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Revised July 2019 (to align with the U.S. Department of Education's Final Non-Regulatory Guidance)

Ohio Guidance to Comply with ESEA Supplement Not Supplant Requirements¹

GENERAL INFORMATION ON SUPPLEMENT, NOT SUPPLANT

Districts must ensure the use of their federal education funds supplement, not supplant the state and local resources used for education. Generally, the compliance test for districts meeting supplement, not supplant is based on three presumptions of supplanting:

1. Federal funds are used to provide services required under other federal, state or local laws;
2. Federal funds are used to provide services provided with non-federal funds in the prior year;
3. Federal funds are used to provide services to eligible students, while those same services are provided to non-eligible students with non-federal funds.

These three presumptions still apply to all ESEA programs except Title I, Part A. The compliance test for supplement, not supplant for Title I, Part A has been changed under the *Elementary and Secondary Education Act* (ESEA), as amended by the *Every Student Succeeds Act* (ESSA). The Ohio Department of Education has updated this guidance to conform with the [U.S. Department of Education's final non-regulatory guidance](#) issued in late June 2019.

ESSA SECTION 1118(B)(1): TITLE I, PART A SUPPLEMENT, NOT SUPPLANT COMPLIANCE

State educational agencies or school districts, also known as local educational agencies (LEAs), shall use federal funds received under Title I, Part A *only to supplement* the funds that would, in the absence of such federal funds, be made available from state and local sources for the education of students participating in programs assisted under Title I, Part A and not to supplant such funds.

Provision	New Description from ESSA Section 1118(b)
Title I Supplement, Not Supplant Compliance:	To demonstrate compliance a LEA shall demonstrate that the methodology used to allocate State and local funds to each school receiving assistance under Title I, Part A ensures that such school receives all the State and local funds it would otherwise receive if it were not receiving assistance under Title I, Part A. In other words, the LEA's methodology for allocating state and local funds to school buildings is "Title I neutral" and does not take the building Title I status into consideration when allocating resources.
Title I, Supplement, Not Supplant Special Rule	No LEA shall be required to identify that an individual cost or service supported under Title I, Part A is supplemental or provide services under Title I, Part A through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance
Timelines	<ul style="list-style-type: none"> • An LEA shall meet the compliance requirement not later than 2 years after the date of enactment of ESSA. • The LEA may demonstrate compliance with the requirement before the end of such 2-year period using the method such LEA used on the day before enactment of ESSA.
Prohibition	The United States Department of Education is not authorized or permitted to prescribe the specific methodology a LEA uses to allocate state and local funds to each school receiving assistance under Title I, Part A.

¹ Please note that this guidance applies to federal funds under ESEA. Other sources of federal funds, such as the Individuals with Disabilities Education Act (IDEA), may have additional and/or different requirements.

METHODOLOGY FOR ALLOCATING STATE AND LOCAL FUNDS TO COMPLY WITH THE TITLE I, PART A SUPPLEMENT, NOT SUPPLANT REQUIREMENTS

A key step for a district to be compliant with the Title I, Part A supplement, not supplant requirement is for the district to be able to produce, upon written request, a methodology for allocating non-federal resources to all buildings prior to allocating Title I, Part A funds. In other words, the methodology should describe how the district would allocate resources to buildings if no federal resources existed. Federal law does not specify the manner of allocating “all state and local funds” that the school buildings “would otherwise receive” if they were not receiving assistance under Title I, Part A nor does it prescribe that such an allocation methodology be equitable. However, the district must be able to demonstrate that the methodology it uses is “Title I neutral” and school buildings are receiving all the state and local funds they should in the year (as determined in the methodology).

The methodology is a public document and should be posted on the district’s website. A district must be able to explain to auditors, and the public at large, how the methodology works and be able to account for any funds that were not allocated to the buildings in an equitable manner. Federal law does not prescribe consequences for failing to meet the Title I, Part A supplement, not supplant methodology requirements. However, the state is required to enforce ESEA compliance and may reduce Title I funds or seek reimbursement of general funds for any district violation of the Title I supplement, not supplant provision.

SUGGESTED STEPS TO COMPLY WITH THE TITLE I, SUPPLEMENT, NOT SUPPLANT REQUIREMENTS

Before a district is permitted to draw federal Title I, Part A funds, it must assure it has developed a written methodology. Below are suggested steps for a district to develop a methodology:

1. Review this Ohio Department of Education guidance and the U.S. Department of Education guidance while developing the methodology used for the school year.
2. Consult with a variety of stakeholders and building administrators in developing the building-level education plans and the non-federal resources used to support the plans.
3. Determine districtwide initiatives and the non-federal resources needed to support the initiatives.
4. During the consultation process in the spring, develop the methodology for allocating non-federal resources to buildings.
5. Post the plans and the methodology used on the district website.
6. Check one of the two pre-determined methodology examples or describe another methodology to be used to allocate non-federal resources in the Ohio Department of Education’s Comprehensive Continuous Improvement Plan (CCIP).
7. Submit the consolidated application before July 1, with assurances signed by the superintendent and treasurer.
8. Regularly monitor and evaluate the methodology process to make sure the non-federal resources allocated to buildings (as based on the methodology) are available throughout the year.
9. Keep financial records of the non-federal allocations aligned to and supportive of the methodology. Such records will be requested during monitoring reviews.

EXAMPLE METHODOLOGIES TO ALLOCATE NON-FEDERAL FUNDS

The Ohio Department of Education suggests districts select from one of the two methodology examples below.

1. **Distribution of non-federal resources based on characteristics of students** (This form of equitable distribution is generally referred to as a “weighted per pupil” funding formula.)

Assume:

- Allocation for each student = \$7,000
- Additional allocation for each student from a low-income family = \$250
- Additional allocation for each English learner = \$500

- Additional allocation for each student with a disability = \$1,500
- Additional allocation for each preschool student = \$8,500

In a school of 450 students, including 200 students from low-income families, 100 English learners, 50 students with disabilities and 20 preschool students, the school would be expected to receive \$3,495,000 in non-federal resources based on the following calculations:

Category	Calculation	Amount
Allocation/student	450 x \$7,000	\$3,150,000
Allocation/student from low-income family	200 x \$250	\$50,000
Allocation/English Learner	100 x \$500	\$50,000
Allocation/student with a disability	50 x \$1,500	\$75,000
Allocation/preschool student	20 x \$8,500	\$170,000
		\$3,495,000

To meet the supplemental funds test, a district would need to distribute non-federal funds according to the assumptions above to all of its schools, regardless of whether a school receives Title I funds.

2. Distribution of non-federal resources based on staffing and supplies

Assume:

- 1 teacher per 22 students (\$65,000/teacher)
- 1 principal per school (\$120,000)
- 1 librarian per school (\$65,000)
- 2 guidance counselors per school (\$65,000/guidance counselor)
- \$825 per student for instructional materials and supplies (including technology)

In a school of 450 students, the school would be expected to receive \$2,051,250 in non-federal resources based on the following calculation:

Category	Calculation	Amount
1 principal	1 x \$120,000	\$120,000
1 librarian	1 x \$65,000	\$65,000
2 guidance counselors	2 x \$65,000	\$130,000
21 teachers	21 x \$65,000	\$1,365,000
Materials, supplies	450 x \$825	\$371,250
		\$2,051,250

To meet the supplemental funds test, a district would need to distribute non-federal resources according to the assumptions above to all of its schools, regardless of whether a school receives Title I funds. This example does not, however, suggest that non-federal funds must be used to support the activities in the table above; rather, Title I funds may be used to support any activity identified by the comprehensive needs assessment and articulated in the comprehensive plan.

OTHER IMPORTANT ISSUES TO CONSIDER FOR THE TITLE I SNS REQUIREMENT

1. State and Local Funds for Districtwide Activities

Most districts do not allocate all their state and local resources to school buildings. The required methodology for allocating state and local funds is building specific, but the general supplement, not

supplant requirement (ESEA Section 1118 (b)(1)) applies to **all** state and local funds. Therefore, the non-federal resources used at the district level still must be used in a Title I-neutral manner. In other words, the district should be compliant with this provision if it does not take a school's Title I status into account when it makes determinations about "the use of, access to, or assignment of such districtwide resources." For example, let's assume the district wants to spend districtwide resources to provide instructional coaches for each building. The district decides to use its non-federal (or general fund) resources to pay for the instructional coaches in non-Title I buildings and use Title I funds to pay for the coaches in Title I buildings. In this example, the district took the building's Title I status into account when using its state and local resources, and this may be a supplant violation. The district should be able to demonstrate to state and federal officials how it is using any non-federal resources reserved at the district-level in a Title I-neutral manner.

2. Exceptions to Allocation Methodology Requirement

Not every district is required to have a methodology for allocating non-federal resources to school buildings. This means that not all districts are required to check or signify they have a written methodology in the CCIP prior to receiving funds. However, it is important to understand that all districts (including the ones listed below) must comply with Title I requirements and spend Title I resources on allowable activities. The following districts are not required to have a written methodology for allocating non-federal resources to school buildings (but are encouraged to utilize the suggested steps mentioned earlier in this guidance):

- a. Districts with only one school;
- b. Districts with only Title I schools;
- c. Districts with a grade span that contains only a single school, non-Title I schools or Title I schools (no methodology is required for this grade span).

3. Exclusions of Supplemental State and Local Funds from Title I, Part A Supplement, Not Supplant Compliance Test and Title I-Neutrality Test

ESEA Section 1118(d) allows for a district to exclude "supplemental" state or local funds expended in any school attendance area or school for the *programs* that meet the intent and purpose of Title I, Part A. Since there is no statutory definition of "supplemental state or local funds," this exclusion provision would depend on the intent and purpose of the specific funds. It is important to remember the key word for the exclusion provision is "programs" that meet the intent and purpose of Title I, Part A. For example, appropriating additional funds for a specific category of students (such as more for English learners) is supplemental, and it would not meet the exclusion provision unless it is for a program that meets the intent and purpose of Title I, Part A. On the other hand, appropriating supplemental state and local funds for a specific purpose over and above what a district needs to provide a free public elementary and secondary education (such as funds to provide full-day kindergarten not required by state law) would likely meet the intent and purpose of Title I, Part A.

RESOURCES

- [US Department of Education June 2019 Final Guidance on Title IA SNS](#)
- [US Department of Education 2015 Guidance on Leveraging Federal Funds](#)
- [Ohio Department of Education July 2019 SNS Webinar](#)