Nita M. Lowey 21st Century Community Learning Centers Program

Title IV, Part B of the Elementary and Secondary Education Act of 1965

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Non-Regulatory Guidance

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INTRODUCTION

Created in 1994 through the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) by the Improving America's Schools Act and expanded through the No Child Left Behind Act of 2001 (NCLB), the Nita M. Lowey 21st Century Community Learning Centers (21st CCLC) program was reauthorized in 2015 in Title IV, Part B of the ESEA by the Every Student Succeeds Act (ESSA).[1] 21st CCLC programs provide academic enrichment and support a well-rounded education, including a broad array of additional services, programs, and activities during non-school hours or periods when school is not in session, such as before and after school, weekends, summer, or during school breaks.

This guidance supersedes the U.S. Department of Education's (Department's) guidance titled *21st Century Community Learning Centers, Non-Regulatory Guidance: February 2003.* This guidance addresses services to eligible children, youth, and their families under the 21st CCLC program and is intended to be used in conjunction with the applicable statute and regulations including the Education Department General Administrative Requirements (EDGAR) and the Office of Management and Budget Guidance for Federal Financial Assistance (Uniform Guidance), 2 C.F.R. Part 200.

The Department is issuing this guidance to provide State educational agencies (SEAs) and their subgrantees with information to assist them in meeting their obligations under the 21st CCLC program. Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The Department provided an opportunity for the public to comment on a draft of this document. We received 26 comments, which we considered in revising the guidance. If you are interested in commenting further on this document, please email your comments to 21stCCLC@ed.gov or write to the following address: U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW, Washington, DC 20202. For further information about the Department's guidance processes, please visit https://www2.ed.gov/policy/gen/guid/significant-guidance.html.

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If you have difficulty understanding English, you may request language assistance services for Department information that is available to the public. These language assistance services are

[1] Unless otherwise noted, all references to the ESEA in this document are to the ESEA as amended by ESSA. The ESEA is available at: https://www.govinfo.gov/content/pkg/COMPS-748/pdf/COMPS-748.pdf.

available free of charge. If you need more information about interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339); email us at Ed.Language.Assistance@ed.gov; or write to U.S. Department of Education, Information Resource Center, 400 Maryland Ave., SW, Washington, DC 20202.

A. OVERVIEW OF THE NITA M. LOWEY 21ST CENTURY COMMUNITY LEARNING CENTERS (21ST CCLC) PROGRAM

A-1. What is the purpose of the 21st CCLC program?

The 21st CCLC program provides opportunities for communities to establish or expand activities in community learning centers that provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend schools in need of additional support, to meet challenging State academic standards. It also offers students a broad array of additional services, programs, and activities, such as youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs, and other partnerships with an in-demand industry sector or occupation for high school students that are designed to reinforce and complement the regular academic program of participating students. Finally, the program offers families of students served by community learning centers opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development. (Section 4201(a)).[2]

A-2. What is a community learning center?

A community learning center is an entity that assists students in meeting challenging State academic standards~~,~~ by providing students with academic enrichment activities and a broad array of other activities during non-school hours or periods when school is not in session (such as before and after school, weekends, summer, or during school breaks) that—

- Reinforce and complement the regular academic programs of the schools attended by participating students; and
- Are targeted to students' academic needs and align with the instruction students receive during the school day.

Community learning centers also offer families of participating students opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development. (Section 4201(b)(1)).

[2] Unless otherwise noted, statutory citations in this document are to the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171 *et seq*.), as amended by the Every Student Succeeds Act.

B. STATE ALLOCATIONS

B-1. How are 21st CCLC funds allocated?

Congress appropriates funds for the 21st CCLC program annually. From the total appropriation, the Department reserves – (1) not more than one percent for national activities; and (2) not more than one percent for grants to the outlying areas (Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) and the Bureau of Indian Education (BIE)).

The Department allocates the remaining funds to each State in proportion to the amount the State received in the preceding fiscal year under Subpart 2 of Part A of Title I of the ESEA compared to the amount all States received under that subpart for the preceding fiscal year; however, no State may receive less than an amount equal to one half of one percent of the total amount of 21st CCLC funds made available to all States. (Sections 4202(a)(2)-(3) and 4202(b)(1)).

B-2. What is the definition of "State" under the 21st CCLC program?

For the purposes of this program, "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. (Section 4201(b)(6)).

B-3. How long are 21st CCLC funds available for obligation by a State educational agency (SEA)?

Funds for the 21st CCLC grant program are available for obligation by an SEA for a total of 27 months (e.g., Federal fiscal year 2023 funds are available from July 1, 2023, through September 30, 2025) under the "Tydings Amendment," section 421(b) of the General Education Provisions Act (GEPA).

Obligation of 21st CCLC funds occurs when funds are committed to specific activities by an SEA or subgrantee. (See 34 C.F.R. § 76.707). Note: An obligation does not occur when an SEA makes a subgrant award.

B-4. How does an SEA apply for its 21st CCLC allocation?

All SEAs have submitted, and had approved by the Department, a consolidated ESEA State plan that includes the 21st CCLC program. Consolidated ESEA State plans may be found at: https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/essa-consolidated-state-plans/. Once approved, an SEA is eligible to receive funds for all programs that are part of the consolidated ESEA State plan, including 21st CCLC, until Congress reauthorizes the ESEA.

Even though an SEA submitted only the information in its consolidated ESEA State plan that was required by the Secretary, the SEA must still meet all ESEA requirements for each included program.

B-5. What is the process to amend a consolidated ESEA State plan?

Consistent with the Department's letter to chief State school officers dated November 14, 2018 (https://www2.ed.gov/policy/elsec/leg/essa/dclessaspamendmentprocessltr.pdf), if an SEA wishes to amend the 21st CCLC portion of its consolidated ESEA State plan at any time by making changes to its uses of funds, including funds reserved for State-level activities, and to its procedures for awarding 21st CCLC subgrants, the SEA must submit information about those changes to the Department for review and approval before they may be implemented. Consistent with the consolidated assurances each SEA submitted in June 2017 under section 8304 of the ESEA, prior to submitting any amendment to the Department, an SEA must consult with the Governor on the amendment, afford a reasonable opportunity for public comment on the amendment, and consider such comments.

When submitting an amendment to the Department for approval, an SEA must submit:

1. A redlined version of the approved consolidated State plan that reflects all proposed changes;
2. A cover letter describing the proposed changes;
3. The signature of the chief State school officer or authorized representative; and
4. A description of how the SEA provided the public a reasonable opportunity to comment on the plan.

As noted above, an SEA may not implement a change until the amendment has been approved. Therefore, an SEA should submit proposed amendments to the Department as much in advance of the SEA's desired date of implementation as possible.

C. STATE RESPONSIBILITIES

C-1. May an SEA reserve a portion of its funds for State use?

Yes. An SEA may reserve not more than—

- Two percent of the State's 21st CCLC allocation for the administrative costs of carrying out its responsibilities, including planning the competition, establishing and implementing a rigorous peer-review process, and awarding subgrants (section 4202(c)(2)); and
- Five percent of the State's 21st CCLC allocation for the following State-level activities:
  - Providing capacity building, training, and technical assistance to subgrantees.
  - Monitoring and evaluating programs and activities.
  - Conducting a comprehensive evaluation (directly or through a grant or contract) of the effectiveness of programs and activities.
  - Providing training and technical assistance to eligible entities that are applicants for, or recipients of, 21st CCLC awards.
  - Ensuring program activities align with challenging State academic standards.

- Ensuring eligible entities partner with external organizations, if available, in the community.
- Coordinating 21st CCLC funds with other Federal and State funds to implement high-quality programs.
- Providing a list of pre-screened external organizations that could provide assistance in carrying out program activities.
- Working with teachers, principals, parents, the local workforce, community members, and other stakeholders to review and improve State policies and practices to support implementation of effective programs. (Section 4202(c)(3)).

C-2. May an SEA transfer to eligible programs 21st CCLC funds it reserves for State-level activities?

Pursuant to section 5103(a) of the ESEA, an SEA may transfer 100 percent, or any lesser amount, of its State-level activities funds (not more than 5 percent of its total 21st CCLC allocation) to any of the following programs:

- Title I, Part A – Improving basic programs operated by LEAs.
- Title I, Part C – Education of migratory children.
- Title I, Part D – Prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk.
- Title II, Part A − Supporting effective instruction state grants.
- Title III, Part A – English language acquisition and language enhancement and academic achievement.
- Title IV, Part A − Student support and academic enrichment grants.
- Title V, Part B − Rural and low-income school program.

An SEA is not required to obtain permission or approval from the Department to transfer some or all of its State-level activities funds; however, it does need to notify the Department at least 30 days prior to the effective date of the transfer (the SEA should contact the Department at 21stCCLC@ed.gov). In addition, if a transfer affects any portion of a State's consolidated ESEA State plan, the SEA must provide the Department with an amended State plan that reflects the transfer within 30 days of the date of the transfer. (See B-5). (For more information, see: https://oese.ed.gov/files/2022/03/ESEA-transferrability-funds-April-2020.pdf.)

C-3. May an SEA consolidate 21st CCLC funds it reserves for administration?

Pursuant to section 8201 of the ESEA, an SEA may consolidate its 21st CCLC State administration funds (i.e., not more than two percent of its total 21st CCLC allocation) with any other administrative funds that the SEA is authorized to reserve for administration under the ESEA and any other program designated by the Secretary of Education. Such consolidation may enhance the effective and coordinated use of administrative funds under the consolidated programs. An SEA that consolidates administrative funds is not required to keep separate records of administrative costs for each individual program. Expenditures of consolidated administrative funds are allowable

if they are for administrative costs that are allowable under any of the contributing programs. (Section 8201).

(Note: With the SEA's approval, an LEA may also consolidate administrative funds, including 21st CCLC funds. See E-19.)

C-4. May an SEA conduct applicant workshops?

Yes. An SEA may use its State-level activities funds (i.e., not more than five percent of its 21st CCLC allocation) to provide technical assistance to eligible applicants. (Section 4202(c)(3)(D)). An SEA may also use State administrative funds as appropriate to carry out the workshops. (Section 4202(c)(2)). Applicant workshops may be particularly effective if the SEA is seeking to expand the pool of applications it receives, particularly in areas that may have low capacity, such as rural areas of the State, areas from which the SEA has not recently received applications, or areas with high percentages of schools identified for comprehensive or targeted support and improvement.

C-5. Must an SEA provide a list of pre-screened external organizations?

Yes. An SEA must pre-screen external organizations that could aid subgrantees in carrying out program activities and make the list available to eligible entities. (Section 4203(a)(11)). An SEA may use its State-level activities funds (i.e., not more than five percent of its 21st CCLC allocation) to provide a list of prescreened external organizations. (Section 4202(c)(3)(I)). External organizations are nonprofit organizations with a record of success in running or working with before- and after-school programs and activities (or those that operate during school breaks); or, in the case of a community where there is no such organization, a nonprofit organization in the community that enters into a written agreement or partnership with an organization with a record of success to receive mentoring and guidance in running or working with before- and after-school programs and activities (or those that operate during school breaks). (Section 4201(b)(4)).

An SEA has discretion in developing the process and criteria for pre-screening external organizations. For example, an SEA could require an external organization to complete an application that the SEA scores against a rubric based on criteria it establishes. The Department encourages an SEA to widely publicize its process and criteria for prescreening external organizations, make the list of pre-screened external organizations easily accessible on its State website, share the list as part of the announcement for new subgrant competitions, and update the list on a recurring basis.

C-6. May an SEA collaborate with a Child Care and Development Fund (CCDF) Lead Agency to provide quality programming before and after school and during the summer?

Yes. CCDF is a Federal and State partnership program authorized under the Child Care and Development Block Grant Act (CCDBG) and administered by States, territories, and

Tribes with funding and support from the U.S. Department of Health and Human Services' Administration for Children and Families' Office of Child Care. States use CCDF to provide financial assistance to low-income families to access childcare so they can work or attend a job training or educational program. The CCDF program helps fund child care assistance for children under age 13.

Although there are meaningful differences between 21st CCLC and CCDF, including around eligibility and administration, both programs represent critical Federal resources available to support school-age children during out-of-school time, making them ripe for collaboration and coordination. For instance, CCDF administrators could work closely with the SEA to identify geographic areas where the need is greatest for out-of-school time programming, and direct contracts and grants to those areas using CCDF funds to ensure program stability while extending access to those students who need help most. Additionally, an SEA could leverage part of its five percent 21st CCLC reservation along with part of the nine percent of CCDF funds that must be set-aside for quality improvement activities to coordinate and align quality enhancements for out-of-school time programming, including the delivery of professional development across all out-of-school time programs in the State. CCDF administrators and SEAs can also work together to harmonize the licensing and monitoring requirements for each of their subgrantees, so that programs and providers can more readily access funds under each program.

The Department encourages States and entities to leverage 21st CCLC and CCDF to maximize the utility of both programs. For more information about braiding 21st CCLC and CCDF funds, see E-23; and for information about requirements related to program income in 21st CCLC, see questions E-28 to E-31.

The U.S. Department of Health & Human Services' Office of Child Care supports a technical assistance center focused on providing care for school-aged children—~~t~~the National Center on Afterschool and Summer Enrichment—which promotes collaboration at the state level through the provision of resources and technical assistance. Resources from the center are available here: https://childcareta.acf.hhs.gov/center/national-center-afterschool-and-summer-enrichment.

D. STATE COMPETITIVE GRANTS TO ELIGIBLE ENTITIES

ELIGIBILITY

D-1. What entities are eligible to apply for 21st CCLC funds?

An "eligible entity" is defined as an LEA, community-based organization, Indian Tribe or Tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b)), another public or private entity, or a consortium of two or more such agencies, organizations, or entities. (Section 4201(b)(3)). An educational service agency, which is a regional public multiservice agency authorized

by State law to develop, manage, and provide services or programs to LEAs (e.g., a Board of Cooperative Educational Services (BOCES)), is also an eligible entity. (Section 8101(18)). Similarly, charter schools are eligible to apply.

D-2. What "private entities" are eligible for 21st CCLC funds?

Under 34 C.F.R. § 77.1(c), "private," as applied to an agency, organization, or institution, means that it is not under Federal or public supervision or control. Accordingly, any entity that is not under Federal or public supervision or control is a "private entity" for purposes of 21st CCLC eligibility, including a faith-based or for-profit private entity, if it can perform the functions of a community learning center.

D-3. May a BIE school apply to the State in which it is located and the BIE for a 21st CCLC subgrant?

Yes. A BIE-funded school may apply for a 21st CCLC subgrant to both the State in which the school is located and to the BIE. A school, however, may not receive two subgrants for the same activities. The SEA and BIE must ensure that an applicant does not receive a subgrant from two entities for the same activities.

LOCAL COMPETITION

D-4. What must an SEA include in its local application?

An SEA awards subgrants to eligible entities on a competitive basis in accordance with section 4204(b)(2) of the ESEA. In designing its application, an eligible entity should keep in mind the whole child, including students' mental, physical, social, and emotional well-being. Each local application must include:

A. A description of the activities to be funded, including–
   i. An assurance that the program will take place in a safe and easily accessible facility;
   ii. A description of how students participating in the program carried out by the community learning center will travel safely to and from the center and home, if applicable; and
   iii. A description of how the eligible entity will disseminate information about the community learning center (including its location) to the community in a manner that is understandable and accessible (including language accessible and in formats accessible for someone with visual impairments).

B. A description of how the proposed activities are expected to improve student academic achievement as well as overall student success;

C. A demonstration of how the proposed program will coordinate Federal, State, and local programs and make the most effective use of public resources;

D. An assurance that the proposed program was developed, and will be carried out—
   i. In active collaboration with the schools that the participating students attend (including through the sharing of relevant data among the schools), all participants of the eligible entity, and any LEA, community-based organization, and any other public or private entity that is working in partnership with the eligible entity, in compliance with applicable laws relating to privacy and confidentiality; and
   ii. In alignment with the challenging State academic standards and any local academic standards.

E. A description of how the proposed activities will meet the measures of effectiveness described in section 4205(b)(1) of the ESEA; (See D-6)

F. An assurance that the proposed program will primarily target students who attend schools eligible for schoolwide programs under section 1114 of the ESEA and the families of such students; (See D-8)

G. An assurance that 21st CCLC funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of 21st CCLC funds, be made available for programs and activities that the proposed 21st CCLC program will provide, and in no case supplant Federal, State, local, or non-Federal funds; (See E-1)

H. A description of the partnership between an LEA, a community-based organization, and another public entity or private entity, if appropriate;

I. An evaluation of the community needs and available resources for the community learning center and a description of how the proposed program will address those needs (including the needs of working families);

J. A demonstration that the eligible entity will use best practices, including research- or evidence-based practices, to provide education and related activities that will complement and enhance the academic performance, achievement, postsecondary education and workforce preparation and positive youth development of the students; (See D-7)

K. A description of a preliminary plan for how the community learning center will continue after 21st CCLC funding ends;

L. An assurance that the eligible entity will give the community notice of its intent to submit an application and that the application and any waiver request will be available for public review after submission of the application;

M. If the eligible entity plans to use volunteers in activities carried out through the community learning center, a description of how the eligible entity will encourage and use appropriately qualified persons to serve as the volunteers; and

N. Such other information and assurances as the SEA may reasonably require. For example, an SEA might require an applicant to describe how it will make its program accessible for students with disabilities. (See E-25 through E-27).

D-5. How might a subgrantee coordinate other Federal, State, and local programs that have related purposes?

Each local application must address how the applicant will coordinate with other Federal, State, and local programs and make the most effective use of public resources. (Section 4204(b)(2)(C)). The Department strongly encourages the SEA to require applicants to identify other sources of related funding and to describe, in their application, how these resources will be coordinated to offer a high-quality, sustainable program.

For example, a 21st CCLC program may collaborate with a McKinney-Vento Education for Homeless Children and Youth program to provide homework assistance and other appropriate services before or after school to students who are experiencing homelessness.

As specified in the Uniform Guidance at 2 C.F.R § 200.405(d), if a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the programs or activities based on the proportional benefit. Additionally, each funding stream maintains its identity and continues to be subject to the relevant statutory requirements, including eligibility criteria and scope of authorized activities.

21st CCLC funds awarded to local subgrantees must be used only to supplement the level of Federal, State, local, and other non-Federal funds and not to supplant funds (Federal, State, local, or other non-Federal funds) that would have been available to conduct activities if 21st CCLC funds had not been available. (See E-1).

D-6. How does an applicant ensure that its proposed program or activities will be effective?

Each applicant must design its program or activities to increase student achievement and overall student success. (Section 4201). Such program or activities must be based on the following measures of effectiveness:

- An assessment of objective data regarding the need for before- and after-school programs (including programs on weekends, summer, and during school breaks) and activities in the school(s) and community(ies) the project proposes to serve;
- A set of performance measures established by the State (see F-1) aimed at ensuring the availability of high-quality academic enrichment opportunities;
- Alignment with the regular academic program of the school(s) that participating students attend and the academic needs of those students.
- If appropriate, evidence-based research (for the definition of evidence-based see section 8101(21); D-7) that the program or activity will help students meet the

challenging State academic standards and any local academic achievement standards; and

(Section 4205(b)(1)).

An applicant must describe in its application how its proposed program or activities will meet these measures of effectiveness. (Section 4204(b)(2)(E)).

D-7. How are "evidence-based" strategies defined in the context of local competitions?

Section 4205(b)(1)(C) requires a 21st CCLC applicant to propose a program or activity that, "if appropriate," is "based upon evidence-based research that the program or activity will help students meet the challenging State academic standards and any local academic standards." (See D-6). The term "evidence-based" means an activity, strategy, or intervention that—

(i) demonstrates a statistically significant effect on improving student outcomes or other *relevant outcomes* based on–
  (I) *strong evidence* from at least one well-designed and well-implemented experimental study;
  (II) *moderate evidence* from at least one well-designed and well-implemented *quasi-experimental study*; or
  (III) *promising evidence* from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii) (I) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other *relevant outcomes*; and
  (II) includes ongoing efforts to examine the effects of such activity, strategy, or intervention. (Section 8101(21)).

The Department's What Works Clearinghouse (available at https://ies.ed.gov/ncee/wwc/) identifies the tier of evidence that reviewed studies meet, as applicable. WWC also includes a series of practice guides that may be helpful, including Structuring Out-of-School Time to Improve Academic Achievement. An SEA can also review the Department's guidance on using evidence, which can be found here: https://www2.ed.gov/policy/elsec/leg/essa/guidanceuseseinvestment.pdf. Finally, an SEA could make use of the federally funded Comprehensive Center network.

D-8. Must an applicant assure that it will primarily target students who attend public schools that serve a high number of students from low-income backgrounds?

Yes. An applicant for a 21st CCLC subgrant must include an assurance in its local application that the program will target students who primarily attend schools eligible for schoolwide programs under section 1114 of the ESEA and their families. (Section 4204(b)(2)(F); see D-4). Under section 1114(a)(1) of the ESEA, a Title I school is eligible to operate a schoolwide program if 40 percent or more of its students are living in poverty or, if the school has a poverty rate of less than 40 percent, it received a waiver from the SEA to operate a schoolwide program. Therefore, the requirement that 21st

CCLC programs target students who attend schools eligible for schoolwide programs would mean that a 21 CCLC program must target students who attend (1) a Title I school with 40 percent or more poverty; (2) any Title I school that receives a waiver from the SEA to operate a schoolwide program; or (3) a non-Title I public school that has 40 percent or more poverty.

Since the 21st CCLC statute does not define what it means to "target" students attending schools eligible to operate a schoolwide program, an SEA has discretion to determine how an applicant might meet that requirement. Some examples include (1) an LEA that proposes to serve students at specific schools eligible to operate schoolwide programs; (2) a community-based organization (CBO) that partners with schools eligible to operate schoolwide programs to exclusively serve students attending those schools; or (3) an applicant that proposes to serve students from across the community attending different schools with all of the participating schools eligible to operate schoolwide programs.

Please note that the requirement to target students who primarily attend schools eligible for schoolwide programs under Title I is distinct from the requirement that the SEA prioritize applications proposing to target students attending schools identified for comprehensive or targeted support and improvement. If an applicant is proposing to target students who attend a school that is both eligible for a schoolwide program and identified for comprehensive or targeted support and improvement, it has met both the requirement with respect to schoolwide programs and the priority with respect to comprehensive or targeted support and improvement schools.

D-9. Must a non-LEA applicant for a 21st CCLC subgrant collaborate with the schools that students who will be served by the 21st CCLC program attend?

Yes. A non-LEA applicant must, under section 4204(b)(2)(D)(i) of the ESEA, assure that its program was developed and will be carried out in active collaboration with the schools the participating students attend. Collaboration between the non-LEA and the schools allows for alignment between the school day and activities supported in the 21st CCLC program. Moreover, a non-LEA must obtain relevant data to conduct its evaluation of its 21st CCLC program (see F-3). As part of the collaboration, the non-LEA and LEA should consider formalizing how the non-LEA and LEA will work together. For example, the entities may establish a memorandum of understanding to identify the students who attend schools eligible for schoolwide programs and for conducting the evaluation required under section 4205(b)(2) of the ESEA.

In addition to collaborating, more formal partnerships among entities may be valuable in creating effective 21st CCLC programs. For that reason, section 4204(i)(1)(B) of the ESEA requires that an SEA give priority to applications submitted jointly by an LEA receiving Title I, Part A funds and a CBO or other eligible entity. As noted in D-4, an applicant must describe any partnerships in its application. (Section 4204(b)(2)(H)).

D-10. Does the 21st CCLC program have a matching requirement?

No. There is no matching requirement for 21st CCLC in the ESEA. An SEA may, however, require subgrantees to match their 21st CCLC funds. (Section 4204(d)(1)). If it does so, however, the SEA may not consider an eligible entity's ability to match funds when determining which eligible entities will receive awards. (Section 4204(d)(4)). In other words, an SEA may not discriminate among applicants based on the extent to which they are able to match, but the SEA may require all applicants to match at least at some minimal level.

If an SEA decides to require matching, it must establish a sliding scale that takes into account and is responsive to the relative poverty of the population to be targeted by the eligible entity and the ability of the applicant to obtain matching funds. (Section 4204(d)(2)). In addition, the amount of the required match may not exceed the amount of the 21st CCLC subgrant award and may not be derived from other Federal or State funds. (Section 4204(d)(1)). The SEA must permit an eligible entity to provide all or any portion of a match in the form of in-kind contributions. (Section 4204(d)(3)).

D-11. May an SEA limit a local competition to new applicants that have never had a 21st CCLC subgrant?

No. An SEA may not restrict the entities eligible to apply to only new applicants. However, an SEA may prioritize funding new applicants in its competition. For example, the SEA might establish a priority for new applicants and assign several additional points to an application submitted by a new applicant. The SEA might apportion a certain percentage of available funds that it will slate for new applicants.

D-12. When should an SEA conduct a local 21st CCLC grant competition?

An SEA may hold a local grant competition at any time. The Department encourages an SEA to consider the time needed for its award process and schedule competitions such that awards will be made in time for programs to begin at the start of the summer or school year. In planning its competitions, the Department encourages an SEA to allow sufficient time for applicants to design a high-quality program and prepare their applications.

PEER REVIEW

D-13. What process must an SEA use to review its 21st CCLC local applications?

In reviewing local applications, an SEA must use a rigorous peer-review process or other comparable methods to ensure the quality of funded projects. (Section 4204(e)). Whatever process an SEA uses must enable the SEA to approve only projects that meet all applicable requirements, are high quality, and hold promise of successful implementation. If an SEA uses a rigorous peer-review process, it must meet certain requirements. First, employees of the SEA who are familiar with the 21st CCLC program

and requirements must review all applications that the State receives for completeness and applicant eligibility. Next, the SEA must select peer reviewers based on their expertise in providing effective academic, enrichment, youth development, and related services to children and youth. The peer reviewers must review and rate the applications to provide recommendations to the SEA about whether the applications meet the requirements under sections 4204(b) and 4205 of the ESEA and to evaluate the overall quality of each application. (Section 4201(b)(5)).

D-14. Who may serve as a peer reviewer for a local competition?

Peer reviewers must have expertise in providing effective academic, enrichment, youth development, and related services to children and youth. (Section 4201(b)(5)(B)(i)). In addition, an SEA should consider diverse expertise, geographic location, racial, and ethnic representation when selecting peer reviewers. The SEA may not include any applicant, or representative of an applicant, that has submitted an application for the current competition to serve as a peer reviewer. (Section 4201(b)(5)(B)(ii)).

The Department encourages an SEA to consider soliciting potential reviewers from a large array of organizations, including educational and non-educational entities, with broad experience to ensure that applications are evaluated by individuals who represent diverse perspectives and whose expertise allows for all entities to access benefits and opportunities available through Department grant programs. By drawing widely, an SEA is most likely to develop a pool of highly diverse and qualified reviewers and thereby ensure that quality applicants are chosen as subgrantees.

An SEA must be mindful of potential conflicts of interest that may arise in selecting peer reviewers, especially among grant writers, evaluators, and technical assistance providers. A conflict of interest is generally defined as a situation in which a peer reviewer has a financial interest in the outcome of a competition. A conflict of interest could exist, for instance, if a peer reviewer (or a member of the reviewer's immediate family) is named as an evaluation contractor in an application the reviewer is assigned to review.

D-15. Should an SEA provide an overview of its grant review process, its scoring process, and its scoring rubric within its local application?

While not required, the Department strongly encourages an SEA to make its grant review and scoring processes and scoring rubric publicly available for transparency and to aid strong applications.

PRIORITITES

D-16. When awarding subgrants, is an SEA required to prioritize certain applications?

Yes. Section 4204(i) of the ESEA includes three priorities an SEA must consider in approving 21st CCLC applications:

A. Applications that are proposing to target services to—
   (1) students who primarily attend schools that—
      (a) Are implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA or other schools determined by an LEA to be in need of intervention and support to improve student academic achievement and other outcomes; and
      (b) Enroll students who may be at risk for academic failure, dropping out of school, involvement in criminal or delinquent activities, or who lack strong positive role models; and
   (2) The families of such students.

B. Applications submitted jointly by eligible entities consisting of not less than one LEA receiving funds under Title I, Part A of the ESEA and another eligible entity.

C. Applications demonstrating that the proposed activities are, as of the date of the submission of the application, not accessible to students who would be served; or would expand accessibility to high-quality services available in the community.

An SEA may not give priority or preference to applicants that propose to extend the regular school day through an expanded learning program (ELP). (Section 4204(i)(3)). For more information on ELPs, see E-32 through E-37.

D-17. How can an SEA determine if an application meets the priority of being submitted jointly between an LEA and another entity?

In determining whether an application has been "submitted jointly," an SEA should look for evidence in the application that an LEA and at least one other eligible entity collaborated in the planning and design of the program and that each has substantial roles in the delivery of services, shares grant resources to carry out those roles, and has significant ongoing involvement in the management and oversight of the program. An SEA may want to consider what entity or entities wrote the application, which entity will be the fiscal agent, and whether there is evidence in the application of integration of the after-school program activities with the regular school day program. Letters of endorsement are not by themselves sufficient evidence that eligible entities or LEAs have substantially been involved in the design of a program.

If an LEA applicant (e.g., a rural LEA) demonstrates it is unable to partner with another eligible entity, such as a CBO, in reasonable geographic proximity and of sufficient quality, an SEA must give priority to the LEA applicant in the same manner as an LEA that applies jointly with another entity. (Section 4204(i)(2)).

D-18. May an SEA include other priorities in its local 21st CCLC subgrant competition?

Yes. An SEA may include additional priorities in its local 21st CCLC subgrant competition so long as they are consistent with the statutory requirements.

Other examples of priorities include:

- Creating a welcoming, safe, and inclusive environment. This includes implementing asset-based approaches that consider the unique context and assets of local communities. Additional examples of supportive practices are available in the Department's Supporting Child and Student Social, Emotional, Behavioral, and Mental Health Needs resource and included in the Creating Safe and Healthy Learning Environment of this Handbook issued by the Department.
- Supporting family engagement and providing family supports. Strong personal outreach with families builds a foundation for success. Such outreach should promote consistent positive communication between 21st CCLC programs and families, gather valuable input from families and respond to that input, provide flexible opportunities to meet with program teams at times and in formats that work for different families, offer access to community resources, provide training on home-based strategies, and encourage collaboration in identifying supportive approaches. The Department's 21st CCLC National Technical Assistance Center (NTAC) addresses family engagement in its Learning Recovery course. Additional resources to support family engagement may be found on the archived You for Youth (Y4Y) website.
- Promoting strong connections between schools and 21st CCLC programs to allow continuity of supports. For example, multi-tiered systems of support in schools could be adapted and implemented in 21st CCLC programs to integrate academic, mental health, and behavioral supports and interventions. Where appropriate and consistent with all student privacy regulations, sharing information about student attendance, progress and performance, such as information from an early warning indicator system, can allow 21st CCLC programs to adapt and respond to emerging student needs in a timely manner.
- Implementing trauma-informed practices. A trauma-informed approach incorporates recognition of the widespread impact of trauma and its signs and symptoms, appropriate responses, and active efforts to avoid re-traumatization. Resources from the Department's National Center on Safe Supportive Learning Environments can be adapted for use in 21st CCLC programs.
- Establishing mentoring programs built on strong relationships among students, mentors, schools, and families. The Department's 21st CCLC NTAC website offers a webinar focused on 21st CCLC mentoring programs, and the National Partnership for Student Success provides technical assistance on establishing high quality mentoring programs. Additional information on the benefits of high-quality mentoring, along with key components of productive mentoring relationships, are available from youth.gov and the National Mentoring Resource Center.
- Providing relevant and engaging learning experiences such as student apprenticeships, career exploration opportunities, project-based learning, community field trips, and service-learning opportunities.
- Supporting student academic acceleration, including through evidence-based tutoring. When States and 21st CCLC subgrantees support program participants with tutoring, they should rely on the best available information (see, for example this information from the Department's Regional Education Laboratories or the National Bureau of Economic Research), such as using trained educators as tutors, providing intensive

tutoring at least three times each week in small groups, emphasizing attendance and focused worktime, and aligning with evidence-based curriculum and practices happening during the school day to support in-classroom success.

- Initiating Science, Technology, Engineering, and Math (STEM) programming aligned with State academic standards at all levels to further advance STEM achievement. STEM-based activities such as robotics, computer programming, and agricultural studies allow for a multi-faceted approach to learning STEM concepts.
- Fostering geographic diversity by prioritizing new applicants in underserved areas identified by the State and applicants from communities that have never received a subgrant in underserved areas identified by the State. A State may consider conducting specific outreach and providing additional technical support to these applicants.

Applicants may build such priorities into the activities in their application, regardless of whether the State places a priority on all or some of the activities. See E-4 for a list of allowable activities. Additional resources and examples can be found on the 21st CCLC NTAC website.

SUBGRANT AWARDS

D-19. What is the minimum amount of 21st CCLC funds an SEA may provide to a subgrantee?

An SEA may not make a subgrant in an amount that is less than $50,000. (Section 4204(h)). The Department interprets this to mean that a subgrant must be at least $50,000 per year. In addition, an SEA must ensure that awards are of sufficient size and scope to support high-quality, effective programs throughout the duration of the subgrant (3-5 years). (Section 4203(a)(5), (a)(8)(A)).

D-20. Does the statutory requirement for a minimum award of $50,000 per subgrant apply to a consortium of entities?

Yes. The minimum 21st CCLC grant award is $50,000 regardless of how many entities take part in the consortium. (Section 4204(h)).

D-21. What is the period of a 21st CCLC subgrant award?

An SEA must award a 21st CCLC subgrant for not less than 3 years and not more than 5 years. The SEA may determine the appropriate length of a subgrant for the community it serves within the statutory parameters. (Sections 4203(a)(8)(A), 4204(g)).

D-22. May an SEA award a subgrant to operate a summer-only program?

Yes. A 21st CCLC program is intended to provide students attending low-performing schools opportunities for academic enrichment and a broad array of other activities "during nonschool hours or periods when school is not in session (such as before and

after school or during summer recess)." (Section 4201(b)(1)(A)). Such services may also occur during other times when school is not in session, such as weekends, summer, and school breaks. Because a 21st CCLC award must be for at least three years (section 4204(g)), the subgrantee would need to operate the program for at least three summers.

D-23. May 21st CCLC program funds support communities that are already implementing before- and after-school activities?

Yes. 21st CCLC funds may be used to expand and enhance current activities provided in existing after-school programs, whether supported by public or private funds. For example, a subgrantee might use funds to align activities to help students meet local and State academic standards if those services are not part of the current after-school program. Again, subgrantees must bear in mind that 21st CCLC funds may be used only to supplement and not supplant any Federal or non-Federal funds used to support current programs. (Section 4204(b)(2)(G)).

For more information on the supplement, not supplant requirements under 21st CCLC, see E-1.

D-24. On what basis does an SEA make continuation awards?

Given that a fiscal year's funds are available for no longer than 27 months, a subgrantee operating for three to five years will need to receive a continuation award from the SEA for at least some portion of its subgrant. Typically, an SEA provides one year of funding at a time and makes a non-competitive continuation award for each subsequent year. There are no statutory provisions that address the criteria an SEA must assess in determining whether to provide continuation awards for local subgrants. An SEA may wish to consider criteria similar to that which the Department uses in making non-competitive continuation awards for its discretionary grants, such as making progress towards the goals and objectives, submitting all required reports, and maintaining sufficient financial systems (see 34 C.F.R. § 75.253).

The Department also encourages an SEA to consider a subgrantee's remaining funds from the previous year when making continuation awards. It may be appropriate to reduce the continuation award if a subgrantee did not fully expend the funds from the previous year even when there is a sufficient justification for not expending the funds, such as position vacancies, savings due to virtual programming, and over-budgeting for supply costs.

RENEWABILITY

D-25. May an SEA renew a subgrant after the period of the subgrant award ends?

Yes. While a local competition is a core requirement of the 21st CCLC program, an SEA may elect to renew a subgrant for an additional three- to five-year period.

There may be times that renewing an existing subgrant may make sense. For example, if the SEA has lower-than-expected funds available for new awards, the SEA is experiencing staff capacity issues, or the SEA expects few applicants, it may be appropriate to renew existing subgrants. Absent extraordinary circumstances, an SEA may only renew a subgrant one time. Should the SEA believe a second renewal is necessary, the SEA must first consult with the Department to explain the extraordinary circumstances.

An SEA should establish a clear and Consistent renewability process and communicate its process to all subgrantees in a timely manner. The SEA should document the justification for granting a renewal. In determining whether to renew a subgrant, the SEA must consider the subgrantee's performance during the preceding subgrant period. (Section 4204(j)). An SEA must also use the local subgrantee's evaluation to determine if it is eligible for renewal. (Section 4205(b)(2)(B)(iii)).

D-26. How does renewability differ from subgrant continuation awards?

Continuation occurs when an SEA continues a subgrant from one year to the next through the original period of performance based on availability of funds, project performance, and compliance with progress and financial reporting requirements.

Renewability occurs at the end of the original period of performance. Generally, an SEA may renew a subgrant one time for an additional grant period for three to five years. (See D-25.)

D-27. May a subgrantee make changes to its approved application if the SEA renews the subgrant?

In developing its renewability process, an SEA should consider that each approved 21st CCLC subgrantee went through a rigorous peer review or comparable process and was awarded a subgrant based on the information in its application. The scope and objectives of the program should remain the same. Any changes to the scope and objectives must be approved by the SEA.

E. LOCAL USE OF FUNDS

SUPPLEMENT, NOT SUPPLANT

E-1. How does an SEA or subgrantee use 21st CCLC funds to supplement, and not supplant, other funds?

The ESEA contains two supplement, not supplant requirements related to 21st CCLC—one that applies to an SEA and one that applies to a subgrantee—that are designed to ensure that 21st CCLC funds do not supplant funds available from other sources for similar activities. The Department uses two presumptions to determine whether

supplanting has occurred: (1) whether a 21st CCLC grantee or subgrantee used 21st CCLC funds for an activity it is required to provide to comply with Federal, State, or local law; and (2) whether a grantee or subgrantee used 21st CCLC funds for an activity that it supported in the prior year(s) with other funds. These presumptions are rebuttable. For example, an SEA or subgrantee may be able to demonstrate that it no longer has the funds available it used in the prior year for an activity it wishes to continue with 21st CCLC funds.

The two 21st CCLC supplement, not supplant provisions are slightly different with respect to the funds that may not be supplanted with 21st CCLC funds.

- Section 4203(a)(9) of the ESEA requires an SEA to assure in its consolidated State plan that it will use 21st CCLC funds to supplement, and not supplant, "other Federal, State, and local public funds" used to provide authorized programs and activities. This provision requires an SEA to use 21st CCLC funds only to supplement activities it conducts with other Federal, State, or local funds and not to replace such funds with 21st CCLC funds.
- In contrast, section 4204(b)(2)(G) of the ESEA requires a subgrantee in its local application to assure that it will use 21st CCLC funds to "increase the level of State, local, and other non-Federal funds that would, in the absence of [21st CCLC funds], be made available for programs and activities authorized under this part, and in no case supplant Federal, State, local, or non-Federal funds."

The operative difference between the SEA and subgrantee supplement, not supplant provisions is the inclusion of "other non-Federal funds" with respect to a subgrantee. The inclusion of "other non-Federal funds" at the subgrantee level applies particularly to a CBO, for example, that might use non-Federal funds from fundraising or a philanthropy for an activity that its 21st CCLC funds must supplement. If such other non-Federal funds are not available in a subsequent year, the CBO may rebut the presumption of supplanting and use 21st CCLC funds for the activity.

LOCAL ACTIVITIES

E-2. Are there any Federal requirements for the hours of operation of a 21st CCLC program or the number of students a local 21st CCLC program must serve?

No. The ESEA does not require specific hours of operation, except that a 21st CCLC program must offer services during non-school hours or periods when school is not in session (e.g., before or after school, evenings, weekends, holidays, summers, or other school vacation periods). (Section 4201(b)(1)). Similarly, there are no Federal requirements for the minimum or maximum number of students a 21st CCLC program must serve. Each 21st CCLC applicant should base its application on the needs of its students and their families.

E-3. May a 21st CCLC program be located or take place outside of a school?

Yes. Section 4204(c) of the ESEA allows an SEA to approve an application for a 21st CCLC program to be located in a facility other than an elementary or secondary school. However, the alternate facility must be at least as available and accessible to all of the participants as if the program were located in an elementary or secondary school. An SEA must determine the evidence it requires an applicant to provide to demonstrate that the program will be available and accessible.

Whether the program takes place in a school building or other facility, an applicant must:

- Assure that it will provide a safe and easily accessible facility (Section 4204(b)(2)(A)(i)); and
- Describe how it will address the transportation needs of participating students, such as the needs of highly mobile students (e.g., students experiencing homelessness, migratory students, students in foster care). (Section 4203(a)(10)).

E-4. For what activities may a subgrantee use 21st CCLC funds?

Each 21st CCLC subgrantee may use the funds to carry out a broad array of before- and after-school activities (or activities on weekends, summer, and during other times when school is not in session) that advance student achievement and overall well-being. Section 4205 of the ESEA authorizes the following 21st CCLC activities:

1. Academic enrichment learning programs, mentoring programs, remedial education activities, and high-quality tutoring services, that are aligned with—
   A. The challenging State academic standards and any local academic standards; and
   B. Local curricula that are designed to improve student academic achievement;
2. Well-rounded education activities, including such activities that enable students to be eligible for credit recovery or attainment;
3. Literacy education programs, including financial literacy programs and environmental literacy programs;
4. Programs that support a healthy and active lifestyle, including nutritional education and regular, structured physical activity programs;
5. Services for individuals with disabilities (See questions E-25 through E-27);
6. Programs that provide after-school activities for students who are English learners that emphasize language skills and academic achievement;
7. Cultural programs;
8. Telecommunications and technology education programs (e.g., digital literacy programs);
9. Expanded library service hours;
10. Parenting skills programs that promote parental involvement or support family literacy (See question E-7);
11. Programs that provide assistance to students who have been chronically absent, suspended, or expelled to support their academic achievement;
12. Drug and violence prevention programs and counseling programs;
13. Programs that build skills in science, technology, engineering, and mathematics ("STEM"), including computer science, and that foster innovation in learning by

supporting nontraditional STEM education teaching methods (e.g., work-based learning opportunities); and

14. Programs that partner with in-demand fields of the local workforce or build career competencies and career readiness and ensure that local workforce and career readiness skills are aligned with the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 *et seq*.) and the Workforce Innovation and Opportunity Act (20 U.S.C. 3101 *et seq*.)). (See question E-12, E-13, E-14, and E-16.)

(Section 4205(a)).

E-5. How can 21st CCLC programs support increased student attendance and engagement particularly in middle and high schools?

The Department provides specific resources for increasing attendance and engagement on the 21st CCLC NTAC website, through the Center on PBIS | Resource: Improving Attendance and Reducing Chronic Absenteeism, via the National Center on Safe Supportive Learning Environments, and through the Student Engagement and Attendance Center. In promoting improved student attendance and engagement, 21st CCLC programs designed specifically for middle and high school students can:

- Create a welcoming, safe, and inclusive environment;
- Support family engagement and provide family supports;
- Promote strong connections between schools and 21st CCLC programs to allow continuity of supports;
- Implement trauma-informed practices;
- Establish mentoring programs built on strong relationships; and
- Provide relevant and engaging learning experiences (including opportunities for academic acceleration, dual enrollment and early college programs, and high-quality career and technical education, work-based learning, or service-learning programs).

More information on these strategies can be found at the Department's memo to the field. In addition to taking advantage of these Department resources, we encourage SEAs and 21st CCLC subgrantees to focus on appropriate evidence-based practices.

E-6. May 21st CCLC funds be used for activities with dangerous weapons?

Under the ESEA, funds generally may not be used for the provision to any person of a dangerous weapon (as defined in 18 U.S.C. 930(g)(2)) or training in the use of a dangerous weapon. On October 6, 2023, President Biden signed into law a bill amending section 8526 of the ESEA which clarifies that the prohibition does not apply to the use of ESEA funds for activities that are carried out under ESEA programs and that are otherwise permissible, and that "provide students with educational instruction or educational enrichment activities, such as archery, hunting, other shooting sports, or culinary arts."

E-7. May 21st CCLC funds support services to family members?

Yes. A subgrantee may fund educational services or activities that support student learning and are appropriate for adult family members of students participating in a 21st CCLC program. Engaging families in local programs can increase a student's academic performance and success and overall well-being by building knowledge and awareness of the student's educational needs and fostering continued engagement outside of the program. For example, 21st CCLC programs may provide lessons on family financial literacy, health and wellness programs, and strategy workshops to support students in completing homework assignments.

E-8. May a subgrantee use 21st CCLC funds to provide an elective high school course?

Yes. A 21st CCLC subgrantee may use 21st CCLC funds to offer an elective high school course that, for example, prepares and supports students in taking advanced courses, provided that program is provided during out-of-school time. And, as described below, students taking the elective course may earn credit towards high school graduation. Generally, the use of 21st CCLC funds for a course that is required as a graduation requirement would violate the supplement, not supplant provision in section 4204(b)(2)(G) of the ESEA because, in the absence of the 21st CCLC funds, the school or LEA would have to provide sufficient opportunities for students to earn the requisite credits for graduation.

A subgrantee may use 21st CCLC funds for programs or activities, in out-of-school time, that allow students to receive credit towards high school graduation requirements if the programs or activities (1) are an expansion of the options for receiving high school credit in a particular academic area that would not have been provided without the 21st CCLC funds; and (2) do not replace or reduce any courses or programs normally provided by the school or LEA (i.e., there is no reduction in the course offerings or costs in that particular academic area).

E-9. May 21st CCLC funds support services for pre-kindergarten children?

Yes. 21st CCLC programs primarily serve students in schools eligible for Title I schoolwide programs. Although "students" are designated in statute as the intended beneficiaries of the program, younger children who are not yet eligible for kindergarten and live in the attendance area of the schools being served may also participate in program activities designed to ensure those children enter kindergarten ready to succeed.

E-10. Are field trips an allowable use of 21st CCLC funds?

Yes. Participating students may take part in a field trip that will further their academic enrichment and align to the goals and objectives of the program. The costs must be reasonable and necessary for implementing the program. An SEA has discretion in approving field trips and is encouraged to develop a process by which to do so.

E-11. May 21st CCLC funds be used to purchase food for participants?

Subgrantees are encouraged to participate in the USDA Food and Nutrition Service programs that provide meals and snacks to students and families outside of the school day. However, there may be times when students and families are participating in 21st CCLC programs during normal meal or snack times and food is not otherwise available. For example, it may be necessary to provide dinner during a parent engagement activity that is scheduled during the early evening hours to encourage participation. 21st CCLC funds may be used for food costs if they are reasonable, necessary, allowable, and allocable as defined by the Uniform Guidance in 2 C.F.R. §§ 200.403-200.405.

E-12. May a subgrantee offer a career pathway during out-of-school time that results in an industry-recognized credential?

Yes. A subgrantee may offer classes and/or support work-based learning experiences that lead to an industry-recognized credential. The program may partner with local businesses in in-demand, high-wage fields to create career pathways for students. The costs of certification examinations associated with the industry-recognized credentials may be paid with program funds.

E-13. How may a subgrantee identify "in-demand fields" for career pathway programs and align its activities with the Carl D. Perkins Career and Technical Education Act of 2006?

Under the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (Perkins V), each LEA completes a comprehensive local needs assessment (CLNA) to inform its application for subgrant funds. The CLNA, which is updated biennially, examines the alignment of the LEA's career and technical education programs with workforce needs, the needs of the LEA's students, particularly students from low-income backgrounds and other members of special populations, and other factors. A subgrantee interested in identifying in-demand fields and aligning its activities with Perkins V will find these CLNAs to be a rich source of information and guidance. An LEA's career and technical office can provide a copy of its most recent CLNA upon request. Perkins V also emphasizes preparing students for "high-wage occupations." The U.S. Department of Labor's CareerOneStop website features a report on occupations with the highest median wages in the U.S., as well as in each state, that includes information on each occupation's typical work activities and its educational and skill requirements.

E-14. How may a subgrantee identify in-demand, high-wage fields for career pathway programs and align its activities with activities funded under Title I of the Workforce Innovation and Opportunity Act (WIOA)?

Title I of WIOA authorizes funding for job training and other workforce development activities for adults, youth, and dislocated workers that are delivered through a network of American Job Centers. Each State is required to identify "existing and emerging in-

demand industry sectors and occupations" throughout the State in its Unified or Combined State Plan (section 102(b)(1)(A)(i) of WIOA). Local workforce development boards identify "existing and emerging in-demand industry sectors and occupations" in their regions in their local application for WIOA funds (section 108(b)(1)(A)(i) of WIOA). Contact information for State and local workforce development boards can be found on the U.S. Department of Labor's CareerOneStop website. Wages are another important consideration. Subgrantees can find information on the occupations with the highest median wages in the U.S. and in each State on the CareerOneStop website, along with information on each occupation's typical work activities and its educational and skill requirements.

E-15. May a subgrantee offer opportunities during out-of-school time for secondary school students to participate in dual or concurrent enrollment programs?

Yes. A subgrantee may offer opportunities for secondary students to participate in dual or concurrent enrollment programs through which they enroll in one or more postsecondary courses and earn postsecondary credit. Dual enrollment is a proven, evidence-based strategy to increase high school achievement and completion and to boost postsecondary enrollment and credential attainment. However, the use of 21st CCLC funds for dual and concurrent enrollment programs may only supplement and not supplant any Federal or non-Federal funds that are being or have been used to support dual or concurrent enrollment programs. (See E-1).

E-16. May a subgrantee offer opportunities during out-of-school time for secondary school students to participate in work-based learning programs?

Yes. A subgrantee may offer opportunities for secondary school students to participate in work-based learning programs that support career awareness, exploration, and the development of employability skills. However, the use of 21st CCLC funds for student participation in work-based learning programs may only supplement and not supplant any Federal or non-Federal funds that are being or have been used to support work-based learning programs. (See E-1).

E-17. May a subgrantee offer opportunities during out-of-school time for secondary school students to participate in career and college counseling or coaching?

Yes. A subgrantee may offer opportunities for secondary students to participate in career and college advisement, student transition services, and other activities that provide coaching and advisements to students that support their career and college goals. However, the use of 21st CCLC funds for student participation in career and college advisement may only supplement and not supplant any Federal or non-Federal funds that are being or have been used to support student advisement programs. (See E-1).

SUBGRANTEE FISCAL ISSUES

E-18. How long are 21st CCLC funds available for obligation at the local level?

Under section 421(b) of GEPA, 21st CCLC funds are available for obligation for 27 months (e.g., funds awarded July 1, 2023, are available for obligation until September 30, 2025). Because the SEA awards 21st CCLC funds through a competition (rather than through a formula), the SEA may establish a shorter period of time in which the subgrantee must obligate its funds. For example, the SEA may determine that a subgrantee must obligate the funds in the fiscal year for which the funds are appropriated. Accordingly, an SEA may permit its subgrantees to carry over unobligated 21st CCLC funds, or the SEA may collect those funds at the end of the initial grant period and redistribute them to other participating subgrantees.

E-19. May an LEA that receives a 21st CCLC subgrant consolidate local administrative funds?

With approval from the SEA, an LEA that receives a 21st CCLC subgrant may consolidate administrative funds with any other administrative funds available from ESEA programs and any other program designated by the Secretary of Education, consistent with the administrative cost provisions established for each program. Such consolidation may enhance the effective and coordinated use of administrative funds under the consolidated programs. (Section 8203).

E-20. May an LEA receiving a 21st CCLC subgrant consolidate 21st CCLC grant funds in a schoolwide program?

Yes. Under section 1114(a)(3) of the ESEA, a school operating a schoolwide program may consolidate its 21st CCLC subgrant with other Federal, State, and local funds to upgrade the entire educational program of the school. By consolidating funds, an LEA does not have to comply with most of the statutory and regulatory requirements of the programs provided it meets the intent and purposes of the programs. Moreover, the LEA is not required to maintain separate accounting records that identify the specific activities supported by the 21st CCLC funds. However, the LEA is still responsible for implementing activities for which it received the 21st CCLC award. For more information on consolidating funds in a schoolwide program, see the Department's Guidance on Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program.

E-21. May a 21st CCLC subgrantee charge indirect costs to its grant?

Yes. Indirect costs are the expenses incurred by a subgrantee in administering or providing 21st CCLC programs. A subgrantee must have, or must establish, an indirect cost rate agreement to charge indirect costs to a subgrant. A subgrantee that does not have a current indirect cost rate may request that the SEA negotiate such an agreement or refer it to the "cognizant" agency that establishes such a rate. (See 34 C.F.R. § 76.560). The SEA, as the grantee, is responsible for ensuring that subgrantees properly expend and

account for Federal funds, including direct or indirect costs. Claims for indirect costs are determined in accordance with applicable Federal cost principles.

The SEA should make it clear in its competition announcements that subgrantees must use a restricted indirect cost rate. See 34 C.F.R. § 76.563.

E-22. May a 21st CCLC subgrantee accept philanthropic funds?

If a subgrantee is offered an endowment, given a grant, or donated funds to supplement the 21st CCLC program, the subgrantee may accept the gift. In this case, the funds would not be considered program income.

E-23. May a 21st CCLC subgrantee "braid" funding to support its program?

Yes. The term "braiding" is generally used to refer to coordinating funds to meet a common goal, but where the funds are tracked separately. A subgrantee may braid funds from various origins (i.e., Federal, State, and local government; non-government sources) to provide services to meet the goals and objectives of its 21st CCLC program. For example, a State or subgrantee may consider braiding 21st CCLC and CCDF funds. See question C-6 for more information about CCDF.

A subgrantee may use State or local funds in conjunction with its 21st CCLC funds to implement its program. For example, if a 21st CCLC subgrantee is awarded a $400,000 21st CCLC subgrant and the State provides another $300,000 to run an afterschool program and both programs provide services to meet the goals and objectives of the 21st CCLC program, then the subgrantee may braid the funds to run the entire program. That is, the subgrantee can use grant funds from the different sources to operate its program, consistent with the supplement not supplant requirements. (See E-1 for more information on supplement, not supplant.) The 21st CCLC funds must be tracked separately to ensure the subgrantee is meeting all applicable Federal requirements, and 21st CCLC subgrant awards must be of sufficient size and scope to support high-quality effective 21st CCLC programs, even if a subgrantee is also braiding additional funds to expand those programs. See ESEA section 4203(a)(5)(A).

EQUITABLE SERVICES

E-24. Must a 21st CCLC subgrantee provide for the equitable participation of private school children and educators in programs and activities?

Yes. All subgrantees receiving funds under the 21st CCLC program must, after timely and meaningful consultation with appropriate officials of private schools located in the area served by the subgrant, provide to private school children and educators educational services and other benefits that are equitable in comparison to such services and other benefits provided with program funds to public school children and educators. (Section 8501(a)(1), (3)(A)). The requirement to provide for the equitable participation of private

school children and educators applies regardless of whether a subgrantee is an LEA, CBO, or other eligible entity.

Comprehensive guidance on meeting this requirement is included in the *Title VIII, Part F of the Elementary and Secondary Education Act of 1965: Equitable Services for Eligible Private School Children, Teachers, and Other Educational Personnel, Non-Regulatory Guidance (July 17, 2023)* available at: https://www2.ed.gov/about/inits/ed/non-public-education/files/esea-titleviii-guidance-2023.pdf. (In particular, see Section K).

STUDENTS WITH DISABILITIES

E-25. May a 21st CCLC subgrantee prohibit a student with a disability from participating in a 21st CCLC program?

Generally, no. Under the Department's regulations implementing Section 504 of the Rehabilitation Act of 1973 (Section 504), a 21st CCLC subgrantee, by virtue of receiving Federal financial assistance, must provide services and activities in such a manner as is necessary to afford students with disabilities meaningful access to, and an equal opportunity to participate in, such services and activities. 34 C.F.R. Part 104, and §§ 104.4 and 104.37. Titles II and III of the Americans with Disabilities Act (ADA) and their implementing regulations likewise prohibit discrimination on the basis of disability. 28 C.F.R. Parts 35 and 36. Under these Federal laws, a 21st CCLC subgrantee, whether an LEA or other eligible entity, is required to provide certain program modifications, supports, and services to a student with a disability in order to ensure meaningful access and an equal opportunity to participate in nonacademic and extracurricular programs or activities, unless the 21st CCLC subgrantee can demonstrate that the modification or aid or service would constitute an undue burden to its program or would fundamentally alter the 21st CCLC program. For more information about obligations under Section 504 to provide students with disabilities an equal opportunity for participation in nonacademic and extracurricular services and activities, see the Department's Dear Colleague Letter dated January 25, 2013, available at: https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf.

A 21st CCLC subgrantee that is an LEA is also subject to the requirements in Part B of the Individuals with Disabilities Education Act (IDEA). Under IDEA, to meet the individualized needs of a student with a disability, the student's individualized education program (IEP), developed by the IEP Team, must include any supplementary aids and services determined appropriate and necessary in order to afford the student an equal opportunity for participation with nondisabled peers in nonacademic and extracurricular services and activities, which may include the 21st CCLC program. In general, the provision of such supplementary aids and services is the responsibility of the LEA. Supplementary aids and services are aids, services, and other supports to enable a child with a disability to be educated with nondisabled children to the maximum extent appropriate and could include ensuring that all materials are in an accessible format (e.g., braille, audio description, captioning, etc.) based on the student's individual needs as determined by the IEP Team. 34 C.F.R. §§ 300.42, 300.107(a), 300.117, and

300.320(a)(4)(ii), and Analysis of Comments and Changes to final IDEA Part B regulations, 71 Fed. Reg. 46,540, at 46,583 (Aug. 14, 2006). These IDEA obligations are not subject to the defenses referenced above.

E-26. May a subgrantee use 21st CCLC funds to pay for supplementary aids and services required for a student with a disability to participate in the 21st CCLC program?

Yes. Program funds may be used to cover the cost of supplementary aids and services for a student with a disability.

E-27. Do civil rights requirements apply to a private organization that receives a 21st CCLC subgrant?

Yes. Civil rights laws apply to recipients of Federal financial assistance, whether a recipient is public or private. They include Title VI of the Civil Rights Act of 1964, which bars discrimination based on race, color, or national origin; Title IX of the Education Amendments of 1972, which bars discrimination based on sex; Section 504 of the Rehabilitation Act of 1973, which bars discrimination based on disability; American with Disabilities Act which also bars discrimination based on disability; and the Age Discrimination Act of 1975, which bars discrimination based on age.

PROGRAM INCOME

E-28. What is program income?

Program income is the gross income earned by a non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the performance period. (2 C.F.R. § 200.1). Program income typically occurs in local 21st CCLC programs in connection with selling student products as part of a training or entrepreneurial project. In very rare cases, program income could be due to program fees (see question E-31).

E-29. May a 21st CCLC subgrantee generate program income?

Yes, a 21st CCLC subgrantee may earn program income. In accordance with 2 C.F.R. § 200.307, any program income that is earned by a 21st CCLC subgrantee must be deducted from the 21st CCLC subgrant unless the subgrantee receives prior written approval from the Department to earn program income. (See 2 C.F.R. § 200.407(c)). Any program income generated by a 21st CCLC subgrantee must be used within the subgrant period (e.g., the 3-5 years granted by the SEA) for the purposes and under the conditions of the subgrant.

E-30. How may an SEA request prior written approval from the Department for a subgrantee to generate program income?

An SEA may request prior written approval on behalf of a subgrantee by submitting a request to the Department. That request should describe—

1. How the subgrantee plans to generate program income and an approximate amount of income likely to be generated (e.g., the amount that the subgrantee expects will be earned and added to the subgrant).
2. Why the program income is necessary to achieve the goals and objectives of the program. (An SEA must make a subgrant of sufficient size for a subgrantee to operate its 21st CCLC program.)
3. How the program income funds will be tracked and reported to the SEA (e.g., the mechanism the subgrantee will use to inform the SEA of the program income earned).

E-31. May a subgrantee charge families a fee to participate in a 21st CCLC program as program income?

In light of the requirement in section 4204(b)(2)(F) of the ESEA that a 21st CCLC program target students who primarily attend schools eligible to operate a schoolwide program—i.e., schools with a poverty rate of at least 40 percent—it is generally unreasonable for a 21st CCLC subgrantee to charge a fee for students to participate in a 21st CCLC program in order to generate program income. Families of such students are likely not able to pay a fee, however nominal, to participate in a 21st CCLC program. If a subgrantee wishes to charge fees, the subgrantee must request prior written approval from the Department through the SEA for program income as described in E-30.

The Department will consider the specific circumstances of any such request. Because 21st CCLC programs must primarily target low-income students, unless program fees are required by another coordinated Federal program, such as CCDF (see question C-6), the Department will apply a rebuttable presumption that fees are not necessary to achieve the goals and objectives of the program. Because the 21st CCLC program prioritizes serving students from low-income backgrounds and does not prioritize maximizing the number of students served, the Department generally does not consider the ability to provide more programs, or larger programs, to be, on its own, a sufficient justification for charging program fees.

EXPANDED LEARNING PROGRAM (ELP) ACTIVITIES

E-32. May an SEA award 21st CCLC funds to support activities during the school day?

Under section 4204(a)(2) of the ESEA, an SEA may award 21st CCLC funds to support enrichment and engaging academic activities during the school day, provided they are part of an overall expanded learning program (ELP) that provides students at least 300 additional program hours (including before, during, and after the traditional school day, weekends, summer, and school breaks).

The Department has not defined what it means to have an ELP. The Department does not interpret the term "expanded learning program" in section 4204(a)(2) of the ESEA to mean the same as "expanded learning time," as defined in section 8101(22) of the ESEA. Also, the Department does not define how to calculate the 300 hours.

An SEA must determine that the ELP provides at least 300 hours before a 21st CCLC subgrantee may use 21st CCLC funds for activities during the school day. There are multiple scenarios that may comply with the statutory language. For example, an SEA might choose to allow an ELP where a 21st CCLC subgrantee would provide at least 300 hours of activities both during and out of school and may therefore implement 21st CCLC activities during the school day. An SEA might also permit a 21st CCLC subgrantee to provide services during the school day when a school increases its mandatory hours by 300 hours.

E-33. When a subgrantee provides services during the school day, what requirements must be met?

A 21st CCLC subgrantee that is providing services during the school day as part of an ELP must meet the same requirements as other 21st CCLC subgrantees, except for the requirement to provide services outside of the school day. These requirements include statutory provisions in the ESEA and Federal regulations in the Uniform Guidance and EDGAR.

E-34. Does the 21st CCLC supplement, not supplant provision apply to the use of 21st CCLC program funds to provide ELP activities?

Yes. The 21st CCLC supplement, not supplant provision applies to the use of 21st CCLC funds to provide ELP activities. Thus, an SEA must ensure that the 21st CCLC funds are used to supplement, and not supplant, Federal, State, local, or non-Federal funds that, in the absence of the 21st CCLC funds, would be made available for programs and activities authorized under the 21st CCLC program. (Section 4204(a)(2)(B)). For example, if the State requires services for 3rd grade students who are at risk of not meeting challenging state academic standards in reading, 21st CCLC funds may not be used to provide those services even if the program is offered during an expanded school day. However, 21st CCLC funds may supplement the reading services beyond the mandatory number of hours or days. As another example, 21st CCLC funds may be used to offer an arts class during the school day if the school does not have an arts requirement.

(See E-1 for more information on supplement, not supplant.)

E-35. Is an SEA required to approve a request to use 21st CCLC funds to provide ELP activities?

An SEA has the discretion to permit, in its subgrant application, ELP activities. If it does so, the Department encourages the SEA to define the requirements for an ELP, including how to measure whether the applicant is providing at least 300 hours of programming.

E-36. How may a subgrantee that is not an LEA use 21st CCLC program funds to provide ELP activities?

A non-LEA subgrantee may use 21st CCLC funds to carry out ELP activities on the same basis as an LEA. The subgrantee would need to coordinate with its partner LEA(s) to implement ELP activities during the school day.

E-37. May a subgrantee use 21st CCLC funds to pay teacher salaries for ELP activities?

Yes. A subgrantee may use 21st CCLC funds to pay teacher salaries for ELP activities if the services provided by the teachers are allowable under the 21st CCLC program and are supplemental activities that the school would otherwise not provide in the absence of the 21st CCLC funds. (Section 4204(a)(2)(B)).

F. EVALUATION AND MONITORING

F-1. What are the State evaluation requirements?

In accordance with sections 4202(c)(3)(C) and 4203(a)(14)(A) of the ESEA, an SEA must conduct a comprehensive evaluation of programs and activities provided with 21st CCLC funds. An SEA may use its State-level activities funds (i.e., not more than five percent of its 21st CCLC allocation) to conduct a comprehensive evaluation. (Section 4202(c)(3)(C)). To do so, the SEA must develop an evaluation plan that includes, at a minimum—

- Performance indicators and performance measures that align with the regular academic program of the school(s) participating students attend and the academic needs of those students. These indicators and measures must—
  - Be able to track student success and improvement over time;
  - Include State assessment results and other indicators of student success and improvement, such as improved attendance during the school day, better classroom grades, regular (or consistent) program attendance, on-time advancement to the next grade level; and
  - For high school students, may include indicators such as career competencies, successful completion of internships or apprenticeships, or work-based learning opportunities; and
- A description of how evaluation data will be collected.

An SEA may use the measures established by the Department (and reported via the web portal known as 21APR) as its performance indicators and measures to meet these requirements. An SEA that adopts these measures may establish additional measures as well. For example, SEAs may wish to add data from school climate surveys and indicators related to dual enrollment and early college programs.

In order for a 21st CCLC applicant to propose an effective program or activities in its application (see section 4204(b)(2)(E)) and D-6) and a subgrantee to evaluate its 21st CCLC program (see section 4205(b)(2) and F-2), the SEA must ensure that its evaluation plan is available to applicants and subgrantees so they can align and evaluate their programs, respectively, with the indicators and measures on which their program will be evaluated by the SEA.

An SEA must publicly disseminate the evaluation of programs and activities. (Section 4203(a)(14)(C)).

F-2 What are the local evaluation requirements?

Each local subgrantee must conduct a periodic evaluation in conjunction with the SEA's evaluation plan (see F-1) to assess its progress toward achieving the goal of providing high-quality opportunities for academic enrichment and overall student success. (Section 4205(b)(2)(A)). The subgrantee must use the results of its evaluation to refine, improve, and strengthen the program or activity as well as review and refine the performance measures. (Section 4205(b)(2)(B)). A subgrantee may use a reasonable and necessary amount of its grant to conduct this evaluation.

A subgrantee must also collect the necessary data to measure student success as described in the subgrantee's application and to contribute to the SEA's overall evaluation of 21st CCLC programs in the State. (Section 4205(b)(1)(E)).

The subgrantee must provide public notice of the availability of its evaluations and make the evaluations available upon request. (Section 4205(b)(2)(B)(ii)).

F-3. Why does a subgrantee that is not an LEA need access to student academic achievement data?

Student academic achievement data are needed in at least two aspects of a 21st CCLC program. First, an applicant may need LEA or school level data to describe how its proposed program or activities are expected to improve student academic achievement and overall student success. (Section 4204(b)(2)(B), (E)). Second, a subgrantee must evaluate its program or activities to assess the program's progress toward achieving the goal of providing high-quality opportunities for academic enrichment and overall student success. (Section 4205(b)(2)(A)).

F-4. How does a subgrantee that is not an LEA gain access to student achievement data?

Under the Family and Educational Rights and Privacy Act (FERPA), an LEA may disclose personally identifiable information (PII) from a student's education records, to a third party with parental consent or under an exception to FERPA's general consent requirement, if applicable. There are three exceptions to the written consent requirement that LEAs most often consider when disclosing PII from education records to third parties in this context. These exceptions are the "school official," "studies," and "audit/evaluation" exceptions. For information on how these exceptions may apply to

LEAs disclosing PII to a 21st CCLC subgrantee, see the Department's Student Privacy Policy Office's Guidance on Sharing Information with Community-Based Organizations. (See the Department's Student Privacy website for further information on FERPA.)

F-5. Must an SEA monitor subgrantees for compliance?

Yes, an SEA must monitor the activities of subgrantees as necessary to ensure that 21st CCLC funds are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subgrant; and that project performance goals are achieved. (Section 4202(c)(3)(A); 2 C.F.R. § 200.332(d)). An SEA may use a variety of tools to monitor subgrantees such as financial and performance reports, comprehensive onsite and virtual program reviews, and structured periodic check-ins. The SEA must also evaluate each subgrantee's risk of non-compliance with 21st CCLC requirements to inform the SEA's monitoring protocol. (2 C.F.R. § 200.332(b)).

F-6. What is the purpose of a risk assessment of subgrantees?

Conducting risk assessments of subgrantees helps ensure that potential risks are identified, and appropriate monitoring is established to mitigate those risks. If the identified risks are significant, an SEA may impose specific conditions under 2 C.F.R. § 200.208 in the subgrant award.