposals that substantially increase Title I funding would exacerbate these problems unless they also include new countervailing measures.

The only responsible way to reform Title I is to commit substantially more total dollars to local districts while also affirmatively promoting racial and socioeconomic

integration. This means restoring and expanding right-to-transfer provisions across school district lines, penalizing districts that concentrate poverty and exacerbate racial isolation above and beyond their existing patterns of residential segregation, rewarding districts that deconcentrate poverty and desegregate, and holding harmless those districts that forge interdistrict partnerships in the pursuit of racial and socioeconomic integration. And once the Strength in Diversity Act is finally passed, local districts can use federal planning grants to plan for school integration, and apply Title I funds to transform low performing Title I schools, in part through innovative school integration and poverty reduction strategies.

ABOUT THE AUTHORS

This brief was prepared by Philip Tegeler and Lily Milwit, Poverty & Race Research Action Council, November 2019. The authors are grateful for the input of Professor Derek Black.

ENDNOTES

- 1 Robert Hanna, *How ESEA Title I, Part A, Funding Can Better Serve the Most Disadvantaged Students*, CENTER FOR AMERICA PROGRESS, Jan. 6, 2015, <https://www.americanprogress.org/issues/education-k-12/reports/2015/01/26/105339/how-esea-title-i-part-a-funding-can-better-serve-the-most-disadvantaged-students/> (last visited Nov. 20, 2019).
- 2 U.S. Dep't of Educ., *Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A): Purpose*, Oct. 24, 2018, <https://www2.ed.gov/programs/titleiparta/index.html> (last visited Nov. 20, 2019).
- 3 JULIE ROY JEFFREY, *EDUCATION FOR CHILDREN OF THE POOR: A STUDY OF THE ORIGINS AND IMPLEMENTATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965*, 27, 67 (1978).
- 4 Christina Veiga, *When diversity backfires: How schools can lose funding as they try to integrate*, CHALKBEAT, Feb. 12, 2018, <https://www.chalkbeat.org/posts/ny/2018/02/12/when-diversity-backfires-how-schools-can-lose-funding-as-they-try-to-integrate/> (last visited Nov. 20, 2019) (discussing how, based on a local variant of the Title I funding formula, a Brooklyn school lost funding when its percentage of low-income students dipped below New York City's school-wide Title I threshold of 60%. Under the federal law, local districts are permitted to set a school-wide Title I threshold higher than the federal minimum of 40%, and many high-poverty districts opt to do this in order to provide greater impact and more per pupil and per school spending in their highest poverty schools, rather than stretching the limited federal dollars across more schools and more students).
- 5 NATIONAL COALITION ON SCHOOL DIVERSITY, *Key Principles for ESEA Reauthorization*, March, 2011, <https://school-diversity.org/pdf/DiversityIssueBriefNo1.pdf> (last visited Nov. 20, 2019).
- 6 Derek W. Black, *The Congressional Failure to Enforce Equal Protection Through the Elementary and Secondary Education Act*, 90 B.U. L. REV. 313 (2010), <http://www.bu.edu/law/journals-archive/bulr/documents/black.pdf>.
- 7 NATIONAL COALITION ON SCHOOL DIVERSITY, *Crafting a Policy Agenda for 2019 and Beyond* (2018), https://school-diversity.org/wp-content/uploads/2018/07/Policy-Handout_Draft6.pdf.
- 8 Richard d. Kahlenberg, Halley Potter & Kimberly Quick, *The Century Foundation, A Bold Agenda for School Integration* (2019), https://production-tcf.imgix.net/app/uploads/2019/04/05130945/School_Integrationfinalpdf.pdf.
- 9 The Every Student Succeeds Act, Pub. L. No. 114-95, tit. IX, Part B, Sec. 9211 (2015).
- 10 Elizabeth Warren, *A Great Public School Education for Every Student*, WARREN FOR PRESIDENT, <https://www.elizabethwarren.com/plans/public-education> (last visited Nov. 20, 2019); Bernie Sanders, *A Thurgood Marshall Plan for Public Education*, BERNIE 2020, <https://berniesanders.com/en/issues/reinvest-in-public-education/> (last visited Nov. 20, 2019); Senator Kamala Harris has also released an education plan calling for “making the Title I formula more equitable,” but does not specifically address the disincentives discussed in this brief. See Kamala Harris, *Kamala's Children's Agenda | Full Policy*, KAMALA HARRIS FOR THE PEOPLE, <https://kamalaharris.org/policies/childrens-agenda/full-policy/#ebu8Y23mDt7OsvE2.99> (last visited Nov. 20, 2019).
- 11 Elizabeth Warren, *A Great Public School Education for Every Student*, WARREN FOR PRESIDENT, <https://www.elizabethwarren.com/plans/public-education> (last visited Nov. 20, 2019).
- 12 Bernie Sanders, *A Thurgood Marshall Plan for Public Education*, BERNIE 2020, <https://berniesanders.com/en/issues/reinvest-in-public-education/> (last visited Nov. 20, 2019).
- 13 *Supra* note 3.
- 14 If a high poverty district were to “lose” 1000 students to an interdistrict integration program, for example, the Title I penalty for that district would exceed \$500,000 (in addition to losses from state funding penalties). Cf. Mark Dynarski

and Kristen Kainz, *Why federal spending on disadvantaged students (Title I) doesn't work*, THE BROOKINGS INSTITUTE, NOV. 20, 2015, <https://www.brookings.edu/research/why-federal-spending-on-disadvantaged-students-title-i-doesnt-work/> (last visited Nov. 20, 2019).

15 {*Cheat Sheet*} *An Overview of Federal Education Funding*, SELLING TO SCHOOLS Jul. 18, 2018, <https://sellingtoschools.com/education-management/cheat-sheet-overview-federal-education-funding-sources/> (last visited Nov. 20, 2019).

16 In general, schools want the flexibility to be able to implement school-wide reforms and interventions that can benefit all students, as well as teachers and the community at large. The formula, as it stands, deters school districts with schools hovering around the 40% margin from helping their students transfer out of the school or out of the district, since doing so might result in the school losing its school-wide Title I flexibility and funding from its LEA.

17 20 U.S.C. §§ 6335(c)(1)(B), 6337(d)(1)(A) (2018).

18 Derek W. Black, *supra* note 7.

19 *Id.* at 370.

20 *Id.*

21 U.S. Dep't of Educ., *No Child Left Behind: A Desktop Reference*, Sept. 2002, <https://www2.ed.gov/admins/lead/account/nclbreference/reference.pdf> (last visited Nov. 20, 2019).