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September 7, 2018

Frank Brogan
Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Assistant Secretary Brogan,

I am writing to seek clarification regarding the use of Title IV, Part A funds under the Elementary and Secondary Education Act (ESEA) for the purchase of technology infrastructure, including devices.

The ESEA requires local educational agencies (LEAs) or a consortium of LEAs receiving an award of \$30,000 or more under the ESEA Student Support and Academic Enrichment (SSAE) grant to spend their funds in three different content areas: (1) at least 20 percent on activities to support a well-rounded education; (2) at least 20 percent on activities to support safe and healthy students; and (3) a portion to increase the effective use of technology. However, ESEA section 4109, Activities to Support the Effective Use of Technology, states that “a local educational agency, or consortium of such agencies, shall not use more than 15 percent of funds for purchasing technology infrastructure,”¹ which includes “purchasing devices, equipment, and software applications in order to address readiness shortfalls.”²

The “Non-Regulatory Guidance on Student Support and Academic Enrichment Grants” issued by the U.S. Department of Education (ED) in October of 2016 clarifies the limitation on use of funds for purchasing technology infrastructure, stating that “LEAs or consortiums of LEAs may not spend more than 15 percent of funding *in this content area* [emphasis added] on devices, equipment, software applications, platforms, digital instructional resources and/or other one-time IT purchases.” Based on this language, it is our understanding that the position of the Department of Education (ED) is that funds designated for use under the other two SSAE content areas, including activities to support a well-rounded education and activities to support safe and healthy students, may be used to purchase technology devices, without being subject to the 15 percent cap.

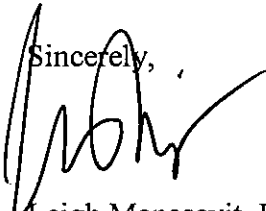
¹ ESEA section 4109(b)

² ESEA section 4109(a)(2)(B)

Further, a representative from ED’s Office of Safe and Healthy Students speaking on July 26th at the National Association of ESEA State Program Administrator’s 2018 summer meeting stated that LEAs are permitted to use SSAE funds intended for activities to support a well-rounded education and safe and healthy students to purchase technology infrastructure, including devices, outside of the 15 percent limitation set out in ESEA section 4109(b), so long as those devices are necessary to accomplish those activities.

Given the language contained in the “Non-Regulatory Guidance on Student Support and Academic Enrichment Grants” and the July 26th statement made by an ED staff member, it appears that ED’s interpretation is that technology infrastructure purchases made by LEAs using SSAE funds are allowable for activities to support a well-rounded education and safe and healthy students, and that such purchases do not apply to the 15 percent cap under ESEA section 4109(b). I would greatly appreciate it if you would confirm this understanding as correct as it is of great concern to many of our State and local clients.

Thank you.

Sincerely,

Leigh Manasevit, Esq.