

# Summary of Science of Reading Legislation and Allowable Uses of Federal Funds

## House Bill 33 Science of Reading and ReadOhio Summary

Ohio Governor Mike DeWine recently announced the [ReadOhio initiative](#), an exciting statewide effort to encourage improved literacy skills for all ages that includes the implementation of a curriculum aligned with the science of reading in Ohio's schools. The ReadOhio initiative, through the state operating budget and continuing law and legislation, makes historic investments in literacy to support schools and districts in implementing the science of reading. Key components of this support include the following:

- Professional development in the science of reading to ensure all educators across the state have the training and skills to provide effective literacy instruction. Districts and schools must require all educators to complete [the Department's science of reading professional development course](#) by June 30, 2025.
- Beginning not later than the 2024-2025 school year, each school district, STEM school, and community school must use core curriculum and instructional materials in English language arts and evidence-based reading intervention programs only from the [lists established by the Department](#). Districts and schools may not use any core curriculum, instructional materials, or intervention program in prekindergarten through grade five that use the three-cueing approach to teach students to read. However, districts and schools may apply to the Department for a waiver on an individual student basis to use a curriculum, instructional materials, or an intervention program in pre-kindergarten through grade five that uses the three-cueing approach to teach students to read.
- High-dosage tutoring for students with a Reading Improvement and Monitoring Plan (RIMP) – Districts and schools will be required under state law to provide all students who have RIMPs with high-dosage tutoring beginning in the school year 2023-2024. The high-dosage tutoring opportunities must be aligned with high-quality tutoring best practices and the science of reading. In addition to other RIMP requirements, high-dosage tutoring must continue beyond grade 4 if the student is still not reading at grade level.
- [RIMP continuation beyond third grade](#) – A student's RIMP continues throughout their academic career until the student reads at grade level (a score of proficient or higher on the Ohio Test for English language arts).

## Frequently Asked Questions

### 1. Are Title I-A funds allowed to provide the required high-dosage tutoring in the new Science of Reading Legislation?

**Answer:** ORC 3313.608(C), ORC 3314.03(A)(11)(d), and ORC 3326.11 require at least three days per week or at least 50 hours over 36 weeks of high-dosage tutoring for students with deficiencies in Reading. Federal education funds, including funding under the Elementary and Secondary Education Act (ESEA), must be used supplementally and are not to supplant state and local funds that would otherwise be used to offer those programs and services.

However, under ESEA section 1118(d) the use of Title I, Part A (including Supplemental School Improvement grant and Expanding Opportunities for Each Child grant) funds by subgrantees on programming that meets the intent and purpose of Title I (commonly known as the Title I look-alike) may be excluded from supplement, not supplant and comparability determinations (34 C.F.R 200.79(b)). In this case, high-dosage tutoring could be considered a Title I look-alike program when it is provided for struggling students to meet the state’s challenging academic standards. Additionally, the district should ensure they are budgeting state and local funds for “core educational programs” and not include supplemental tutoring in the allocation methodology for supplement, not supplant.

### 2. If the Title I “look-alike” exception applies, could Title I, Part A funds be used for the costs of materials for the high-dosage tutoring?

**Answer:** Yes. Districts should follow their methodology for supplementing under Title I-A funding, and the costs should be excluded from the building allocation methodology for it would be allowable.

### 3. What are the licensure requirements for staff providing high-dosage tutoring services if using Title I-A, Title I-C, Title I-NCSI, Title I-EOEC, Title III, or Title V-B?

**Answer:** Ohio does not require high-dosage tutors to be licensed for tutoring. ORC 3313.608(C)(7) requires high-dosage tutors to follow best practices. The requirements for high-dosage tutors are found in the Third Grade Reading Guarantee Guidance which lists these best practices.

- a. Tutors should receive training on tutoring expectations, relationship building, routines, content and instructional strategies, and progress monitoring. Documentation of this training is recommended, particularly when using federal funds to provide high-dosage tutoring.
- b. Tutors should have regular opportunities to communicate with classroom teachers about student progress and to assure alignment with classroom instruction.

- c. Tutors must pass a background check and enroll in the Rapback program. (ORC 3319.39(a), 3301.28).

**4. Are the costs for staff professional development to implement the Science of Reading instructional strategies allowable under ESEA and IDEA since it is required by the state?**

**Answer:** If funds were appropriated in the state budget for these purposes, then federal funds should not be used to provide professional development (PD). Any PD beyond what was provided for within the state budget would be an allowable use of funds under Title I-A (including Title I Non-Competitive Supplemental School Improvement grant and Expanding Opportunities for Each Child grant), Title II-A, Title III for EL students, and Title V-B. Additionally, any PD beyond what was provided for in the state budget would be allowable under the IDEA Part B funds, as long as the PD was intended to address the academic needs of students with disabilities. Districtwide PD would not be supported with IDEA Part B funds.

Districts should be cautious when using Title I funds for professional development offered to all teachers, and all schools, regardless of Title I eligibility. However, the Department believes it is reasonable and allowable to use Title I funds to offer professional development to staff who work with struggling readers in Title I-served buildings but use state and local funds for staff from buildings not served. The Department considers this a Title I “look-alike” activity. In this case, the district should not include the professional development costs in building allocation methodology for supplement, not supplant.

**5. Is a district permitted to use federal funds to purchase or provide new materials and professional development activities for programs or instructional strategies prohibited in Ohio such as three-cueing?**

**Answer:** No. The use of federal funds for activities must be consistent with state requirements. According to Uniform Guidance [2 CFR 200.403\(c\)](#), federal funds must be used towards activities that are consistent with policies and procedures allowable under state law.

**6. Our district purchased materials in the past with federal funds for our supplemental reading program that are now on the approved list for districts to use for their “core” reading program. Under section 26be5330(B)(1) of HB33 subsidy funds have been provided by the state to purchase aligned materials and programming. Since we used federal funds for our supplemental reading program before, can we use Title I-A (including Title I Non-Competitive Supplemental School Improvement and IDEA) to continue to purchase those materials and use them in our “core” reading program?**

**Answer:** Districts are required to provide the basic educational programs in the district with its state and local funds. Federal funds are intended to supplement the basic educational program for students at risk of not meeting state standards. The district may only use federal funds (including sources such as IDEA Part B) to purchase materials that supplement its “core” reading program. Districts should identify the “core” reading materials that all students and all teachers have for the instruction of state standards to determine when supplemental materials for the instruction of struggling students begin. These materials may only be provided to staff providing services to students identified through a multi-criteria selection process in a targeted assistance building. IDEA Part B funds cannot be used for supplemental materials intended for all students, but only for supplemental materials needed by special education services.

**7. Districts are required to diagnostically assess K-3 students’ reading annually and monitor students’ progress through re-assessment multiple times throughout the year. Can federal funds be used to provide diagnostic assessments?**

**Answer:** Federal funds should not be used to purchase the assessments if funds were appropriated in the state budget for the diagnostic assessments. In addition, the Department cautions against using federal funds for any state-mandated assessments without specified state funding even if using the federal funding may be allowable in certain circumstances since the district would be required to provide the assessment regardless. The district should first consider its supplement, not supplant, methodology for Title I-A if they use federal funds for such activities.

**8. Is the cost included as a part of its methodology used to demonstrate equitable distribution of state and local funds before determining Title I programming for eligible buildings? If mandated by the state, why was the cost for state-mandated assessments not included in the methodology for Title I-A?**

**Answer:** The supplement, not supplant provision under ESEA for Title II-A, Title III, Title IV-A, and Title V-B would affect the allowability for continued use of the fund to provide diagnostic and progress monitoring state-mandated assessments. The following instances are presumed for supplanting:

- a. The district used federal funds to provide services that the district was required to make available under other federal, state, or local laws;
- b. The district used federal funds to provide services that the district provided with non-federal funds—or, in the case of Title III and Title V-B funds only, other federal funds—in the prior year; or
- c. The district used federal funds to provide services to eligible students through a federally funded program that the district provided to non-eligible students using non-federal funds.

If the above provisions apply, district use of federal funds to supplant would be unallowable.

If supplement, not supplant does not affect allowability, then the district could possibly consider using the same assessment to meet the federal requirement for evaluation of program performance in Uniform Guidance §200.328(a). If the assessment is also used to “inform improvements in program outcomes and productivity” for effective monitoring of the programs supported with the federal awards, then the cost could also be contributed to the federal award.

**9. Should the costs of items or functions needed to meet HB33 be included in the required building allocation methodology for Title I-A?**

**Answer:** To demonstrate compliance with supplement, not supplant under Title I, Part A, local educational agencies must be able to demonstrate that the methodology used to allocate state and local funds to schools is “Title I neutral.” ESEA Section 1118(b)(2). Federal law requires a district to have a methodology for equitably allocating state and local resources to buildings before allocating Title I funding. Therefore, the costs for items required by state law receiving state resources would be included in the building-level methodology and should not be paid with federal funds, including Title I. However, if the items or purposes are required by state law and no state or local funding is provided, the district might be able to use Title I to pay for the costs if it meets the intent and purpose of Title I. To meet the intent and purpose of Title I, the cost must be intended to help at-risk students meet the state’s challenging academic standards. Those costs should be excluded from the district’s building-level allocation methodology required for Title I, supplement, not supplant.

**10. The new state legislation requires training for staff in the Science of Reading. Can federal funds be used to provide teachers with professional learning on The Science of Reading?**

**Answer:** No. Title II funds must be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities under [Title II].” ESEA Section 2301. It is important to note that using a building-level allocation methodology to comply with supplement, not supplant is only permitted for Title I-A. All other ESEA title programs, including Title II-A, are subject to stricter supplement, not supplant requirements. In addition, if funds were provided or there was no cost to the district, federal funds should not be used.

- a. **Can federal funds be used for state-required training?** No. The training required by the state is free and there are no costs to the district for staff to receive the training. In addition, the training is specifically state-mandated law, then supplement, not supplant for Title II-A applies and the funds may not be used.
- b. **Can federal funds be used if the district wants to provide training above that is required by law?** Any professional development for the Science of Reading beyond the specifically mandated training would be an allowable use of Title II.

- c. **Can federal funds be used for travel expenses related to additional training?** Only if the training is supplemental to what is required by law.
- d. **Can federal funds be used to pay teachers a stipend who took previous training in the Science of Reading, were not compensated at the time, and are not required to complete the current training in which they would receive a stipend?** Any payments made with federal funds must occur during the year that the activity occurred. If staff took training in an earlier year, then staff should not be paid with federal funds from the current year.

**11. Do the new state requirements regarding the Science of Reading impact the state and local expenditures used for the district’s ESEA Maintenance of Effort requirement or the district’s IDEA Part B Maintenance of Effort Requirement?**

**Answer:** Possibly. Maintenance of Effort under ESEA Title I-A, Title I NCSI, Title I EOEK, Title IIA, Title III, Title IV-A, and Title V-B requires that a district maintains its spending for educational programming at 90% of what was expended in the previous year. ESEA sections 1118(a) and 8521(a). If the district must expend additional funds to implement the requirements in the new legislation, then the amount required for state and local educational programming could increase, thus increasing the amount required for the district to meet maintenance of effort under ESEA. To clarify, if the district expends additional funds in FY24 to implement requirements under HB33, the amount needed to meet Maintenance of Effort in FY25 could increase. Yet, the expense needed for FY24 no longer exists and the amount the district has expended out of its state and local funds has decreased. If the decrease is more than 10% of FY24 total expenditures out of state and local funds then the district could fail Maintenance of Effort for FY25.

Maintenance of Effort under IDEA requires that a district maintains its state and local spending for the education of students with disabilities at least the same (100%) amount in total or per capita as the amount spent for that purpose in the previous fiscal year. 34 CFR 300.203. If the district incurs additional special education-related costs to implement the requirements in the new legislation, then the amount required for IDEA Maintenance of Effort could increase.

The district is encouraged to consider what costs are required by legislation and what costs could be considered supplemental during their budgeting process. The district should also monitor its spending over the next few years, while adjustments to budgeting occur as it attempts to implement these new requirements. Please refer to the [Maintenance of Effort USDoE Non-Regulator Guidance](#) located in the Maintenance of Effort system in the CCIP or visit the Department’s [IDEA & Maintenance of Effort FAQS webpage](#).

## Chart of State Statutory Requirements and Funding Sources

State Legislation	Description	Activity	Possible Sources of Funds
O.R.C. 3313.6028(B)	High-Quality Instructional Materials: Core Curriculum in English Language Arts	Core Curriculum and Instructional Materials	State and Local Funds
O.R.C. 3313.6028(B)(1) of HB 33.	High-Quality Instructional Materials: Reading Intervention Materials	Intervention and Supplemental Materials	Title I-A (including Title I Non-Competitive Supplemental School Improvement grant), Title III (EL students), Title V-B, IDEA Part B (students with disabilities)
O.R.C. 3313.608 Third Grade Reading Guarantee	High-Dosage Tutoring	Additional supports for struggling readers	State and local funds, Title I-A (including Title I Non-Competitive Supplemental School Improvement grant and Expanding Opportunities for Each Child Non-Competitive grant), Title III, and Title V-B, IDEA Part B (students with disabilities)
Section 265.330(A)(1) of House Bill 33 of the 135th General Assembly	Professional Development in the Science of Reading	Teachers that complete the Department's course in the Science of Reading not later than June 30, 2025	No cost to the district since training is provided free by the agency. <i>*Chartered nonpublic schoolteachers are not eligible for stipends, although they may access the training at no cost.</i>

<b>State Legislation</b>	<b>Description</b>	<b>Activity</b>	<b>Possible Sources of Funds</b>
No data	No data	Additional professional development on the Science of Reading for teachers and administrators	Title I-A (including Title I Non-Competitive Supplemental School Improvement grant), Title II-A, Title III, IDEA Part B (students with disabilities)
Section 265.330(A)(2) of House Bill 33 Science of Reading Professional Development	Stipends for Teacher Training on the Science of Reading	Districts and schools must pay a stipend to each teacher who completes the Department’s Science of Reading professional development course.	State and Local Funds *In accordance with Section 265.330(A)(3) of H.B. 33, districts and schools may apply to the Department for reimbursement of the cost of the stipends. <a href="#">Instructions to Access Science of Reading PD Reimbursement Portal</a>
No data	No data	Stipends for additional training on the Science of Reading	Title I-A (including Title I Non-Competitive Supplemental School Improvement grant), Title II-A, Title III, and Title V-B, IDEA Part B (students with disabilities)
Section 265.330(C) of HB 33 Literacy Coaches	State Literacy Coaches	Regional literacy coaches are provided by the state for identified districts.	Provided by the State. No state or local funds are required for the activity.
No data	District Literacy Coaches	District literacy coaches provided by the district	Title I-A (including Title I Non-Competitive Supplemental School Improvement grant), Title II-A, and Title V-B IDEA Part B for literacy coaches specific for special education and related services

<b>State Legislation</b>	<b>Description</b>	<b>Activity</b>	<b>Possible Sources of Funds</b>
Science of Reading regular diagnostic assessments	Includes identification for why some students have difficulty attaining proficiency in reading and writing.	District Diagnostic Assessments, if unfunded in state budget	Title I-A (including Title I Non-Competitive Supplemental School Improvement grant) and Title V-B

## Federal Funds Guidance

[Title I-A Spending Guidance](#)

[Title II-A Spending Guidance](#)

[Title IV-A Spending Guidance](#)

[Guidance on Supplement, Not Supplant in ESEA](#)

[Non-Regulatory Guidance: English Learners and Title III of the Elementary and Secondary Education Act \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#)