



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 3, 2024

Summary Response to Comments on *Title IV, Part B of the Elementary and Secondary Education Act of 1965 (ESEA) DRAFT Non-Regulatory Guidance*

On May 17, 2023, the U.S. Department of Education (Department) published for public comment the document titled *Title IV, Part B of the Elementary and Secondary Education Act of 1965 DRAFT Non-Regulatory Guidance*. Twenty-six comments were submitted, which the Department considered in finalizing the document. A summary of the comments and a description of changes that the Department made to the draft guidance follow.

First, the Department received several comments suggesting that we add examples of best practices within the guidance. While we appreciate this suggestion, we have declined to add this to the guidance document because we worry it may serve to unnecessarily constrain the field in the future, as practices evolve or advance over time. However, the Department intends to address these recommendations through our ongoing technical support and professional development opportunities for grantees and subgrantees, including the new 21st Century Community Learning Centers (21st CCLC) National Technical Assistance Center.

Several comments requested that we clarify that out-of-school time, during which 21st CCLC programs may be implemented, includes summer. In response to these comments, we revised the guidance to specifically include “summer” when talking about when out-of-school time programming might occur. Specifically, we added references to “summer” in the Introduction and questions A-2, D-6, D-22, E-4, and E-32.

The Department received a comment asking for more information on how subgrantees can align 21st CCLC programs with the Workforce Innovation and Opportunity Act (WIOA). As a result, the Department added question E-14 to support subgrantees in aligning with WIOA.

In response to public comments, the Department added a question (E-23) about how a 21st CCLC subgrantee may “braid” funds as part of its program and specifically highlighted how a subgrantee may use funds from 21st CCLC and the Department of Health and Human Services’ Child Care and Development Fund program to develop a program.

The Department clarified our expectations regarding program income. The draft guidance published on May 17, 2023, indicated that charging fees may not be appropriate in 21st CCLC programs and outlined what State educational agencies (SEAs) would need to describe in a request for a subgrantee to generate program income. The final guidance makes a few important clarifications. First, the Department clarified (in questions E-23 and E-30) that 21st CCLC sub-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).

Second, after considering the requirements of the Office of Management and Budget Guidance for Federal Financial Assistance (Uniform Guidance), the statutory purpose of the 21st CCLC program, and our past experience in administering 21st CCLC programs, the Department determined that a change in approach on charging program fees is necessary to fulfill the statutory intent. Namely, as described in question E-31, and based on thorough analysis, we have determined that because 21st CCLC programs must primarily target students from low-income backgrounds, unless program fees are required by another coordinated Federal program, the Department will apply a rebuttable presumption that fees are not necessary to achieve the goals and objectives of the program. In addition, because the program is designed to serve 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. Finally, the Department clarified in question E-30 the criteria it will use to evaluate a State educational agency's request for a subgrantee to generate program income.

Lastly, the Department eliminated question F-5 about how the Department collects data from SEAs because we determined that it was unnecessary to provide this level of specificity in the guidance, when best practice indicates that the Department should continually evaluate and seek to improve both the data we collect and our data collection methods.

The Department greatly appreciates the public's comments on the *DRAFT Non-Regulatory Guidance* and trusts that the revisions to this guidance, in conjunction with the 21st CCLC statute and applicable regulations, will assist grantees and subgrantees with implementing the program.