



11/9/21

TEXAS EDUCATION AGENCY

SUPPLEMENT, NOT SUPPLANT HANDBOOK

*A GUIDE FOR GRANTS ADMINISTERED BY THE
TEXAS EDUCATION AGENCY*

Federal Program Compliance Division
Department of Grant Compliance and Administration

ESSASupport@tea.texas.gov

512-463-9499

Copyright © 2023. Texas Education Agency. All rights reserved.
Version 6.0 (Revised 5/10/2023)

| | |
|--|----|
| Change History | ii |
| Introduction | 1 |
| Definition of Supplement, Not Supplant..... | 1 |
| Purpose of the Provision | 1 |
| Background of the Provision..... | 1 |
| Section A: Traditional SNS Compliance Requirements | 5 |
| Enhancing, Expanding, or Extending Required Activities | 5 |
| Presumptions of Supplanting | 5 |
| Examples | 6 |
| IDEA-B..... | 6 |
| IDEA-B and Title I, Part A Funds | 6 |
| Title II, Part A—Supporting Effective Instruction | 6 |
| Title III, Part A—English Language Acquisition, Language Enhancement, and Academic | |

Supplement, not supplant (SNS) is an integral provision of most federal statutes that authorize education grant programs. This handbook discusses SNS in general and as it applies to the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the Every Student Succeeds Act of 2015 (ESSA).

In June 2019, the U.S. Department of Education issued non-regulatory guidance concerning the SNS requirement for Title I, Part A of ESSA. This handbook has been revised to reflect this new guidance.

The term “supplement, not supplant” is a provision common to many federal statutes authorizing education grant programs. There is no single SNS provision. Rather, the wording of the provision varies depending on the various statutes. In order to be in compliance with each program’s version of the SNS requirements, LEAs must be cognizant of how the provision is applied in each specific program.

The purpose of an SNS provision is to help ensure that federal grant funds are expended to benefit the intended population defined in the authorizing statute, rather than being diverted to cover expenses that the LEA would have paid out of other funds in the event the federal funds were not available. In this way, the federal government can ensure that the level of state and local support for a program remains at least constant and is not replaced by federal funds.

Of the major federal education programs, ESEA is the oldest. Passed in 1965 as part of President Lyndon B. Johnson’s War on Poverty, ESEA was primarily aimed at increasing the educational services provided to disadvantaged school children. After ESEA was initially passed into law, reports showed that LEAs were spending Title I dollars on general expenses that they would normally have covered with other funds, rather than using those federal funds to provide support and services to the intended beneficiaries of the program. As a result, SNS provisions were added to ESEA. Following ESEA, both IDEA and Perkins were developed with SNS provisions as integral parts of the statutes.

For many

To ensure compliance with SNS, it is imperative that LEAs be aware of which requirements are applicable to which programs. The following table lists the text of the major SNS provisions found in ESEA, IDEA, and Perkins, and will help direct LEAs to the appropriate section of this document. Note that the provisions vary. Perkins, for instance, specifies that funds shall supplement and not supplant funds from non-federal sources, while many of the ESSA provisions specify that funds shall supplement and not supplant funds from federal, state, and local sources.

| Improving Basic Programs Operated by LEAs [Section 1118(b)] | A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds. Information related to SNS requirements specific to Title I, Part A is available in _____ of this document. |
|---|--|
| School Improvement [Section 1003(e)(2)] | The non-regulatory guidance issued by the USDE states that "assuming an LEA allocates State and local funds through its methodology first, any school ... that receives Section 1003 funds would already have received, through the LEA's methodology, all the State and local funds it would have received absent the 1003 funds. Thus, the LEA would be complying with both ESEA sections 1118(b)(2) and 1003(e)(2)." Therefore, _____ of this SNS Handbook would apply. |

| | |
|--|--|
| | |
|--|--|

—English
Language Acquisition, Language
Enhancement, and Academic
Achievement [Section 3115(g)]

Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended foravavaisr898 Tf4u1aTQq193.76 621.16 386.

Penalties for supplanting are often severe. All federal funds involved in a supplant normally must be returned to the federal government. Since audits are usually conducted after the grant period has ended, there is often no other alternative corrective action available other than returning the funds.

Generally speaking, for programs that have a generic SNS statement in statute, if federal funds are used to enhance or expand a state mandate, State Board of Education (SBOE) rule, or local board policy, then the federal supplementary activities must be separately identified and clearly distinguishable from those activities identified as necessary for implementing the state mandate, SBOE rule, or local board policy as outlined in the implementation plan.

Although separate plans are not necessary, the local educational agency (LEA) must be able to document a clear plan for meeting the mandated requirement and another plan for providing supplementary activities from federal funds in addition to the mandated requirement.

In cases where the general language of the SNS requirements is applicable, there are three scenarios in which the US Department of Education (USDE) will presume that a supplant (i.e., a case in which federal dollars have been diverted) has occurred. In all these three cases, once the presumption of supplanting has been made, it is the LEA's responsibility to rebut the presumption. While this is technically possible, it can be extremely difficult for LEAs to meet the burden of proof. Preferably, the LEA would budget and expend federal dollars so as to avoid any of the following three presumptions entirely.

Any services that an LEA is required to provide under state law, SBOE rule, commissioner's rule, or local policy must be provided using *state or local funds*. If federal funds are used to provide those services, the USDE will presume that a supplant has occurred. Even if the LEA has maintained documentation demonstrating that it would not have been able to meet the state mandates without the use of federal funds, it is extremely difficult to rebut this presumption of supplanting because USDE reviews how all state and local funds within the LEA are expended. [Note: Some programs also require that program funds also supplement other Federal funds.]

If state or local funds were used in the prior school year to provide services, and those services are provided again in the current school year, the LEA must document that the services are provided again in the current school year. [Note: Some programs also require that program funds also supplement other Federal funds.]

in the current year. This would be considered supplanting because the LEA is replacing state and local resources with Title III, Part A resources to pay for the same position. The LEA may be able to rebut the assumption of supplanting if it can document that the position was eliminated because of state budget cuts, and then the decision was made to fund it using federal funds. The LEA would need records to confirm the following:

There was in fact a reduced amount or lack of state funds available to pay for the position.

The LEA made the decision to eliminate the position without taking into consideration the availability of federal funding.

The reasons for the decision to eliminate the position.

Using Title II, Part A funds to meet any state mandate or local board policy would be considered a supplant. For example, if an LEA decides to use Title II, Part A funds to hire additional teachers to reduce class size in grade 2, the state mandate of 22:1 must be met with state and/or local funds before additional teachers may be hired with Title II, Part A funds.

As a part of the basic allotment to public schools, Texas provides state funding to LEAs that serve students who are English learners. According to state statute, these funds must be used to provide services to students who are English learners through bilingual education and/or English as a Second Language (ESL) programs. Title III, Part A funds cannot be used to meet the state requirements for serving students who are English learners. Additionally, Title III, Part A funds are supplemental to all other funds, including local, state, and . The LEA must ensure that any services provided with Title III, Part A funds are supplemental and could not be provided with any other funds, including Title I, Part A funds.

There have been many questions recently about the use of Title IV, Part A funds for security. The purchase of security equipment (such as cameras, etc.) and security training are potentially allowable uses of funds; however, the LEA must examine the three traditional presumptions of supplant to ensure that Title IV, Part A funds are being used in a supplemental manner. If the LEA has previously purchased these items with State or local funds in the past, the LEA must maintain documentation to rebut the presumption of supplant. [Also, please note that the purchase of firearms and ammunition, as well as training in the use of such items, are allowable.]

Academic remediation is often funded with Title I, Part A funds and is also an allowable use of 21st Century Community Learning Centers (CCLC) funds. When a 21st CCLC grant is awarded, grantees may want to divert their Title I, Part A funds to other uses and use 21st CCLC funds for academic remediation in place of the Title I, Part A funds. This would be a supplant because the Title IV, Part B statute requires that the Title

Before 1992, IDEA-B included a “particular cost test” for determining whether supplanting occurred. If an LEA expended IDEA-B funds to pay a salary that in the prior year had been paid with state or local funds, the LEA would fail the particular cost test, resulting in a supplant. Since the removal of the particular cost test from statute, no requirement exists related to supplanting particular costs. If an LEA maintains local—or state and local—effort (maintenance of effort requirement), it will not violate the IDEA-B SNS provision.

Any determination about supplanting is specific to the individual situation, and general guidelines cannot be provided to meet the particular details of any situation. Examples of the types of documentation auditors may request from an LEA to demonstrate that the expenditure is supplemental to other federal and/or non-federal programs include the following:

- Fiscal or programmatic documentation to confirm that, in the absence of federal funds, the grantee would have eliminated staff or other services in question
- Board minutes/agendas with discussion of elimination of staff due to lack of state funds
- State or local legislative actions
- Itemized budget histories from one year to the next and supporting information
- Planning documents
- Actual reduction in state or local funds
- Decision to eliminate position or services was made without regard to the availability of federal funds, including the reason the decision was made
- Class-size data from previous years and upcoming year
- Specific policies and procedures related to SNS requirements

The recent guidance from the USDE provides more flexibility than was offered previously. There are likely to be many more LEAs that qualify for a Statement of Exemption under the new guidance.

An LEA qualifies for a Statement of Exemption in the following situations:

- The LEA only has a single campus (only one school in the district); or

- All of the campuses in the LEA are Title I

Districtwide or by Campus Category: Some flexibility in the SNS methodology is allowed, in that an LEA may demonstrate compliance for its Title I, Part A campuses on either a districtwide basis or by campus category. If the LEA is using campus categories in its determination, it may use only three: elementary, middle school, and high school.

Non-regulatory guidance has also clarified that, in certain situations, an LEA can exempt a campus category. If an LEA has a campus category that contains only one campus, or only Title I, Part A campuses, or only non-Title I, Part A campuses, that campus category does not need to be included in the SNS Methodology. In such a case, in addition to describing the methodology used for the campus category that is not exempt, the LEA's SNS Methodology would include a brief statement explaining why a particular campus category is exempt.

What Funds to Include/Exclude: The USDE non-regulatory guidance has clarified that only public State and local funds are subject to the SNS Methodology. Other non-Federal funds, such as private contributions, fundraising, and parent fees, need not be part of determining compliance with the Title I, Part A SNS requirement, unless LEA policy requires that they be included.

An LEA normally retains a portion of its State and local funding at the LEA level. The LEA determines the amount of State and local funds it retains at the LEA level and the amount it allocates to campuses. The amount of State and local funds that is allocated to campuses is what must be allocated in a manner that is Title I neutral.

Supplemental State Funds: Title 34 of the Code of Federal Regulations, Part 200, Section 79 (34 CFR 200.79) does provide for an exception under which expending state or local funds would not be considered a supplant

comply with the general supplement not supplant requirement in ESEA section 1118(b)(1), which applies to all State and local funds.

“As long as a school’s Title I status is not taken into account when an LEA makes its determinations about use of, access to, or assignment of such districtwide resources, the LEA would be in compliance with ESEA section 1118(b)(1).

“In addition, to the extent that an LEA retains State and local funds to implement activities that are required by Federal, State or local law, the LEA must use those funds in a manner that does not take into account a school’s Title I status.”

[USDE, Non-Regulatory Informational Document, June 2019]

The examples provided here represent possible methods for allocating State and local funds to campuses.

Per-pupil amount: \$4000

| Elementary A | 350 | \$4000 | \$1,400,000 | Title I SW |
|--------------|-----|--------|-------------|------------|
| Elementary B | 375 | \$4000 | \$1,500,000 | Title I SW |
| Elementary C | 325 | \$4000 | \$1,300,000 | Not Served |
| Middle A | 450 | \$4000 | \$1,800,000 | Title I TA |
| Middle B | 500 | \$4000 | \$2,000,000 | Not Served |
| High | 975 | \$4000 | \$3,900,000 | Not Served |

Total State and local funds allocated by methodology: \$11,900,000

Example 2 [Used for Fund Codes 103-199, minus State and local funds reserved for LEA-wide activities]

An LEA with 6 campuses (3 elementary, 2 middle, 1 high) serves 2 of its elementary schools as Title I schoolwide programs and one of its middle schools as a targeted assistance program. The LEA may choose to demonstrate compliance with the SNS requirement by describing the method used for the special allotment mentioned, and by having a methodology by campus category for the balance of the State and local funds. This example describes the allocations of the State Special Education funds separately. For the remaining balance of the State and local funds, the LEA has one per-pupil amount for each campus category that it has applied consistently to allocate State and local funds to all the campuses within each campus category:

State Special Education: The LEA receives \$1,500,000 for State Special Education. The LEA retains approximately 60% of these funds at the district level for Special Education personnel not paid from campus budgets. The remaining funds are distributed to campuses on a per-pupil basis at a rate of \$2763 per Special Education student.

| | | | |
|--------------|----|--------|----------|
| | | | |
| Elementary A | 25 | \$2763 | \$69,075 |

Example 3 [Used for Fund Codes 103-199, minus State and local funds reserved for LEA-wide activities]

An LEA with 6 campuses (3 elementary, 2 middle, 1 high) serves 2 of its elementary schools as Title I schoolwide programs and one of its middle schools as a targeted assistance program. In this example, the LEA has chosen to demonstrate compliance with the SNS requirement by using a weighted student formula. It applies the weighted formula consistently to each campus in order to allocate State and local funds to its campuses. This LEA could have excluded its high school from the methodology because it is the only campus in the High School category. It is not wrong to include it, but it is not required in order to be in compliance.

[Example only; student categories and weights are determined by LEA.]

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

Base weight

[Multiply 89.3 43.74 re

Example 4 [Used for Fund Codes 103-199, minus State and local funds reserved for LEA-wide activities]

An LEA with 6 campuses (3 elementary, 2 middle, 1 high) serves 2 of its elementary schools as Title I schoolwide programs and one of its middle schools as a targeted assistance program. In this example, the LEA has chosen to demonstrate compliance with the SNS requirement by using a staffing pattern that allocates state/local-funded personnel to each campus, and a separate methodology

SNS Methodology component for 62xx-66xx for non-personnel costs

| Technology cost per student EI: \$300 M/HS:\$500 | 350 x 300 = | 375 x 300 = | 325 x 300 = | 450 x 500 = | 500 x 500 = | 975 x 500 = |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| Instructional supply cost per student EI: \$500 M/HS:\$300 | 350 x 500 = | 375 x 500 = | 325 x 500 = | 450 x 300 = | 500 x 300 = | 975 x 300 = |
| State and Local allocation | \$280,000 | \$300,000 | \$259,500 | \$360,000 | \$400,000 | \$780,000 |

Resources allocated by this methodology component: \$2,379,000

—

:

: Can the LEA have different types of methodology categories, such as by FTE for staffing and per student for operational supplies, technology allocations, etc.?

: The LEA has this flexibility.

: How can the LEA allocate payroll costs equitably, when teachers with more experience have higher salaries, and when some staff have different insurance costs because they have more or fewer dependents?

: Based on recent guidance from the USDE, the LEA may use staffing patterns to allocate positions to campuses, without converting the positions to dollar amounts for methodology purposes. Differentials for longevity and insurance would follow the position, but it is the position that is being allocated. It is understood that the payroll costs associated with one teacher may be different from another, but the LEA is allocating by position, not by the dollar amount for payroll. In other words, the LEA allocates personnel based on a staffing pattern, described in its methodology to cover budget items coded to 61xx. A separate component of the methodology would then describe the LEA's allocation of funds coded to 62xx-66xx.

If the LEA offers

: Must an LEA use the same methodology for charter and non-charter schools within the LEA?

: No. An LEA may, at its choosing, allocate State and local funds to charter schools within the LEA using a separate methodology from that through which it allocates State and local funds to non-charter schools, consistent with any/all applicable State charter school

determination regarding the allocation of resources. Were an LEA to not allocate a resource because a school is a Title I school, the LEA would be out of compliance with ESEA section 1118(b)(2).

: What happens if the actual expenditures do not equal out to the exact planning amount? What amount of variance from the planned SNS methodology allocation to the actual expenditures will be allowed?

: The SNS methodology is looking only at allocations, not expenditures. There is no provision in statute or guidance

: If the LEA has an SNS methodology that allocates its State and local funds so that all its campuses receive the State and local funds they would receive in the absence of Title I, Part A funding, are the campuses then allowed to spend Title I funds on things that may violate the “ traditional” presumptions of supplant?

: Yes. The Title I, Part A statutory SNS Methodology replaces the “ traditional” presumptions of supplant as a way of demonstrating compliance with the SNS requirement. Therefore, if the LEA has an SNS methodology that has all the required components included and ensures all its campuses receive the State and local funds they would receive in the absence of Title I, Part A funding, then the campuses have met the SNS requirement. No further SNS demonstration is required for those campus-level funds.

support a need that is identified in the Comprehensive Needs Assessment;
are included in the Campus Improvement Plan;
are reasonable in cost;
are necessary to carry out the intent and purpose of the Title I, Part A program;
are allocable under the grant; and
are allowable under Title I, Part A.

: If an LEA is using its RLIS/SRSA funds from Title V in alignment with Title I, Part A, which Section (A or B) should the LEA refer to for information on compliance with the SNS requirement?

: Section A of this document applies to RLIS /SRSA. Aligning the RLIS/SRSA funds to Title I, Part A-type activities is one of the allowable activities under that statute. Those funds are not “ transferred” to Title I.

However, if an LEA implements Funding Transferability or REAP-Flex and transfers the uses of funds to Title I, Part A, then those transferred funds would follow Section B guidance for Title I, Part A.

: What about magnet schools? Can the LEA make an exception about how it allocates funds to its magnet schools?

: The LEA must apply its SNS methodology consistently within each campus category. It may be possible to weight a category of student or staff so that a magnet school would benefit, but any such weight must also be applied consistently to other campuses in the same campus category

- i is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the state's challenging student academic performance standards;
- i is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student academic performance standards; and
- i uses the State's system of assessment to review the effectiveness of the program.

A supplemental state or local program will be considered to meet the requirements of a program if the program—

- i± serves only children who are failing, or most at risk of failing, to meet the State's challenging student academic performance standards;
- i provides supplementary services designed to meet the special educational needs of (of a)-2() TJETQq0.00000912 0 612 792 reWñBT/F4 12 Tf3n426.52 501B501900Wp11900

: May a school's Title I status ever be taken into account in the methodology to allocate State and local funds to schools?

: Yes, there are two instances in which a school's Title I status may be considered in the methodology to allocate State and local funds to schools.

An LEA could, at its choosing, allocate *more* State and local funds to a campus because it is a Title I school. An LEA's methodology for allocating State and local funds must ensure a Title I school is allocated "all of the State and local funds it would otherwise receive were it not receiving [Title I, Part A funds.]" This scenario presumes the LEA allocates to a Title I school all the State and local funds it would otherwise receive were it not a Title I school (based on its Title I neutral allocation methodology) and then allocates *more* State and local funds based on the school's Title I status. Because there is no reduction in State and local funding based on its Title I status, this is consistent with the SNS requirement. [: It is important that the LEA remain aware of the potential impact of giving additional State and local funds on the Comparability of Services tests. The LEA must still be able to demonstrate Comparability of Services.]

An LEA may exclude the supplemental State and local funds for programs that meet the intent and purposes of Title I, Part A, as described in Question 26, above.

: Can Title I, Part A or other ESSA funds continue to be expended for PK classes on Title I campuses with the new requirement for full-day PK in House Bill 3?

: If Title I, Part A has previously supported PK classes, it may continue to do so as long as the LEA is implementing a compliant SNS methodology. Title I, Part A has a more flexible definition of SNS. As long as the LEA has an appropriate SNS Methodology implemented, then it would not be a supplant for Title I, Part A funds to assist with full-day PK classes.

Other federal funds, however, have a traditional definition of supplant. Using those federal grant funds to meet state statute is an automatic presumption of supplanting.

—

This section contains templates for the Statement of Exemption and an SNS Methodology.

An LEA is not required to use these templates, but the information and elements contained in the template must be present in the LEA's documentation.

The LEA must maintain a completed Statement of Exemption or a valid SNS Methodology on file, subject to request by an auditor or by TEA staff.

Under ESSA Title I, Part A, the LEA must either demonstrate a valid SNS Methodology that is used to allocate State and Local funds to campuses, or have a Statement of Exemption.

All LEA shall use Federal funds received under this part 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 this part, and not to supplant such funds.

Based on guidance from the US Department of Education, LEAs that meet one of the situations described in the Statement of Exemption section, below, will not be required to demonstrate a methodology for allocating its State and local funds to its campuses in order to comply with the SNS Methodology requirement for Title I, Part A. The situations described, below, result in Title I neutral situations with regard to campus allocations. Therefore, the SNS requirement at the campus level is met for Title I, Part A purposes, as long as the LEA provides enough State and local resources to its campus(es) to provide a free, public education in the absence of Title I, Part A funds. Title I, Part A funds that are reserved at the LEA level must be used only for Title I, Part A purposes, as indicated in the LEA's approved ESSA Consolidated Federal Grant Applica

: The LEA should attach a spreadsheet showing the calculations for each campus included in the methodology. Note: the LEA will also be asked to share copies of relevant summary reports from its general ledger showing the amounts allocated to campuses. If a staffing pattern was used as a component of the methodology, the LEA should provide a description of the staffing pattern, as well as the number of positions allocated to each campus based on the staffing pattern. The payroll ledger should reflect that number of positions at the campuses.