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The Impact of Every Student Succeeds Act (ESSA) on Equitable Title I Services for
Nonpublic School Students

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A Dissertation in Practice Proposal Submitted to The Graduate School at the
University of Missouri-St. Louis in partial fulfillment of the requirements for the
degree Doctor of Education in Educational Practice

May 2016

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ABSTRACT

Sec. 1120 of the Elementary and Secondary Education Act (ESEA) of 1965 requires local education agencies (LEAs) to provide equitable education services to eligible public and nonpublic school students, teachers and parents using Title I, Part A funds. Title I, Part A is designed to equalize educational opportunities and resources for disadvantaged children. President Obama reauthorized ESEA by signing the bipartisan Every Student Succeeds Act (ESSA), into law December 10, 2015 and stated, “This bill upholds the core value that animated the original Elementary and Secondary Education Act signed by President Lyndon Johnson, the value that says education, the key to economic opportunity, is a civil right for all” (White House, 2015).

While there has been a 14 year wait on reauthorization, ESSA could have significant financial and regulatory impact to the equitable services provision of Title I, Part A, pending the transition from NCLB of 2001 to ESSA of 2015. The Consolidated Appropriations Act of 2016 will delay the ESSA implementation until the 2017-2018 school year to allow feedback and careful considerations to the regulations for this new law. During the 2016-2017 school year, LEAs will continue to follow NCLB guidance.

This policy paper provides a review of current NCLB equitable service provisions which remain in effect until August, 2017. It identifies the new ESSA provisions related to equitable services, examines the compliance and financial impact to local education agencies, and offers regulatory recommendations to local, state and federal rule making committees.

INTRODUCTION

In Fall, 2015, 50.1 million public and 4.9 million nonpublic school students walked through the doors of K-12 schools in the United States (National Center for Education Statistics, 2015). Though from varying backgrounds, they were all seeking an opportunity for the type of success President Lyndon B. Johnson spoke of when he signed the Elementary and Secondary Education Act (ESEA) in 1965. Title I, Part A, the largest federal education program, creates the rules for formula grants to help school districts educate disadvantaged students. Congress allocated \$1.3 billion in 1965 and \$14.4 billion in fiscal year 2015 to fund Title I, Part A. Providing equitable service was always a provision in the Elementary and Secondary Education Act (ESEA) but the reauthorization of No Child Left Behind (NCLB) in 2001 to include LEA discretion of funding set-asides, and recent state flexibility waivers have had a direct impact on the amount of funding available for equitable services. The Every Student Succeeds Act returns the equitable services provision to pre-NCLB standards and allows all funding created by low income students to be allocated to them prior to guidance and or set-asides amending the funding formula. The Title I, Part A program provides supplemental educational services so that all children have a fair, equal, and significant opportunity to obtain a high-quality education (United States Department of Education, 2006).

“Title I Services to Eligible Private School Children,” a report presented by the USDE in 2003, provided fiscal guidance which states local school districts must partner with nonpublic administrators to serve Title I, Part A, eligible private school students. This guidance further explained the requirement for equitable services, including a timeline of service completion and examples of consultation efforts (USDE, 2003). It was the intent of Title I, Part A to provide supplemental funds to LEAs serving higher concentrations of students in poverty. Title I funds are given directly to local education agencies (LEA) to provide coordinated programs and services to groups of academically struggling, low-income students (Pudelski, 2015). Funds are allocated based on the percentage of poverty and number of low-income students in an area, therefore both public and private school students generate funds. All of the children living in the attendance area are eligible to participate therefore the LEA is required to ensure low achieving private school students receive Title I services (USDE, 2003).

BACKGROUND

President Lyndon B. Johnson asked that "full educational opportunity" be "our first national goal" (Johnson, 1964). Based on his personal experiences teaching impoverished students with limited resources, he waged the "War on Poverty" to reduce the "causes" rather than the "consequences" of poverty (Johnson, 1964). The Elementary and Secondary Education Act (ESEA) provides supplemental funds that are channeled through public authorities who receive ESEA funds and act on behalf of all eligible children in their community regardless of the type of school they attend. Most importantly, ESEA provided federal grants to state educational agencies (SEA) to improve the quality of elementary and secondary education (U.S. Dept. of Education, 2015) (National Catholic Education Association, 2013).

Extending federal funds to eligible nonpublic school students created much dispute in Congress, but the agreement to serve public and nonpublic students allowed ESEA to pass. The congressional discourse stemmed from whether extending the funds to nonpublic school students (most of which were religious in nature) created a First Amendment violation of church and state. There was much debate and litigation; though, the end result was "students" were receiving federal supports as opposed to "religious schools" receiving supports. The debating subsided long enough to pass the ESEA although litigation continued throughout the years as many believed there were definite conflicts between church and state. Several federal court cases resulted in increased bureaucratic guidelines and mandates which made it difficult for local education agencies to serve students and stay in compliance.

What are the requirements for Local Education Agencies (LEA) under the equitable service provision?

Consultation is a required process of communication between the private school administrator and LEA. It must take place prior to decisions being made on how federal program dollars and services will be delivered though the LEA controls funds, employment, and contracts used to provide services to nonpublic students and teachers (MO Department of Elementary and Secondary Education, 2015). Funds may not be dispersed directly to nonpublic schools, as this would be in violation of the “separation of church and state” or Lemon Test. This test is a classification system that is used to determine whether state laws regarding funding or creating religious institutions with public money, violate the United States constitution (Lemon v. Kurtzman, 1971).

Though consultation is required, the LEA makes the final decisions with respect to services provided to nonpublic children with federal funds (Department of Elementary and Secondary Education, 2015). Consultation provides an opportunity for public and private school administrators to discuss student data and work collaboratively to create a plan that identifies how, where and by whom services will be performed for eligible nonpublic school students.

Failure to provide consultation with nonpublic administrators about the funds and services available to serve students and teachers results in unexpended funds, a loss of opportunities for eligible private school students and the possibility of the Secretary of Education intervening. Violations in consultation have been one of the top 10 Title I Part A audit findings (MO Department of Elementary and Secondary Education, 2014).

The evaluation of programming and services is required each spring and must determine whether the student and programming goals have been met, or if amendments are needed for the upcoming year.

ESSA PROVISIONS FOR EQUITABLE SERVICES: CONSULTATION

The ESSA increases consultation accountability by requiring deliverables such as meeting minutes and sign-in sheets, a public/private plan, and a signed assurance by private school officials that the required meeting took place.

- **CONSULTATION:** While NCLB mandated consultation, ESSA states the goal of consultation shall be to reach “agreement on how to provide equitable and effective programs for eligible private school children.” Required topics of consultation include how the proportion of funds for services to private school children should be determined; whether services should be provided directly, by the district, or through a third-party; and whether or not to pool funds for services.
- **CONSULTATION:** If the LEA and nonpublic administrator disagree during the consultation process, the LEA administrator must provide a written account of their reasons for disagreeing.

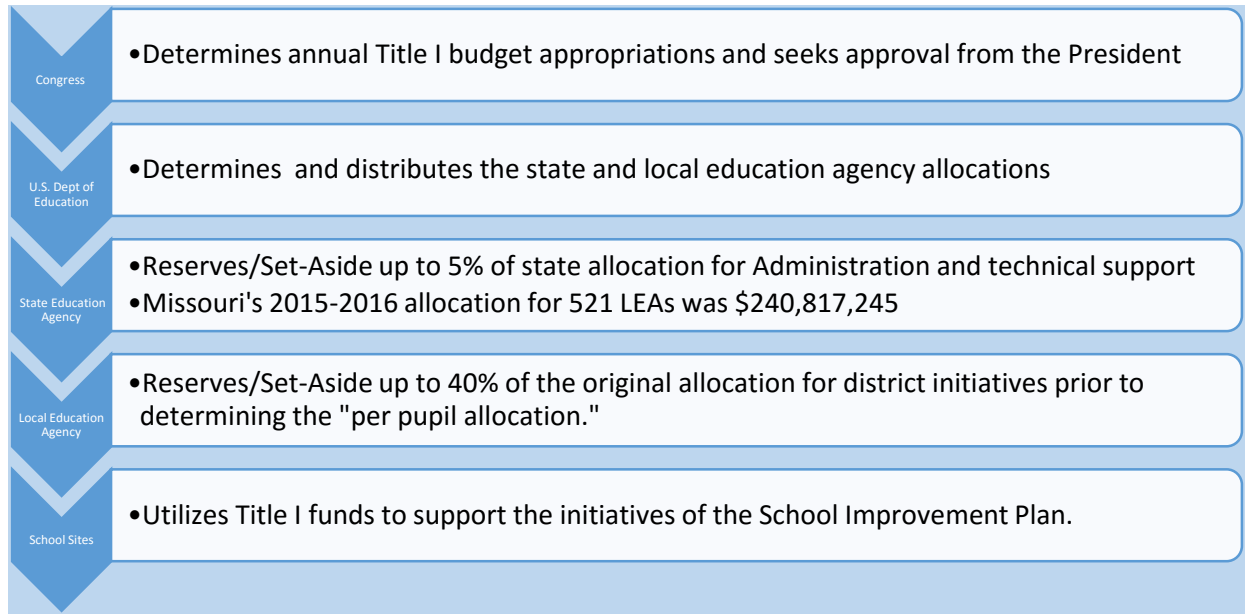
How are Title I funds allocated?

Under NCLB guidance, the progression of Title I Part A funds from Congress to school sites allows great discretion at both the state and local levels. Figure 1 identifies each office and their role in the progression of Title I funds.

Congress determines the Title I allocation annually and forwards to the President for approval. The U. S. Department of Education calculates the Title I allocation for each LEA using census poverty and enrollment data. The USDE transfers funds to the State Education Agency (SEA) for management and review. Ninety-five percent of the Title I, Part A funds allocated to the state are allotted to Local Education Agencies (LEAs) and up to 5% is set-aside or reserved by the SEA so that they may provide technical support, interventions for Focus and Priority schools, and administrative costs. Under NCLB, the LEA may set-aside up to 40% of the original allocation for district initiatives prior to calculating the per pupil allocation. The United States Department of Education allocated \$240,817,245 in Title I, Part A funds to be distributed to Missouri LEAs for the 2015-2016 fiscal year (Missouri Department of Elementary and Secondary Education, 2015).

The amount of Title I, Part A funds allocated to each participating public school attendance area is determined on the basis of the total number of low-income students—both public and nonpublic residing in each area. Expenditures for nonpublic school students in each area are determined based on the number of students from low-income families residing in that area who attend nonpublic school.

Figure 1: PROGRESSION OF TITLE I PART A FUNDS UNDER NCLB



Source: Joycelyn Pugh-Walker analysis of United States Department of Education (USDE) data | <http://www2.ed.gov/programs/titleiparta/legislation.html>

ESSA PROVISIONS FOR EQUITABLE SERVICES: APPROPRIATIONS

- **APPROPRIATIONS:** Though normally set annually, the federal appropriation levels for Title I, Part A under ESSA have been set for the next 4 years. ESSA authorizes Title I, Part A allocations of \$15.0 billion in FY 2017, \$15.5 billion in FY 2018, \$15.9 billion in FY 2019, and \$16.2 billion in FY 2020 (Sec. 1002(a)). While it is encouraging to have funds appropriated in advance, it does not allow flexibility based on data or the increased needs of children instead it places a ceiling on spending over the next four years.

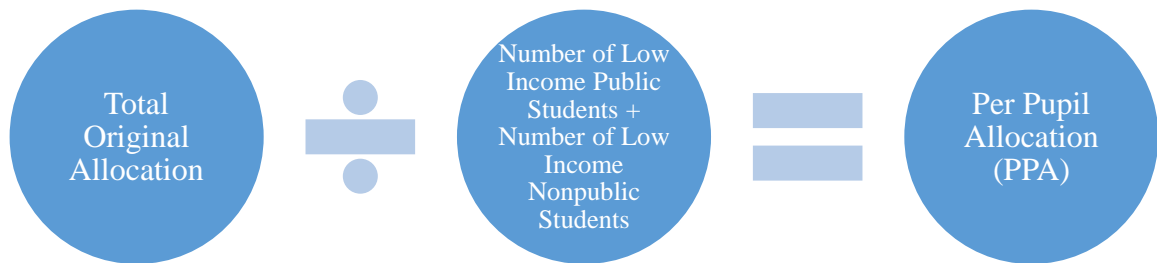
ESSA PROVISIONS FOR EQUITABLE SERVICES: ALLOCATIONS

- **ALLOCATIONS:** Though NCLB allows SEAs and LEAs great flexibility in setting aside funds “off the top” of the original allocation, ESSA will halt this

practice so eligible nonpublic students receive their proportional per pupil allocation.

The Per Pupil Allocation (PPA) is determined based on the Total Original Allocation and the number of low income public and nonpublic students residing in the LEAs attendance area. The original allocation is the amount of Title I Part A funds allocated to the LEA by the SEA to provide supplemental supports. Title I funds are only provided for low income or students receiving free and reduced lunch. The formula for determining “per pupil allocation” is Total Original Allocation divided by the number of low income public and nonpublic students.

In equation form, the ESSA formula for determining per pupil allocations is:

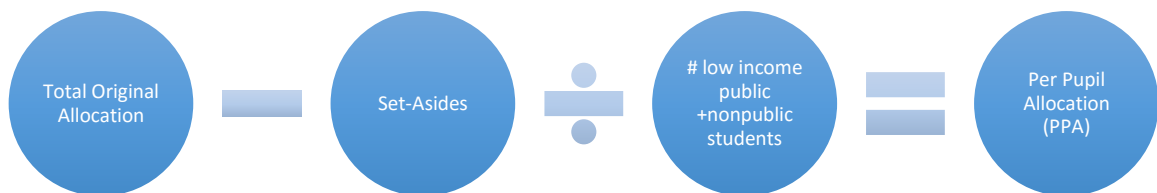


For illustrative purposes (see Table 1), suppose the LEAs original allocation is \$20,000; add the number of low income public and nonpublic students or 200; divide \$20,000 by 200 to arrive at the per pupil allocation of \$100 per student.

Table 1: Hypothetical Illustration of a LEAs Per Pupil Allocation Calculation:

1	Total Original Allocation	\$20,000
2	# Public students enrolled in LEA	500
3	# low income public students enrolled in LEA	150
4	# NP students enrolled in private school	175
5	# low income NP students enrolled in private school in LEA area	50
6	PPA = Line 1 / (line3 +line 5)	\$100 PPA

In equation form, the NCLB formula for determining per pupil allocation with Set-aside reservations is:



Prior to ESSA, LEAs were allowed to set-aside funds for public school initiatives and federal mandates before calculating the per pupil allocation. Using this NCLB formula would net a smaller per pupil allocation to both public and nonpublic school students.

For illustrative purposes (see Table 2), suppose the LEAs original allocation is \$20,000; the LEA uses discretion to set-aside \$4,000 to pay an administrative stipend to someone to administer the grant and sets-aside the mandated amounts for parent involvement and homeless students; subtract \$4,500 from the original \$20,000 and we're

left with \$15,500 to distribute. Add the number of low income public and low income nonpublic students for a total of 200. Divide \$15,500 by 200 for a per pupil allocation of \$77.50 per student. Using this formula results in less funds being available to calculate the per pupil allocation and therefore creates disparity in equitable funding.

Table 2: Hypothetical Illustration of a LEAs Per Pupil Allocation Calculation with set-aside reservations (NCLB)

1	Total Original Allocation	\$20,000
2	Set-aside for administrative stipend	\$4,000
3	Parent involvement mandate	\$300
4	Homeless mandate	\$200
5	# Public students enrolled in LEA	500
6	# low income public students enrolled in LEA	150
7	# NP students enrolled in private school	175
8	# low income NP students enrolled in private school in LEA area	50
9	PPA = (Line 1 –Line 2)/ (line3 +line 5)	\$77.50 PPA

What is equitable funding for eligible nonpublic school students?

LEAs are required to spend an equal per-pupil amount of Title I, Part A funds to serve public and nonpublic school students, teachers, and parents, taking into account the number and educational need of those participants. Services may be provided by the LEA, or by a contractor who is independent of the nonpublic school and any religious organization and must be secular and neutral (MO Dept. of Elementary and Secondary

Education, 2003). The state of Missouri currently has 533 nonpublic schools that have students eligible to receive Title I Part A services from the LEA in their attendance area (National Center for Education Statistics, 2015).

A per pupil allocation is determined based on the total amount of funds available divided by the number of low income students in the school area. The local education agency, after consulting with nonpublic administrators, creates a written plan which includes goals and objectives for improving student achievement then budgets its Title I, Part A allocation. NCLB and waiver guidance created the flexibility of LEAs to create inequities in the per pupil allocation by allowing and in some cases mandating “set-asides.”

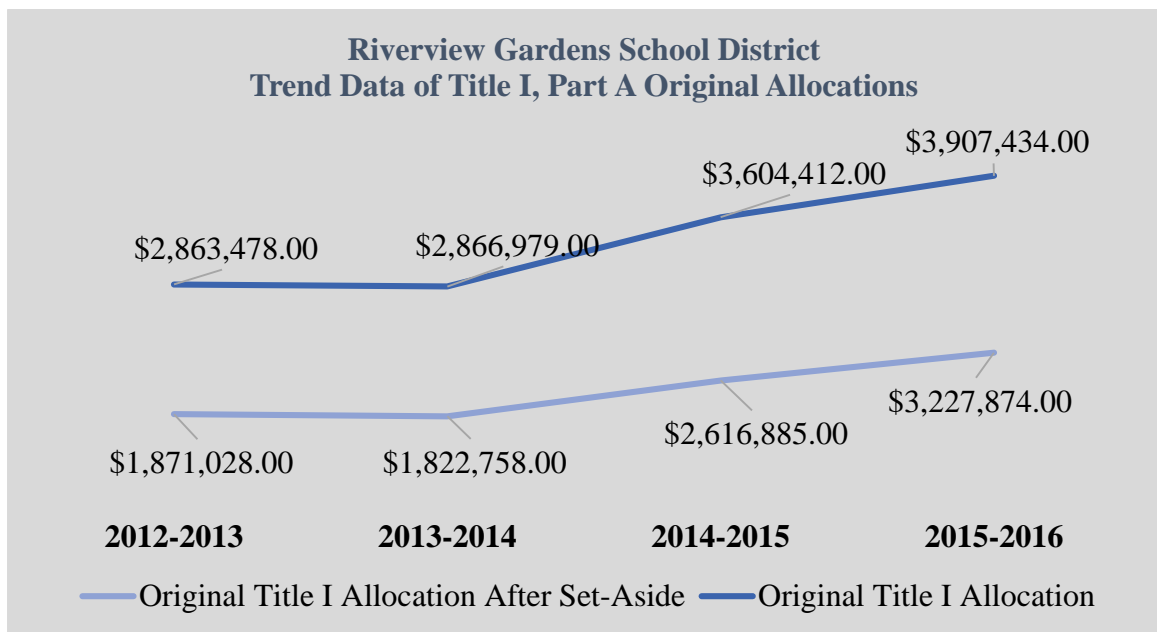
Set-aside Allocations

Set-asides are funds the LEA reserves “off the top” of the original allocation prior to the per-pupil allocation being derived. Some set-asides have specific percentages or limits which are required under NCLB or waivers. For example, LEAs are required to set-aside at least 1% of the original allocation but could, at their discretion, set aside more for parental involvement activities. LEAs with Priority schools, the lowest performing in the state, are able to set-aside 20% of their original allocation to provide additional support to failing public schools. Some of the set-asides are mandates from previous litigation, (e.g., for homeless students and parent involvement) while others are at the LEA's discretion. Set-asides may be created for administrative services, professional development, supplemental summer school, pre-school, neglected students, etc.

The flexibility under NCLB and waivers provides both opportunities and threats. Opportunities for LEAs to legally provide additional supports to public students by placing more funds in set-aside areas which are not shared with nonpublic students and threats to nonpublic students who would receive smaller per pupil allocations because the distributed amount is less. All eligible students help generate the original allocation but only those in public school are able to reap the benefits of the many set-asides. Set-asides could take up to 40% of the original allocation prior to identifying the per pupil allocation, therefore lessening the amount available to serve nonpublic school students.

As Director of Federal Programs in the St. Louis County school district of Riverview Gardens, the researcher tracked trend data of the original Title I Part A funding allocations and the amounts available for distribution after set-asides. Figure 2 provides examples of the disparity in funding because of set-asides.

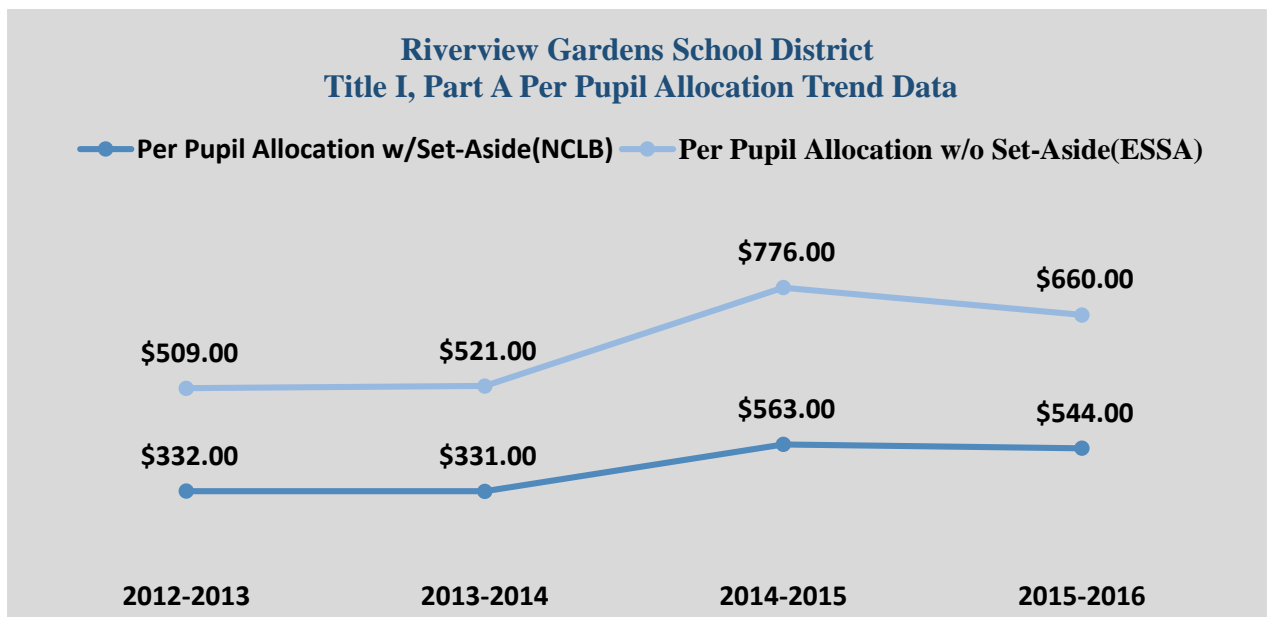
FIGURE 2:



Source: Joycelyn Pugh-Walker analysis of Missouri Department of Elementary and Secondary Education (DESE) data | <https://apps.dese.mo.gov/epegs/FundingApplication/GrantSummary.aspx>

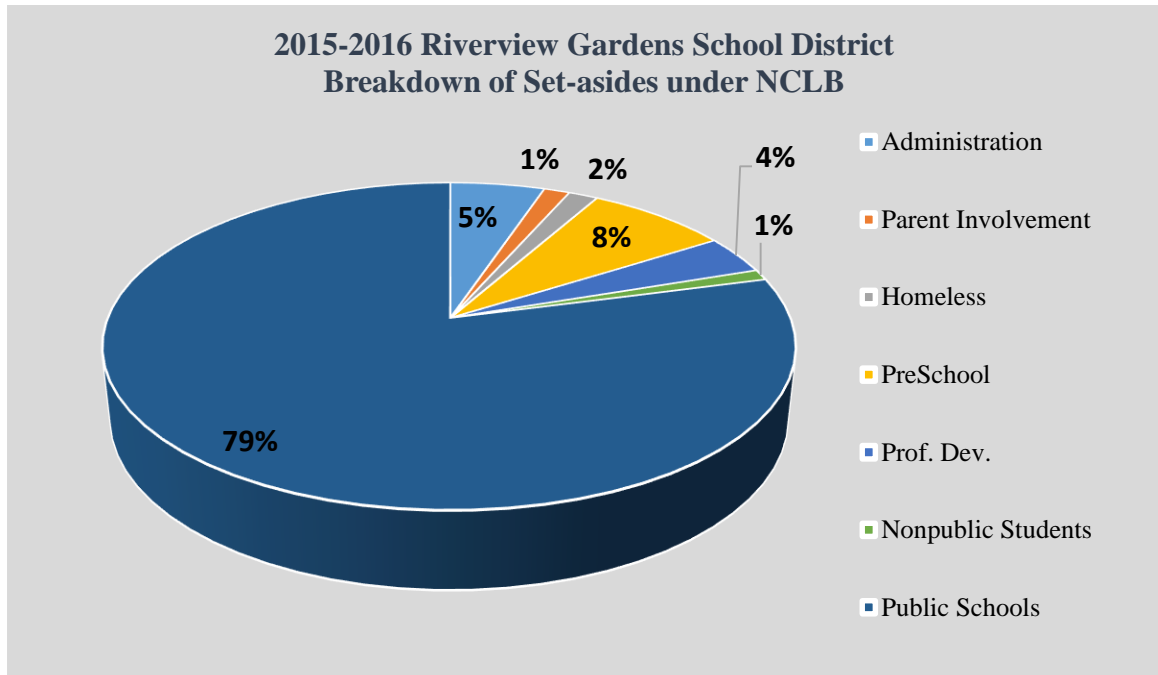
During the 2015-2016SY, there was a \$679,560 increase in funds available for per pupil allocations when no set-aside was calculated. 2014-2015 netted a \$987,527 increase. Figure 3 indicates a 21% increase in 2016, a 37% increase in 2015 and a 57% increase in the per pupil allocation for nonpublic school students without set-aside discretion. From 2012-2014 a higher set-aside was taken by the LEA to accommodate a salary differential for public school instructional coaches and an expansion of the Title I Pre School classes. While these positions were only available at the LEA, the larger set-aside affected the amount available for nonpublic students. Title I Part A funds could be the difference in creating a viable school improvement option for nonpublic school students and under ESSA it will be mandated that per pupil allocations are calculated based on the original allocation prior to allowing any set-asides.

FIGURE 3:



Source: Joycelyn Pugh-Walker analysis of Missouri Department of Elementary and Secondary Education (DESE) data | <https://apps.dese.mo.gov/epegs/FundingApplication/GrantSummary.aspx>

FIGURE 4:



Source: Joycelyn Pugh-Walker analysis of Missouri Department of Elementary and Secondary Education (DESE) data | <https://apps.dese.mo.gov/epegs/FundingApplication/GrantSummary.aspx>

Figure 4 indicates the 2015-2016SY set-asides allocated in the Riverview Gardens School District prior to determining the per pupil allocation. 79% of the total original allocation funded public schools within the LEA and 1% or \$42,384 was allocated to nonpublic schools after set-asides for administration, parent involvement, pre-school, and professional development were removed. This will not be allowed during the 2017-2018SY when ESSA is in full implementation.

ESSA PROVISIONS FOR EQUITABLE SERVICES: FUNDING

Under ESSA, LEAs are required to calculate funds for services to private school students based on its total original Title I allocation, prior to budgeting set-asides or other expenditures. In ESSA this is titled “proportional funding.”

- **FUNDING:** States will be required to inform private school officials “in a timely manner” of the amount of funds available for services and benefits to private school students and teachers.
- **FUNDING:** Under ESSA, Districts are required to spend the funds allocated for the benefit of private school children during the same fiscal year in which those funds are received. Under NCLB, funds that weren’t expended would roll over into the next fiscal year but may not have been allocated for the nonpublic school per LEA discretion.
- **FUNDING:** The state appointed Ombudsman will provide oversight of the application and ensure nonpublic students receive their proportional share of funds to improve their direct services.

What is equitable service for eligible nonpublic school students?

Delivery and Funding of Services

Once per pupil allocations have been determined, distribution of funds may be provided to nonpublic students in one of two ways, either “school by school”, or “pooled” funds:

- **School by School:** Funds follow the student who generated funding. Some schools may have very limited funds based on the number of eligible students and therefore may be unable to provide quality services.
- **Pooling:** Funds are generated by all eligible nonpublic school students and are available for use by the students with the greatest academic need. Criteria must be determined during consultation, but this process coordinates funding and creates cohesive programming though not everyone will receive services.

ESSA PROVISIONS FOR EQUITABLE SERVICES -Delivery of Services

- **SERVICE DELIVERY:** Must be discussed and determined during consultation. If the nonpublic representative does not agree, there is a process for written review and feedback.
- **SERVICE DELIVERY:** ESSA will allow nonpublic administrators to request transfer of all federal programs into one account for use to support student and teacher improvement.

The Bypass Process

A formal complaint procedure is available for nonpublic administrators who believe and can prove a LEA has not provided consultation or equitable services to nonpublic school students in a timely manner. If proven, The Secretary of Education waives the requirements for the LEA to provide Title I services to nonpublic school students and arranges for a third party to provide services. This is known as a bypass because the federal government contracts with a third party vendor to provide services to eligible nonpublic students and funds bypass the SEA and LEA.

Currently only two states, Virginia and Missouri have school LEAs that are on Bypass. There are fifty-four of the over five hundred Missouri LEAs that are on Bypass in the 2015-2016 SY. A third party contract was awarded to Nonpublic Educational Services Incorporated (NESI), a for profit agency, to provide supplemental services to eligible nonpublic school students (Mo Department of Elementary and Secondary Education, 2015). This process removes the authority of the LEA.

ESSA PROVISIONS FOR EQUITABLE SERVICES: THIRD PARTY VENDOR

- ESSA transfers the third party vendor responsibilities from the U.S Secretary of Education to the SEA to provide Title I Part A services on behalf of the LEA if there are unresolved complaints.
- The new law requires states to designate an Ombudsman to monitor and enforce the requirements imposed on school districts to ensure equitable services to private school students.

Are funds allocated for nonpublic students being expended?

Much of the equitable services literature stems from the United States Department of Education survey results, guidance, reports and case law. Most nonpublic school students (80 percent) attend religiously affiliated schools, 42.9% of which are Catholic (National Center for Educational Statistics , 2015). One U.S. Department of Education study entitled *Private School Participants in Federal Programs under the “No Child Left Behind Act” and the “Individuals with Disabilities Education Act” (2006)* by Christensen and Cohodes surveyed a representative sample of public school districts with at least one private school located within their boundaries and a nationally representative sample of private schools located within the geographic boundaries of the sample districts. Surveys reported less than half of private schools reported having at least one participant (students, teachers, or parents) in an “Elementary and Secondary Education Act” (“ESEA”) program, though Catholic schools were more likely than other private schools to have at least one participant in an “ESEA” program.

The process for determining eligibility of Title I Part A funds for nonpublic students relies on the participation of nonpublic administrators. They must annually register with the SEA and submit documentation to prove student eligibility and low income status. This process can be daunting considering nonpublic students reside in various LEA attendance areas and administrators are required to submit information for each.

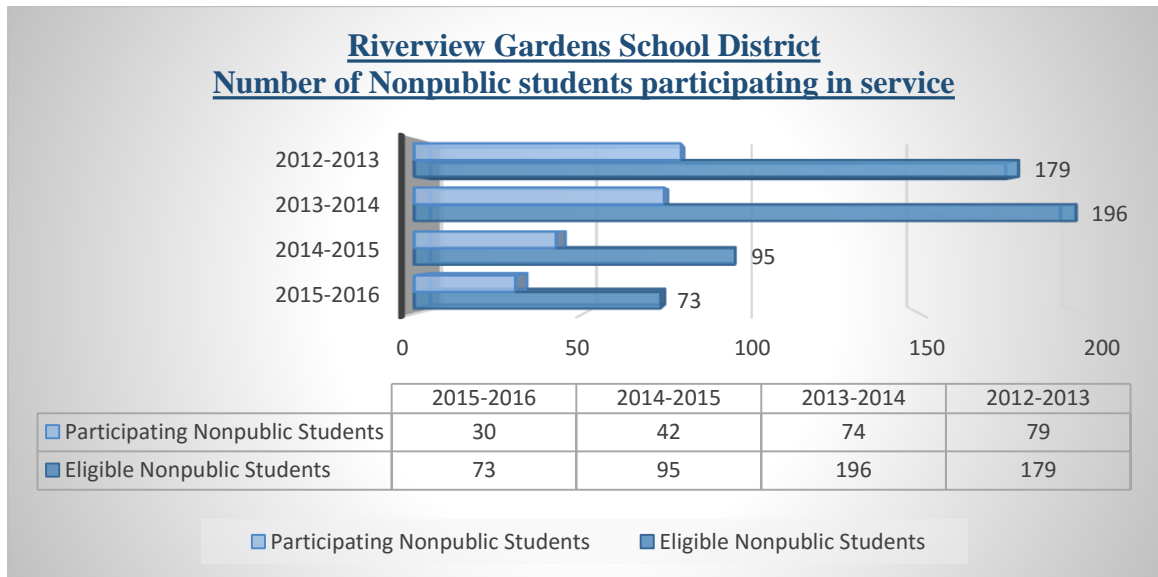
Figure 5 provides trend data for the number of nonpublic students that were eligible to receive Title I Part A funding in Riverview Gardens School District and the

number that actually participated. 44% of eligible nonpublic students participated in SY15 and 38% participated in SY14. Many nonpublic administrators participate in consultation, state their desire to utilize the funds but later provided several reasons for nonparticipation. A lack of understanding of the processes for utilization of funds and services available to students and teachers was paramount. Some were concerned about the burden of submitting documentation while others feared federal interference with their instructional processes.

This trend is indicative of the national level, as well. The National Center for Educational Statistics identified the 2011-2012 private school enrollment in prekindergarten through grade 12 as 5.3 million students though only 171,272 students were served by Title I, Part A. There is a need for additional technical support, guidance, and information to be distributed to public and private administrators and parents.

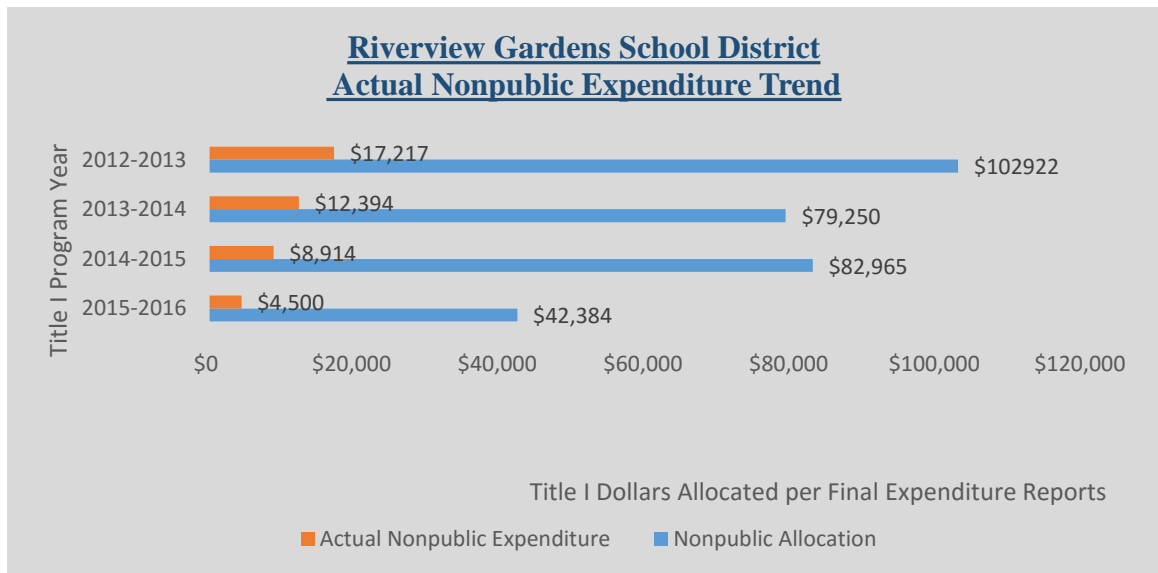
Figure 6 indicates the per pupil allocation was not expended for nonpublic school students. The lack of involvement on the part of nonpublic administrators makes providing services difficult because there is a requirement that they provide information to the LEA about the students to be served and their need for services. Parents are not contacted by the LEA until demographic information is provided by the nonpublic school.

FIGURE 5:



Source: Joycelyn Pugh-Walker analysis of Missouri Department of Elementary and Secondary Education (DESE) data | <https://apps.dese.mo.gov/epegs/FundingApplication/BOAStep4.aspx?phase=BUDGET&version=INITIAL&status=APPROVED>

FIGURE 6:



Source: Joycelyn Pugh-Walker analysis of Missouri Department of Elementary and Secondary Education (DESE) data | <https://apps.dese.mo.gov/epegs/FundingApplication/BOAStep4.aspx?phase=BUDGET&version=INITIAL&status=APPROVED>

ESSA PROVISIONS FOR EQUITABLE SERVICES - EXPENDITURES

- **EXPENDITURES:** ESSA mandates that all funds allocated for nonpublic school students within a fiscal year be expended within the year.
- **EXPENDITURES:** The new Ombudsman position will oversee the process to monitor equity of service.

CONCLUSION

The goals of this policy paper are to inform public and nonpublic administrators of the financial and compliance impact of ESSA, to present another funding source of support for eligible nonpublic school parents who may not be familiar with the possibilities of Title I Part A, to provide concrete examples for calculating proportional share of Title I Part A funds and to influence the policy regulations for ESSA related to equitable services for nonpublic students.

Litigation and the additional constraints for both LEA and nonpublic administrators have molded the processes for equitable services since 1965. This report demonstrates the growing need for national awareness of equitable services to nonpublic school students as USDE and National Center of Educational Statistics data speak to low numbers of eligible nonpublic school students participating and many LEA audit findings related to timely services and lack of consultation.

There is a need for additional SEA consultations or webinars with public and nonpublic school administrators to provide a clearer understanding of equitable services so administrators might be better advocates for the rights of their students and teachers.

The current distribution methods of funding for nonpublic school students is either pooling or on a school by school basis. Neither allows administrators to serve all eligible students and each provides consequences. Pooling brings all funds together such that quality services can be provided but only a small number of students may be served. School by school, provides funding to each eligible student; but depending on the number of eligible students at a nonpublic site, funding may not be enough to provide quality services. Using one good strategy takes care of some but not others. Using another equally good strategy you are actually able to devote enough money to be effective, though not for everyone. It is a conundrum that must be determined during the consultation process.

As of December 10, 2015, the ESSA is now law, however several components remain quite vague. Regulations and guidance that assist us in following the law with compliance have not yet been written, therefore the 2016-2017 school year will be a transition period between NCLB and ESSA to provide a year of right sizing. The newly confirmed Secretary of Education, John B. King Jr., has reached out to the education community for assistance by providing opportunities for structured feedback related to the uniform regulations. Comments are being solicited and may be submitted at: essa.questions@ed.gov. A rulemaking committee has been selected to provide targeted feedback to the USDE. Now is the time for voices to be heard to assist in a successful implementation. Those affected should contact state agency representatives to offer suggestions and their time to participate on committees.

With the passage of the Every Student Succeeds Act, the federal government relinquishes a host of responsibility and empowers State Education Agencies to improve

student outcomes with some level of autonomy. SEAs will be charged with accountability, the compliance of overseeing equitable services, and improving student achievement by providing supports; however according to the Center on Education Policy, state education agencies in 50% of the United States were downsized in 2008 because of the recession. If success is our goal, funding must be made available to right size staff at the SEA to improve student outcomes by supporting LEAs and nonpublic representatives.

Neither presidential frontrunner Clinton nor Trump has taken a concrete stand on education policy in the upcoming election therefore it is imperative we all participate in the process. The following are rule making recommendations which have been submitted for consideration to both the Missouri Department of Elementary and Secondary Education and the United States Department of Education.

REGULATION RECOMMENDATIONS FOR UNITED STATES DEPARTMENT OF EDUCATION:

- **Administration Set-Aside.** The new law requires a proportional share of Title I Part A funds are determined based on the original allocation the LEA receives prior to any allowable expenditures or set-asides. The LEA is responsible for ensuring both public and nonpublic students receive services, therefore the expense for the LEA administrative salary should be shared. The parent involvement and homeless set-asides are mandated and are available for both public and nonpublic students therefore the expense should be shared, as well.
- **Require Automatic Opt-out.** If registration or consultation forms are not completed within a specified timeframe require SEA representatives to contact nonpublic administrators seeking compliance and if noncompliant after a specified time, remove from accountability for lack of participation.
- **Full Funding of ESSA.** While the Title I appropriations for 2017-2020 being listed in the Every Student Succeeds Act is appreciated, the authorized funding levels should be set annually so there is a review of student need and funding to match.
- **Title I Plans.** Regulate that SEA's include in their state Title I plans a description of how and when:
 - the Ombudsman will provide support
 - the nonpublic registration will be streamlined to include source documentation collected or uploaded during registration.

- **Ongoing technical support.** Provide calendars and deadline updates, ongoing webinars, etc. to keep all informed of new regulations, best practices, and data on innovative practices.

REGULATION RECOMMENDATIONS FOR STATE EDUCATION AGENCIES

(SEA):

- **Require accountability and transparency of third party vendors or Bypass agents.** Under NCLB, bypass agents receive contracts from the USDE yet are not required to report the number of students that participated in services, the type of services, outcomes or teacher credentials to the LEA. Under ESSA, third party agents will be under the contract of the state and I suggest the outcome information be available for comparison and improvement purposes. Greater transparency and a more student-centered approach will increase the likelihood of replication of success and a clear indication of a lack thereof.
- **Require Ombudsman to provide ongoing technical support.** Require this new SEA staff member to provide at least 4 regional meetings such that public and nonpublic administrators might come together to discuss best practices and next steps. This level of support has not previously been offered and it would be a great asset to define the role and resources available of the equitable services Ombudsman.
- **Calculate Nonpublic Allocations.** Calculate and set-aside funding for nonpublic entities at the state level. Transparently post allocations to state website. This

would alleviate the misinformation about nonpublic funding and spearhead the consultation process.

- **Ongoing technical support.** Provide calendars and deadline updates, ongoing webinars, etc. to keep all informed of new regulations, best practices, and data on innovative practices.
- **Develop A Uniform, Nonpublic Registration Processes.** State Agency representatives should ensure the registration system which determines funding includes an upload such that source documentation needed to support claimed students (i.e. verification of enrollment and deprivation) is readily available to all LEA's and state financial representatives. This would alleviate the need for nonpublic administrators to follow a different verification process for each LEA thereby possibly causing some to not utilize the funds available. I would also suggest a "universal school boundaries" program be part of the system such that once nonpublic administrators enter the addresses of an enrolled student the appropriate LEA is automatically selected. This would alleviate the issue of Nonpublic schools selecting and therefore removing funds from incorrect LEAs.
- **Provide technical support in Third Party Vendor Services.** A local "What Works Clearinghouse" for proven vendors or provided by the State Agency would assist schools in making sound decisions. Collaborate with local teacher education programs and other LEAs to identify and recruit exceptional teachers.
- **State Board of Education.** The state education budget will require review in order to right size the number of state education agency employees needed to

ensure the supports necessary for compliance and continuous improvement efforts.

- **Require the registration window close on the deadline.** The Nonpublic registration window often stays open longer than the due date to provide nonpublic administrators additional time to complete and therefore qualify to utilize Title I funding. While this is beneficial to the Nonpublic school it prolongs the process and creates timing conflicts for LEA Coordinators who are then charged with verifying the information submitted.
- **Require SEA Support Team Expertise.** Under ESSA, funds are set-aside at the SEA to provide continuous improvement and supports to low performing schools or districts, ensure staff dispersed as support (i.e. Ombudsman, Priority Reps) are highly qualified with a proven track record to build teams and capacity for student achievement.

REGULATION RECOMMENDATIONS FOR Local Education Agencies (LEA's):

- **Participate on State Committees.** Assist in the formulation of rules and regulations of ESSA. Participate in the oversight hearing on implementation of ESSA and provide feedback to both state and federal entities as requests are made.
- **Collaborate with LEA's.** Complete consultation meetings in tandem with neighboring LEA Federal Program Coordinators. This will create universal language and provide opportunities to serve more nonpublic school students considering more nonpublic administrators would utilize funding.
- **Collaborate with LEA's.** Participate in job-alike meetings with other LEA administrators to stay current on the ESSA regulations and mandates.

GLOSSARY OF TERMS:

The terms listed are concepts and definitions that are essential to understand as part of the complexity of ESEA and NCLB. The definitions are listed in alphabetical order.

- **Equitable Services:** services comparable to those received by public school students
- **Eligible:** a low income student residing in an LEA attendance area
- **Federal Programs Administrator:** person designated to manage the federal program funds of a local education agency.
- **Local Education Agency (LEA):** a synonym for a school district, an entity that operates local public primary and secondary schools in the United States.
- **Low Income:** eligible to receive free or reduced lunch
- **No Child Left Behind (NCLB):** is a United States Act of Congress that is a reauthorization of the Elementary and Secondary Education Act. NCLB supports standards-based education reform based on the premise that setting high standards and establishing measurable goals can improve individual outcomes in education
- **Nonpublic:** Not publicly owned or controlled; private, parochial, etc. Nonpublic and private are used interchangeably in this report.
- **Original Allocation:** The original amount of Title I funds an LEA receives from the USDE prior to any Set-asides or carryover funds

IMPACT OF ESSA ON EQUITABLE TITLE I SERVICES FOR NONPUBLIC STUDENTS

- Reauthorization of ESEA: Amending the 1965 law to meet the current needs of stakeholders
- School wide Program – Allows LEAs to use Title IA funds to upgrade the entire educational program of a building, which affects all students.
- Targeted Assistance Program – Title I, Part A funds that are used to serve only the students who generated them and have the greatest educational need.
- United States Department of Education (USDE): This department establishes policy, administers and coordinates most federal assistance to education, collects data on US schools, and enforces federal educational laws regarding privacy and civil rights.

ACRONYMS:

The acronyms are used throughout the paper and are listed in alphabetical order.

- DESE Department of Elementary and Secondary Education –MO
- ESEA Elementary and Secondary Education Act
- ESSA Every Student Succeeds Act
- LEA Local Education Agency
- NCLB No Child Left Behind
- NP Nonpublic students
- PPA Per Pupil Allocation
- SEA State Education Agency
- USDE United States Department of Education

ABOUT THE AUTHOR

Joycelyn Pugh-Walker has served 20 years in the field of Education. The past six years have been as Director of Federal Programs in both Riverview Gardens and Ferguson-Florissant School Districts in St. Louis, Missouri. She writes and manages seven federal grants totaling 6.7 million dollars and serves 12,000 public and nonpublic school students. She is a student in the Doctorate of Education in Practice cohort which focuses on educational policy at the University of Missouri – St. Louis.

Joycelyn was elected to serve on the executive committee of the National Association of Federal Education Program Administrators (NAFEPA) and has represented the state of Missouri on the NAFEPA Board of Directors since 2011. Joycelyn is a former elementary educator, instructional coach, and district data facilitator.

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ACKNOWLEDGEMENTS

I wish to thank my committee members who were generous with their expertise and time. I offer special thanks to my committee chair, Dr. Kathleen Sullivan-Brown for reading, offering feedback and suggestions, encouraging, and most of all, her patience throughout this process. Thank you Dr. Carole Basile, College of Education Dean; and Dr. James Shuls, Assistant Professor, for agreeing to serve on my committee.

DEDICATION

I would like dedicate this work to my mother, Constance Richetta Brown-Pugh, who taught my siblings and me the value of education, critical thought, and creativity.

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