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*ESEA/ESSA Finance*



## ESEA/ESSA Finance

March-April 2019



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## TOPICS

- Title I Fiscal Requirements
  - ❑ Maintenance of Effort
  - ❑ Comparability of Services
  - ❑ Supplement Not Supplant
- Allowable Costs
- Nonpublic Obligation and Carryover

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**Title I**

**Missouri**  
DEPARTMENT OF ELEMENTARY & SECONDARY  
**EDUCATION**

**Fiscal Requirements**

**Maintenance of Effort (MOE)**  
**Comparability of Services**  
**Supplement Not Supplant (SNS)**

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**Missouri**  
DEPARTMENT OF ELEMENTARY & SECONDARY  
**EDUCATION**

## WHAT IS MOE UNDER ESEA?

- LEAs must maintain a consistent floor of State/local funding for free public education from year-to-year.
- Combined fiscal effort per student; or
- The aggregate expenditures of State/local funds for free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year.

# COMPLIANCE CHECK

Compliance is verified each year in ePeGS under ESEA MOE using specific data from the Annual Secretary of the Board Report (ASBR).

- The coding structure change will not impact MOE requirements.
- The total expenditures should not be changing, only where the expenditures are coded to is changing.

Funding Application: ESEA Maintenance of Effort - Worksheet

Number Name

Print

Year: 2017-2018

[Calculate MOE Met/Not Met](#) Calculation Successful 2/22/2018 by jfrank

[MOE Not Met Report](#)

	2015-2016	2016-2017	Difference 2016-2017 vs. 2015-2016	Percent 2016-2017 is of 2015-2016
1. Enrollment	2,394.00	2,416.00	22.00	100.92%
2. Average Daily Attendance (ADA)	2,258.15	2,299.96	41.81	101.85%
3. Average Daily Membership (ADM)	2,378.56	2,419.59	41.00	101.72%
Expenditures for administration, instruction, attendance & health services, transportation services, operation, and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.				
4. Adjusted Expenditures (for MOE purposes)	21,398,519.81	21,032,699.47	-365,820.34	98.00%
5. Per-Pupil Expenditures (Enrollment) for MOE purposes (Line 4/Line 1)	8,938.40	8,705.59	-232.81	97.00%
6. Per-Pupil Expenditures (ADA) for MOE purposes (Line 4/Line 2)	9,476.13	9,144.81	-331.32	96.00%
7. Per-Pupil Expenditures (ADM) for MOE purposes (Line 4/Line 3)	8,996.42	8,692.67	-303.75	97.00%
Revenues for education from State and local sources from:				
8. Local sources	11,562,257.08	12,095,882.46	533,625.38	105.00%
% of Total	52.70%	53.02%		
9. State sources	10,376,294.23	10,717,944.07	341,649.84	103.00%
% of Total	47.30%	46.98%		
10. Total Revenues (Line 8 + Line 9)	21,938,551.31	22,813,826.53	875,275.22	104.00%

**Funding Application: ESEA Maintenance of Effort - Adjusted Expenditure Report** [Print](#) [Close](#)

Requirement: An LEA may receive funds if DESE finds that the LEA's combined fiscal effort per student or the aggregate expenditures of the LEA from state and local funds for free public education for the preceding year is not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding year.

<b>From ASBR Part III-B, Line 2999 - Total Instruction and Support</b>			
		2015-2016	2016-2017
Objects:	6110 - Certificated Salaries	11,309,518.10	11,297,360.72
	6150 - Non-Certificated Salaries	3,402,857.51	3,302,133.06
	6200 - Employee Benefits	4,907,859.65	4,926,339.77
	6300 - Purchased services	2,516,231.16	2,440,439.11
	6400 - Supplies	2,530,784.53	2,546,014.98
<b>Total Expenditures:</b>		<b>24,667,250.95</b>	<b>24,512,287.64</b>

<b>From the ASBR Part II, Column (1 &amp; 2) - Revenue Summary, General fund (incidental) and Special fund (teachers)</b>			
Line:		2015-2016	2016-2017
	5150 - Food services program	209,010.56	198,064.26
	5170 - Student activities	357,461.89	341,928.17
	5333 - Food services - state	9,246.79	9,048.80
	5499 - Federal subtotal	2,465,702.51	2,664,360.64
	5411 - (Impact aid)	(0.00)	(0.00)
	5810 - Tuition from other districts	0.00	0.00
	5820 - Area voc from other LEAs	120,950.00	136,559.25
	5830 - Contracted services from other LEAs	106,359.39	129,627.05
	5841 & 5842 - Transportation from other districts	0.00	0.00
<b>Total Deductions:</b>		<b>3,268,731.14</b>	<b>3,479,588.17</b>
<b>Total Adjusted Expenditures:</b>		<b>21,398,519.81</b>	<b>21,032,699.47</b>
<b>Level required to meet 90% of the prior year:</b>			<b>19,258,667.83</b>

## COMPARABILITY OF SERVICES

LEAs with more than one building for each grade span must ensure that **state and local** funds are used to provide services that taken as a whole, are comparable between Title I and non-Title I schools.

## COMPARABILITY OF SERVICES

LEA has three options to verify compliance:

- Student/teacher FTE ratio.
- Student/teacher salary ratio.
- State and local per-pupil expenditures.

## TITLE I SUPPLEMENT NOT SUPPLANT

- ED released draft guidance for public comment on January 25, 2019
- <https://www2.ed.gov/policy/elsec/leg/essa/snstitleguidance.pdf>

## TITLE I SUPPLEMENT NOT SUPPLANT (SNS)

The ESEA requires an LEA to use Title I funds only to **supplement** the funds that would, in the absence of those Title I funds, be made available from State and local sources for the education of students participating in Title I programs, and not to supplant such funds.

## TITLE I SUPPLEMENT NOT SUPPLANT

The ESEA requires an LEA to demonstrate that the methodology the LEA uses to **allocate** State and local funds to its schools ensures that each Title I school receives all of the State and local funds it would otherwise receive if it were not receiving Title I funds.

## TITLE I SUPPLEMENT NOT SUPPLANT

The ESSA represents a substantial change in determining whether Title I funds are supplemental:

- Focus is on **allocation** of State and local funds rather than on an activity funded by Title I; and
- Differs from supplement not supplant requirements of other ESEA programs in which the focus remains on whether an activity supported with Federal funds is supplemental.

## OTHER ESEA PROGRAMS

In general, funds should add to (supplement) and not replace (supplant) State and local funds.

- LEA uses ESSA funds to pay for an activity that is required by federal, state or local law; or
- LEA uses ESSA funds to pay for an activity it supported with State or local funds the prior year.

## TITLE I SUPPLEMENT NOT SUPPLANT

The LEA has significant flexibility in adopting a methodology or using its existing methodology to meet the new SNS requirement. The methodology must:

- Allocate State and local funds to schools in the LEA;
- Provide each Title I school the State and local funds it would receive were it not a Title I school – i.e., treat Title I schools neutrally.

## ALLOCATION OF STATE AND LOCAL RESOURCES

An LEAs state/local allocation methodology to schools might vary because of

- grade-span (high school vs. elementary).
- school size.
- student needs (EL, newly arrived, special education, etc).
- other factors, provided those factors are not based on Title I status.

## TITLE I SUPPLEMENT NOT SUPPLANT

- An LEA does not have to demonstrate compliance under ESEA if it has:
  - ❑ Only one school.
  - ❑ All Title I schools.
  - ❑ A grade span with a single school or all Title schools (i.e., no methodology is required for this grade span).

## ALLOWABLE USES OF FUNDS

### Allowable Activities vs. Supplement Not Supplant

- The ESSA requires an LEA to use Title I.A funds only for allowable costs; so an LEA's use of Title I.A funds might not violate the SNS requirement, but it might not be an allowable use of those funds.
- All costs must be necessary, reasonable and allocable.
- The type of Title I program determines whether a cost is allowable.

## ALLOWABLE USES OF FUNDS

- In a **schoolwide program**, Title I funds may be used to upgrade the entire educational program in the school and benefit all students, provided the cost is consistent with the school's comprehensive needs assessment and included in the school's comprehensive schoolwide plan.
- In a **targeted assistance program**, ESEA requires Title I.A funds to be used only to serve students who are failing, or most at risk of failing, to meet the state's challenging academic standards.

## SNS IS NOT AN EXPENDITURE TEST

SNS is based on a methodology by which State and local funds are allocated to schools.

Report Cards – actual per-pupil expenditure reporting of Federal, State and local funds, disaggregated by source of funds.

Per-pupil expenditure data is not a methodology and therefore, can not be used to demonstrate compliance.

## EVIDENCE OF COMPLIANCE

LEA must maintain documentation to demonstrate that the LEA allocates State/local funds to schools in accordance with its methodology. LEA must

- keep records to show compliance with program requirements and facilitate an effective audit.
- Maintain documentation necessary to demonstrate that its methodology results in each Title I school in the LEA receives all of the State/local funds it would otherwise receive if it were not receiving Title I.A funds.

## OBLIGATION OF FUNDS

A purchase order, a contract, a service, or similar transaction during a given period that requires payment by the recipient. Funds may not be obligated before July 1st or the substantially approved date, whichever comes later.



IF THE OBLIGATION IS FOR...	THEN THE OBLIGATION IS MADE...
Acquisition of real or personal property.	On the date on which the subgrantee makes a binding written commitment to acquire the property. (Including materials/supplies and miscellaneous items such as meeting registrations.)
Personal services by an employee of the subgrantee.	When the services are performed.
Personal services by a contractor who is not an employee of the subgrantee.	On the date on which the subgrantee makes a binding written commitment to obtain the services.
Performance of work other than personal services.	On the date on which the subgrantee makes a binding written commitment to obtain the work.
Public utility services.	When the subgrantee receives the services.
Travel.	When the travel is taken.
Rental or real or personal property.	When the subgrantee uses the property.
A pre-agreement cost that was properly approved by the State under the cost principles.	On the first day of the project period.



## PERIOD OF PERFORMANCE

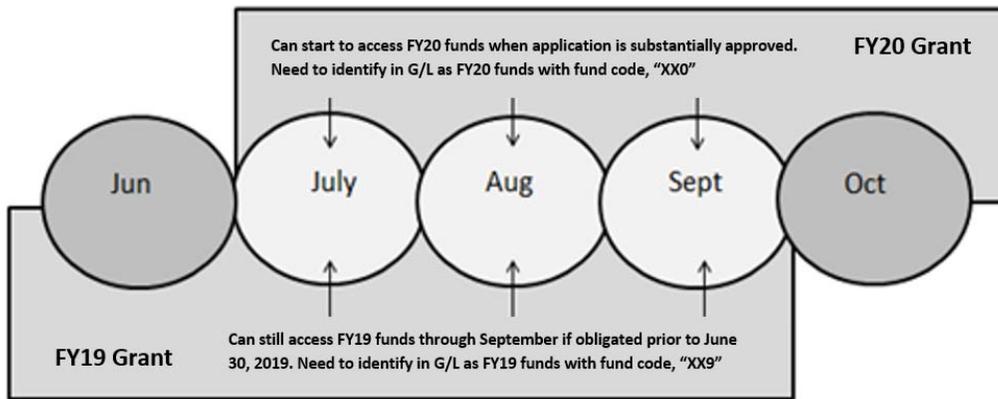
- The period of availability is now referred to as the period of performance.
- The period of performance runs from the date the budget was substantially approved to June 30<sup>th</sup> of each fiscal year.
- Obligations must occur within the period of performance.

GRANT CYCLE	PERIOD OF PERFORMANCE	FIRST DAY TO OBLIGATE FUNDS	LAST DAY TO OBLIGATE FUNDS	LAST DAY TO LIQUIDATE FUNDS
FY19 Grant Funds	July 1, 2018 – June 30, 2019	July 1, 2018 or the date the Budget App was submitted (whichever is later)	June 30, 2019	September 30, 2019
FY20 Grant Funds	July 1, 2019 – June 30, 2020	July 1, 2019 or the date the Budget App was submitted (whichever is later)	June 30, 2020	September 30, 2020

## OVERLAPPING GRANT CYCLES

- Overlapping grant cycles means the LEA is accessing two fiscal years of grants simultaneously in the same general ledger.

### OVERLAPPING GRANT CYCLES



## EXPENDITURE CODING STRUCTURE

Fund Type	Function Code	Object Code	Location Code	Source of Funds	Project Code
3 Digits	4 Digits	4 Digits	4 Digits	1 Digit	5 Digits

**Fund Type** consists of type of fund and fiscal year.

Last digit can be used to track ESEA funds obligated in one year but paid in the subsequent year.

- Teacher obligates federal funds when the work is performed (August 2018-May 2019). FY2019 or fund 029.
- Twelve month salary continues into FY2019 (July 2019 – August 2019) FY2020 with fund 029.

## IMPORTANCE OF PROPER CODING

### Tracking required expenditures

- LEA's with Title I allocations over \$500,000 are required to utilize one percent for parent involvement activities.
  - ❑ The unmet portion carries over to the subsequent year.

## NONPUBLIC OBLIGATION AND CARRYOVER

- Funds allocated to an LEA for educational services and other benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the agency.
- ESEA sections 1117(a)(4)(B) and 8501(a)(4)(B)

## OBLIGATION OF FUNDS AND CARRYOVER

- Occasionally, there may be circumstances in which an LEA is unable to obligate all funds within the required timeframe.
- Examples:
  - ❑ A natural disaster that delays services for both public and private school students.
  - ❑ A situation in which an LEA has a small amount of carryover after having provided equitable services that cost less than anticipated.
- Carryover of funds allocated for equitable services depends upon the circumstance.

## TITLE I OBLIGATION OF FUNDS AND CARRYOVER

### Example:

- An LEA provides Title I equitable services to students in four private schools using a third-party contractor. The invoiced amount for services to students in one of the schools is \$1,000 less than anticipated. During consultation, officials of the private school decline additional services from those funds. Because this occurs late in the summer, the LEA is unable to responsibly obligate the funds prior to the end of the Federal fiscal year.
- The funds may carry over. Under the Title I equitable services requirements, the carryover funds must be added to the proportional share for equitable services in the subsequent fiscal year.

## OBLIGATION OF FUNDS AND CARRYOVER

- Example:
- An LEA provides Title II.A equitable services to teachers in a private school. The services cost \$1,000 less than anticipated and, during consultation, private school officials indicate that their teachers' needs have been met. The LEA is not able to obligate the remaining funds for other purposes responsibly prior to the end of the Federal fiscal year.
- The funds may carry over to the next fiscal year. Under Title VIII, because the LEA met the private school teachers' needs, the funds become part of the overall pool of funds available to Title II services to both public and private school teachers.

## REMINDERS

- Requests reimbursement as expenditures occur.
- Title I has 15% carryover limitation as of September 30<sup>th</sup>.
- April 30 deadline for application amendments.
  - Has carryover been budgeted?
  - Are object code variances within 10%?
  - Are ESEA funded staff coded correctly in MOSIS?



## Questions?

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ESEA/ESSA Finance

<https://dese.mo.gov/financial-admin-services/esea-finance>

## FISCAL REQUIREMENTS

This document provides general guidance on the fiscal requirements under Every Student Succeeds Act (ESSA). ESSA is the most recent version of the Elementary and Secondary Education Act (ESSA) which was signed into law on December 10, 2015 and went into effect on July 1, 2017. For more information about ESSA, please see <http://www2.ed.gov/policy/elsec/leg/essa/index.html>.

### MAINTENANCE OF EFFORT REQUIREMENTS (MOE) (ESEA section 1118(a) and 8521(a).)

Local educational agencies (LEAs) that receive Title I funds must comply with a MOE requirement. In short, MOE requires districts to maintain a consistent floor of State and local funding for free public education from year-to-year.

An LEA may receive funds if DESE finds that either the combined fiscal effort per student; or the aggregate expenditures of State and local funds for free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year. Compliance is verified each year in ePeGS under ESEA MOE using specific data from the Annual Secretary of the Board Report (ASBR).

Funding Application: ESEA Maintenance of Effort - Worksheet Number  Name  Select District

Year: 2015-2016  Print

Calculate MOE Met/Not Met Calculation Successful 7/12/2016 by pkaiser  
MOE Not Met Report

	2013-2014	2014-2015	Difference 2014-2015 vs. 2013-2014	Percent 2014-2015 is of 2013-2014
1. Enrollment	8,896.00	8,932.00	36.00	100.40%
2. Average Daily Attendance (ADA)	8,158.71	8,120.24	-38.47	99.53%
3. Average Daily Membership (ADM)	8,728.77	8,715.78	-13.00	99.85%
Expenditures for administration, instruction, attendance & health services, transportation services, operation, and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.				
4. Adjusted Expenditures (for MOE purposes)	69,792,903.44	72,093,046.38	2,300,142.94	103.00%
5. Per-Pupil Expenditures (Enrollment) for MOE purposes (Line 4/Line 1)	7,845.43	8,071.32	225.90	103.00%
6. Per-Pupil Expenditures (ADA) for MOE purposes (Line 4/Line 2)	8,554.40	8,878.19	323.79	104.00%
7. Per-Pupil Expenditures (ADM) for MOE purposes (Line 4/Line 3)	7,995.73	8,271.55	275.82	103.00%
Revenues for education from State and local sources from:				
8. Local sources	56,781,174.57	58,353,144.82	1,571,970.25	103.00%
% of Total	76.08%	74.84%		
9. State sources	17,850,779.43	19,618,156.23	1,767,376.80	110.00%
% of Total	23.92%	25.16%		
10. Total Revenues (Line 8 + Line 9)	74,631,954.00	77,971,301.05	3,339,347.05	104.00%

If an LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA) for one or more of the five immediately preceding fiscal years, the SEA must reduce the LEA's allocation under a covered program (Title I.A, Title I.D, Title II.A, Title III.A, Title IV.A, Title V.B, Subpart 2) in the exact proportion by which the LEA failed to maintain effort.

**Waiver:** The U.S. Education Secretary (USED) may waive the MOE requirement for an LEA if it determines that a waiver would be equitable due to —

- exceptional or uncontrollable circumstances; such as a natural disaster or change in the organizational structure of the LEA; or
- a precipitous decline in the financial resources of the LEA.

With respect to exceptional or uncontrollable circumstances, prior to the ESSA, the statute included the example of a natural disaster. Under the ESSA, a new example was inserted so that exceptional or uncontrollable circumstances also include a change in the organizational structure of the LEA. In addition to these two examples listed in the statute, there can be other instances of exceptional or uncontrollable circumstances that might warrant when a waiver request will be considered.

Below is a list of examples for what a change in the organizational structure of an LEA might mean.

- An LEA changes its configuration. For example:
  - The LEA merges with another LEA.
  - The LEA divides into two or more LEAs.
  - The LEA eliminates grade levels (e.g., previously served grades K-12 and now serves grades K-8)
- An LEA changes its management or operations structure to create economies of scale to be more efficient. For example, each school in the LEA employs budget and fiscal management staff. The LEA makes the decision to consolidate budget and fiscal management staff into a single team located in the central office.

If an LEA receives a waiver of the MOE requirement from the DESE for a given fiscal year, the LEA has effectively maintained effort for that fiscal year. Accordingly, in determining whether the LEA had failed to maintain effort for one or more of the five immediately preceding fiscal years, the SEA would count the year in which the LEA received a waiver as a year of maintaining effort.

In requesting a waiver based on a change in its organizational structure, an LEA would need to provide evidence of that change and the reasons why the change caused the LEA to fail to maintain effort. To explain the change in its organizational structure, the LEA might provide a narrative description of the change or a visual, organizational chart or map, if relevant. The LEA would also need to explain why the change caused the LEA to fail to maintain effort. In doing so, the LEA might show its expenditures related to its organizational structure before and after the change to demonstrate that the change resulted in lower expenditures.

## TITLE I COMPARABILITY OF SERVICES (ESEA Sec. 1118(c))

As a condition of receiving Title I, LEAs must ensure that State and local funds are used to provide services that taken as a whole, are comparable between Title I and non-Title I schools. Comparability applies to LEAs with more than one building for each grade span.

LEAs having attendance centers with overlapping grade spans may receive Title I.A funds only if State and local funds are used to provide services in Title I.A schools which, taken as a whole, are at least comparable to services provided in schools within the LEA which are not receiving Title I.A funds. If the LEA is serving all schools under Title I.A, the LEA may receive Title I.A funds if it will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

Compliance is verified each year using specific student/teacher FTE data from the October cycle of MOSIS to verify compliance using option 1 below.

If the LEA cannot verify compliance by using option 1, the LEA may use options 2 or 3 to document compliance:

1. Student/Teacher FTE Ratios - Comparability is achieved when the student/teacher FTE ratios in Title I.A schools do not exceed 110% of the average for non-Title I.A schools;
2. Student/Teacher Salary Ratios - Comparability is achieved when the average per-pupil salary expenditure in Title I.A schools is at least 90% of the average in non-Title I.A schools; or,
3. State and local per-pupil expenditures - Comparability is achieved when the average per-pupil expenditure in Title I.A Schools is at least 90% of the average State and local per-pupil expenditures in non-Title I.A schools.

### Written Assurance Option

Instead of using the above test options, an LEA shall be considered to have met the requirements of comparability if the LEA has filed with DESE a written assurance that it has established and implemented:

1. a local educational agency-wide salary schedule;
2. a policy to ensure equivalence among schools in teachers, administrators, and other staff; and,
3. a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

For the purpose of determining compliance with the above requirements, the LEA must exclude:

1. staff salary differentials for years of employment; and,
2. schools with 100 or fewer students.

For the purpose of determining compliance with the above requirements the LEA may exclude:

1. State and local funds expended for excess costs of providing services to children with disabilities as determined by the LEA and ELs;
2. unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year; and,
3. supplemental State or local funds for programs that meet the intent and purposes of Title I.A.

LEAs having attendance centers with overlapping grade spans shall develop written procedures for compliance and maintain records documenting compliance.

LEAs that file a written assurance must submit documentation that the salary schedule and policies were actually implemented and that they resulted in equivalence among schools in staffing, materials, and supplies so that, in fact, the LEA has maintained comparability among its Title I and non-Title I schools.

**There is no waiver process for the comparability requirement.**

### **SUPPLEMENT NOT SUPPLANT**

#### **Title I Sec. 1118(b)**

Title I has a supplement not supplant (SNS) requirement. In general terms, this means that Title I funds should add to (supplement) and not replace (supplant) State and local funds. Prior to ESSA, supplement not supplant was typically tested by analyzing an individual Title I cost's compliance with three presumptions of supplanting; 1) an activity required by federal, state, or local law, 2) an activity that was paid for with State or local funds in the prior year, or 3) the same services for Title I students that State and local funds support for non-Title I students. **Under ESSA, compliance with SNS will no longer be tested through individual Title I costs, so the three presumptions no longer apply.**

**Beginning in the 2018-2019 school year**, Local Educational Agencies (LEAs) must have a written methodology and demonstrate that the methodology they use to allocate State and local funds to schools provides each Title I school with all of the State and local money it would receive if it were not receiving Title I funds.\* An LEA has significant flexibility in adopting a methodology to meet the new SNS requirement. The state and local allocation method may vary because of grad span, school size, student needs or other factors, provided those factors are not based on Title I status. Once an LEA has adopted a methodology, then it is no longer required to identify individual costs or services support by Title I as supplemental.

To meet SNS compliance under ESEA Title I, LEAs must ensure Title I schools are not deprived of state and local resources based on the:

- Status as a Title I school; or
- The schools' amount of Title I funding received.

LEAs must allocate local funds to Title I schools in a manner that is Title I-neutral.

\*An LEA need not comply with ESEA section 1118(b)(2) if it has –

- a. One school;
- b. A grade span with a single school (i.e., no methodology is required for the single school grade span); or
- c. Only Title I schools in the grade span.

#### **Examples of Demonstrating Compliance:**

##### **Example 1: Allocation of State and Local Funds Based on Student Characteristics (Weighted Student Funding)**

Assume:

- a. Base allocation per student = \$7,000

- b. Additional allocation per student from a low-income family = \$250
- c. Additional allocation per English learner = \$500
- d. Additional allocation per student with a disability = \$1,500
- e. Additional allocation per preschool student = \$8,500

This example allocates State and local funds to schools based on a standard formula through which an LEA allocates dollar amounts based on objective student characteristics. Under this example, in a school of 400 students, including 200 students from low-income families, 100 English Learners, 50 students with disabilities, and 20 preschool students, the LEA would allocate to the school \$3,145,000 in State and local funds based on the following calculations:

Category	Calculation	Amount
Allocation/student	400 x \$7,000	\$2,800,000
Allocation/student from low-income family	200 x \$250	\$50,000
Allocation/English learner	100 x \$500	\$50,000
Allocation/student with disability	50 x \$1,500	\$75,000
Allocation/preschool student	20 x \$8,500	\$170,000
Total		\$3,145,000

To meet the Title I.A supplement not supplant requirement, an LEA would use this methodology to allocate State and local funds to each school, without regard for whether a school receives Title I.A funds.

**Example 2: Allocation of State and Local funds Based on Staffing and Supplies**

Assume:

- a. 1 principal/school (\$120,000)
- b. 1 librarian/school (\$65,000)
- c. 2 guidance counselors/school (\$65,000/guidance counselor)
- d. 1 teacher per 20 students (\$65,000/teacher)
- e. \$825/student for instructional materials and supplies (including technology)

This example allocates State and local funds to schools based on estimated average costs. In a school of 400 students, the LEA would allocate to the school \$1,945,000 in State and local funds based on the following calculations:

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
20 teachers	20 x \$65,000	\$1,300,000
Materials and supplies	400 x \$825	\$330,000
Total		\$1,945,000

To meet the Title I.A supplement not supplant requirement, an LEA would use this methodology to allocate State and local funds to each school, without regard for whether a school receives Title I.A funds.

### **Example 3: Allocation of State and Local Funds Based on a Combined Approach**

This form of equitable distribution includes characteristics of the two previous examples, distribution of State and local resources based on the characteristics of the students and the staffing and supply needs of the schools. The allocation per student characteristic is determined by the LEA.

Assume the figures below are based upon total available funds and student needs of the LEA:

- a. 1 principal/school (\$120,000)
- b. 1 librarian/school (\$65,000)
- c. 2 guidance counselors/school (\$65,000/guidance counselor)
- d. Allocation/student = \$7,000
- e. Additional allocation/student from a low-income family - \$250
- f. Additional allocation/English Learner = \$500
- g. Additional allocation/student with a disability = \$1,500
- h. Alternative factors that might cause an LEA to add additional factors that will be applied across all schools, regardless of Title I status.

In a school of 450 students, including 200 students from low-income families, 100 English Learners, 50 students with disabilities, the LEA would allocate to the school \$3,640,000 in State and local funds based on the following calculations:

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
Allocation/student	450 x \$7,000	\$3,150,000
Additional Allocation/student from low-income family	200 x \$250	\$50,000
Additional Allocation/English Learner	100 x \$500	\$50,000
Additional Allocation/student with disability	50 x \$1,500	\$75,000
Total		\$3,640,000

To meet the Title I.A supplement not supplant requirement, an LEA would use this methodology to allocate State and local funds to each school, without regard for whether a school receives Title I.A funds.

**NOTE:** ESSA made a change to the way supplement not supplant is tested in Title I. This change does not affect how supplement not supplant is tested in other ESEA programs.

#### **Title II Sec. 2301**

LEAs that receive Title II funds must comply with a supplement not supplant requirement. In general terms, this means that Title II funds should add to (supplement) and not replace (supplant) State and local funds.

In Title II supplanting is presumed when:

- An LEA uses Title II funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses Title II funds to pay for an activity it supported with State or local funds the prior year.

An LEA may be able to overcome a presumption of supplanting if it has written documentation (for example, state or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the activity and that the activity would not be carried out in the absence of the Title II, Part A funds.

### **Title III Sec. 3115**

Title III is subject to a strict “supplement not supplant” (SNS) requirement that affects how Title III funds are spent. Because SNS works differently in Title III than other federal programs this section addresses SNS before addressing other Title III spending issues.

At its most basic, SNS requires Title III funds to add to (supplement) and not replace (supplant) other federal, state, and local funds. Whether a cost complies with SNS is situation specific, but in general there are three issues to consider:

1. Compliance with SNS is tested using two “presumptions,”
2. An LEA may not use Title III funds to meet its civil rights obligations to EL students, and
3. In some circumstances, an LEA may use Title III funds to pay for EL-related activities under Title I, Part A.

#### *Issue 1: Compliance with SNS is tested using two “presumptions”*

The federal government presumes Title III supplanting in the following two situations:

1. An LEA uses Title III funds to provide services the LEA is required to make available under other laws, or
2. An LEA uses Title III funds to provide services the LEA paid for with State or local funds the prior year.

These presumptions can be “rebutted” (disputed with evidence) and possibly overcome if the LEA can show it could not have provided the services in question with State or local funds.

#### *Issue 2: An LEA may not use Title III funds to meet its civil rights obligations to EL students*

Under the first presumption of supplanting an LEA may not use Title III funds to meet the requirements of federal, state, or local law. Under federal law, specifically Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA), LEAs have legal obligations to ensure that ELs can meaningfully and equally participate in educational programs and services. ED guidance explains that to meet these civil rights obligations to EL students LEAs must:

- Identify and assess all potential EL students in a timely, valid, and reliable manner,
- Provide EL students with a language assistance program that is educationally sound and proven successful, consistent with *Castañeda v. Pickard* and the U.S. Supreme Court decision in *Lau v. Nichols*,
- Provide sufficiently well prepared and trained staff and support the language assistance programs for EL students,
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities,
- Avoid unnecessary segregation of EL students,

- Ensure that EL students who have or are suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 are identified, located, and evaluated in a timely manner and that the language needs of students who need special education and disability related services because of their disability are considered in evaluations and delivery of services,
- Meet the needs of EL students who opt out of language assistance programs,
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level content knowledge, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied,
- Evaluate the effectiveness of a school district’s language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program is reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time, and
- Ensure meaningful communication with limited English proficient (LEP) parents.

Because Title III funds may not be used to meet legal obligations, including civil rights obligations, Title III may not be used to meet the obligations in the above list.

*Issue 3: In some circumstances, an LEA may use Title III funds to pay for EL-related activities under Title I*

Under the first presumption of supplanting, an LEA may not use Title III funds to meet the requirements of federal, state, or local law. Under No Child Left Behind (NCLB), this meant LEAs could not use Title III funds to pay for Title I, Part A’s EL-related requirements. Under ESSA, however, certain requirements that were previously part of the Title III program have moved to Title I, Part A. Because of this, ED guidance permits LEAs to use Title III funds to pay for activities that were in Title III under NCLB, but are now part of Title I, Part A in ESSA such as:

- EL parental notification regarding language instruction educational programs (LIEPs) and related information (ESEA Section 1112(e)(3)),
- Parental participation (e.g., regular EL parent meetings) (ESEA Section 1116(f)), and
- Reporting to the State on the number and percentage of ELs achieving English language proficiency (ESEA Section 1111(h)(2)).

ED’s guidance states that LEAs may only use Title III funds for activities that moved from Title III to Title I *if* they ensure that:

1. The activity being supported is consistent with the purposes of Title III and meets federal guidelines for “reasonable and necessary costs,”
2. The activity being supported is supplemental to the LEA’s civil rights obligations to ELs under Title VI of the Civil Rights Act and the EEOA, and
3. The LEA can demonstrate it is also using Title III funds to conduct activities required under Title III.

Please note LEAs may not use Title III funds for Title I, Part A activities that are *also* used to meet civil rights obligations. For example, under Title VI of the Civil Rights Act of 1964 and the EEOA, LEAs must track EL student progress in achieving English language proficiency. LEAs often use the annual

English language proficiency (ELP) assessment, which is now required under Title I, to meet this civil rights obligation. If an LEA uses the annual ELP assessment to meet its civil rights obligations, Title III funds could not be used to pay for costs related to administering the ELP assessment.

#### **Title IV.A Sec. 4110**

LEAs that receive Student Support and Academic Enrichment (SSAE) funds must comply with a supplement not supplant requirement. In general terms, this means that SSAE funds should add to (supplement) and not replace (supplant) State and local funds.

For the SSAE program, supplanting is presumed when:

- An LEA uses SSAE funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses SSAE funds to pay for an activity it supported with State or local funds the prior year.

An LEA may overcome a presumption of supplanting if it has written documentation (e.g., State or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the activity and that the activity would not be carried out in the absence of the SSAE program funds.

#### **Title V.B, Subpart 1, Small, Rural School Achievement Program and Subpart 2, Rural and Low-Income Program Sec. 5232**

LEAs that receive Title V.B funds must comply with a supplement not supplant requirement. In general terms, this means that Title V.B funds should add to (supplement) and not replace (supplant) State and local funds.

For the Title V.B program, supplanting is presumed when:

- An LEA uses Title V.B funds to pay for an activity that is required by federal, state or local law, or
- An LEA uses Title V.B funds to pay for an activity it supported with State or local funds the prior year.

An LEA may overcome a presumption of supplanting if it has written documentation (e.g., State or local legislative action, budget information, or other materials) that it does not have the funds necessary to implement the activity and that the activity would not be carried out in the absence of the SSAE program funds.

**Reduction in Case of Supplant Finding:** If an LEA fails to comply with the SNS requirements, they will be required to return the amount of misused funds.