

## Transferability Q & A

### 1. What is Transferability?

Transferability is a new flexibility authority that permits State Educational Agencies (SEAs) and local educational agencies (LEAs) to transfer a portion of the funding that they receive under certain Federal programs to their allocations under other so that they can address more effectively their unique needs.

### 2. What is the legislative authority for transferability?

Transferability is authorized under subpart 2 of Part A of the Title VI of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001.

### 3. What funds may an LEA transfer?

In general, an LEA may transfer up to 50 percent of each fiscal year's funds that it receives from PRC 048 Safe and Drug Free, PRC 059 Title V Innovative Programs, PRC 103 Improving Teacher Quality and PRC 107 Educational Technology.

### 4. To which allocations may an LEA transfer funds?

Up to the 50 percent limitation, an LEA (except an LEA identified for improvement or corrective action) may transfer funds for a program to which the transferability authority applies to its allocations under one or more of the other programs to which the authority applies, as well as to its allocation under Part A of Title I (PRC 050).

### 5. May an LEA transfer funds from Title I (PRC 050), to its allocation under other programs?

No. An LEA may not transfer funds from Title I (PRC 050) to its allocations under other programs.

### 6. May any LEA transfer funds under the transferability authority?

Any LEA, except an LEA that has been identified for corrective action, may transfer funds under the transferability authority. However, the transferability authority of an LEA that has been identified for improvement is limited.

### 7. May an LEA that has been identified for improvement transfer funds?

Yes. However, an LEA that has been identified for improvement may transfer no more than 30 per cent of the funds allocated to it for a given fiscal year under each of the eligible programs and all of the transferred funds must be used for LEA improvement activities.

**8. Once an LEA has been identified for improvement do the limitations on transferability apply immediately?**

Yes. Once an LEA has been identified for improvement, any subsequent transfers of funds must be consistent with the 30 percent limitation, and all transferred funds must be used for LEA improvement activities.

**9. May an LEA that has been identified for corrective action transfer funds?**

No. An LEA that has been identified for corrective action may not transfer funds from one program to another during the period that it is in corrective action status.

**10. What rules and requirement apply to funds that an LEA transfers from one program to another?**

When an LEA transfers funds from one program to another, the transferred funds become funds of the program to which they are transferred. The transferred funds are subject to the rules and requirements of the programs to which the funds are transferred.

**11. Do the statutory provisions that establish specific set-asides governing the uses of program funds apply to transferred funds?**

Yes. Transferred funds are subject to the requirements of the program to which they are transferred. In transferring funds, an LEA should be particularly careful about complying with statutory set-asides because the transfer may affect set-aside limitations in both the program(s) from which the LEA transfers funds and the program(s) to which the LEA transfers funds.

**12. Which programs affected by LEA transferability have set-aside provisions?**

See the [Statutory Set-Aside Provisions](#) for more details.

**13. Does an LEA need to obtain the approval of either the U.S. Department of Education or its SEA before it may transfer funds?**

No. The legislation authorizes an eligible LEA to transfer funds without seeking approval from either its SEA or the U.S. Department of Education. Thus, an LEA does not have to apply for transferability authority – it already has that authority. However, the LEA must notify the SEA (through a budget amendment and/or revised application) of its intent to transfer funds at least 30 days before each transfer occurs. At the time of the notification, the LEA must submit an assurance that meaningful consultation has taken place with non-public schools prior to the transfer of federal funds. Documentation to support the assurance must be available for review during subsequent monitoring conducted by the State.

**14. Does a transfer alter the period of availability of the affected funds?**

No. Transferred funds retain the identity of the fiscal year for which the funds were appropriated. Thus, transferability does not affect the period in which an LEA may obligate funds.