

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.