



**New Jersey Department of Education
Office of Title I Program Planning and Accountability**

A Discussion of Supplement vs. Supplant

The Rule

The federal supplement not supplant provision requires that federal funds be used to augment the regular educational program. They must not be used to substitute for funds or services that would otherwise be provided during the time period in question. The statute requires that state and local educational agencies (SEA's and LEA's) use federal funds received under Title I only to supplement the amount of funds available from nonfederal sources for the education of students participating in Title I services. The SEA and LEA cannot use these federal funds to supplant funds that would, in the absence of Title I funds, have been spent on Title I students (Title I, Part A, Section 1120A(b)).

OMB Circular A-133 Compliance Supplement elaborates on instances when it is presumed that supplanting has occurred:

- If the SEA or LEA uses federal funds to provide services that the SEA or LEA was required to make available under other federal, state, or local laws;
- If the SEA or LEA uses federal funds to provide services that the SEA or LEA provided with nonfederal funds in the prior year; or
- If the SEA used Title I, Part A funds to provide services for participating children that the SEA or LEA provided with nonfederal funds for nonparticipating children.

The bottom line question on supplanting is: For the time period at issue, what would have occurred in the absence of federal funds?

Program Designs

There are several types of programs that meet the supplement not supplant requirement for Title I funds. As provided in the statute and also highlighted in the schoolwide and targeted assistance school sections of OMB Circular A-133, schools must use effective instructional strategies that give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer programs, and minimize removing children from the regular classroom during regular school hours.

Application in Targeted Assistance or Schoolwide Program

In a targeted assistance school, the supplanting prohibition is typically interpreted to mean that *additional programmatic services* must be provided to identified Title I students. Historically, in an effort to demonstrate compliance with the supplanting prohibition, LEA's frequently designed

Title I programs to “pull out” the identified Title I students from the regular classroom and provide them with additional services in a *segregated Title I only setting*. The 1994 reauthorization of the Elementary and Secondary Education Act (ESEA) as Improving America’s Schools Act (IASA) discouraged the pull-out model in favor of more integrated, “push-in” methods of instruction. However, even in a more integrated model in a targeted assistance program, the school must be able to show that additional resources were directed toward identified eligible beneficiaries. **The SEA or LEA must demonstrate that it would not have provided the services in question with non-federal funds had the federal funds been unavailable.**

The supplanting analysis in a schoolwide program is quite different from the targeted assistance analysis. Because schoolwide program funds may be consolidated and used to support any expenditure, supplanting is purely a *fiscal* analysis, not *programmatic*. In a Title I schoolwide program, a school is not required to provide supplemental services to identified children. A school operating a schoolwide program does not have to: (1) show that federal funds used within the school are paying for additional services that would not otherwise be provided; (2) demonstrate that federal funds are used only for specific target populations; or (3) separately track federal program funds. Such a school is required to use funds available under Title I to support its schoolwide program to supplement the total amount of funds that would, in the absence of the federal funds, be made available from non-federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency (Title I, Part A, Section 1114). The schoolwide program *is not required* to demonstrate that any particular service is supplementary to the services regularly provided in that school to all students.

Exception to Supplement Not Supplant

Title I authorizes an exception to the supplement not supplant requirement by allowing LEA’s and SEA’s to exclude certain funds from the supplanting analysis. This exception was revised in the 1994 reauthorization, and amended again in 1996. NCLB continues this provision.

In determining compliance, an SEA or LEA may exclude supplemental state and local funds that were expended in any school or attendance area for programs that meet the “intent and purposes” of Title I, Part A (Amendment to 200.63, Exclusion of Supplemental State and Local Funds from Supplement, not Supplant effective 11/12/98). For example, in a state that has no mandatory summer school, assume a school district uses Title I, state, and local funds to provide optional summer school for students who are academically challenged. In the absence of Title I funds, summer school may still have been provided with state and local funds, which would ordinarily result in a supplanting violation. However, in accordance with this exception, the program meets the intents and purposes of Title I to serve low-achieving students, and the state and local funds used are in addition to the resources used for the regular program, leaving the Title I funds supplementary to what is provided under the regular program.

No Particular Instructional Method

LEAs are not required to provide Title I services through a particular instructional method or instructional setting to demonstrate their compliance with the supplanting prohibition. For instance, the LEA is not required to implement a pull-out program model simply to show the services provided to intended beneficiaries were supplemental to the regular program. In fact, pull-out programs are discouraged.

Questions and Answers on Supplant Not Supplant

Q-1: In the past, a teacher was funded partially by Title I and partially with local funds. Now the LEA funds a larger percent of the teacher's salary with local money. Is that supplanting?

A-1: If the teacher worked 100% basic skills services in the past year and still works 100% basic skills, this could be deemed supplanting.

Comments: The way to overcome this situation would be to document via board minutes that the position would have been cut or eliminated without Title I funds, then that would not be supplanting. An expanded example is shown below:

Possible Supplanting

	<i>Year 1</i>	<i>Year 2</i>
Schedule Percent	100%	100%
Funding Percent	50%	70%

Not Supplanting

	<i>Year 1</i>	<i>Year 2</i>
Schedule Percent	50%	70%
Funding Percent	50%	70%

Q-2: An LEA received an increase in federal funds and is now funding a teacher. Is that supplanting?

A-2: The LEA must again look to the prior year's funding source. If this position was not in existence in the prior year, then it cannot be supplanting.

Comments: If this was a locally funded position and now is funded with Title I, it would be supplanting. If more services are provided than in prior years, then it can never be called supplanting.

Q-3: Title I funds paid for a portion of two teachers' salaries and the LEA paid the rest from local funds. The LEA kept these extra classes at grades 1 and 3 in order to reduce class size. Is this supplanting?

A-3: No. Since the extra classes were maintained because of the additional funding, then these are classified as additional services and this is not supplanting.

Q-4: A technology coordinator is funded through local funds as well as through various grants. The coordinator keeps equipment operating so the teachers can integrate technology into instruction. Is this supplanting?

A-4: It depends on which grants (not all grants have supplemental services criteria) are funding the coordinator. If the same service is being provided year after year, but only the funding percentage charged to the grant is increased (other than normal salary increases), this may be supplanting.

Q-5: During the 2002-2003, 2003-2004, and 2004-2005 school years, LEA funds were used to help fund the position of a local professional development coordinator. Funds for 2005-2006 will be used in a similar manner. Is this supplanting?

A-5: This would again depend on the percentage of time versus the percentage of salary. Is more of the local portion being paid with Title I funds without additional services being provided?

Q-6: A guidance counselor will counsel and monitor targeted Title I students, specifically students in grades 5 through 8, in order to improve the effectiveness of the services these students receive. This specific monitoring has not been done in past years. Is this supplanting?

A-6: Not on the surface, because this is an additional service. However, is the guidance counselor offering the same services to non-Title I students? The LEA must be very careful that services provided under Title I are *supplemental* to what all students in the school/district are receiving.

Q-7: Last summer an LEA hired a summer school teacher for at-risk early primary students, and sent teachers to a three-day summer workshop on best practices in mathematics. These were funded through the LEA's general budget. However, there is no money in the general budget this year to fund these programs. These are much needed programs and services here in the district, and would greatly benefit students and staff. Improved student achievement is targeted through these programs.

A-7: It would need to be documented that the positions would have been eliminated if funding via a grant was not available (see comments in Q-1 above).

Q-8: A teacher was locally funded last year, but not teaching basic skills. The teacher is now teaching basic skills. Is this supplanting?

A-8: It would appear that the district is funding a new teacher. Since this appears to be supplemental, it would not be supplanting.

Q-9: May Title I be used to pay for high school students to receive credit toward graduation without violating the supplement not supplant rule?

A-9: There is not a regulation or guidance that per se prohibits the use of Title I funds to pay for credits that lead to high school graduation. Rather, this practice would be governed by the statutory supplement not supplant requirement in section 1120A(b) of Title I. The use of Title I funds to pay for coursework that could then be used as credit toward high school graduation would not necessarily violate the supplement not supplant requirement. Nonetheless, the focus of Title I funds is to provide *additional* learning opportunities for *low-performing* students. It is possible to use Title I funds to support a remedial class designed to help low-achieving students succeed in high school that would be supplemental even if students in the class earn high school credit.

One determining factor is whether the class would replace a course that, in the absence of Title I funds, the district would otherwise be offering. Another consideration is whether a Title I-paid teacher replaces an existing teacher. Also, is the Title I class required or is it an elective? If an elective course would not have been offered (and the person who teaches that course paid) except for the presence of Title I funds, and the district does not cut back on any of the classes it already offers and pays for with state and local funds, then we think the district could make a case that this elective course was in fact supplemental even if it counts toward high school graduation. This approach would seem to make sense because in many high schools there are few breaks in the day in which to offer additional Title I assistance; students need most, if not all, credits they earn to count towards graduation; and providing Title I services after school is not feasible because most students would not participate.

Q-10: Can Title I personnel be used as substitutes and be asked to cancel their own classes to do so?

A-10: In targeted assistance schools, Title I personnel may be assigned substitute teaching responsibilities if similarly situated personnel at the same school site are assigned these duties. Before an LEA or school uses Title I personnel for substitute teaching, it must ensure that truly similarly situated personnel are also used for substitute teaching. For example, it would be unallowable to define “similarly situated” so narrowly that few other types of personnel would qualify and, as a result, Title I personnel would carry a disproportionate share of the substitute teaching responsibilities.

Moreover, the Title I program must not be harmed in order for the Title I teacher to do substitute teaching. Title I classes cannot be cancelled. Title I personnel may serve as substitute teachers only during non-teaching periods—for example, during planning periods.

If the school is operating a schoolwide program, where the Title I funds are used to upgrade the entire instructional program, it would be allowable to use personnel paid with Title I funds as substitute teachers and cancel whatever classes they taught.

Some Other Pertinent Policy Rulings from the US Department of Education (USDE)

Case Study: Buying Computers

An LEA is considering buying four computers for each school and using local funds for non-Title I schools and Title I funds for Title I schools. If this was done, it is an obvious violation of the supplement not supplant provision. An LEA is obligated to equitably distribute computers paid for with state and local funds to both Title I and non-Title I schools. With respect to schoolwide programs, where funds, not services, must be supplementary, such schools would either have to receive district-purchased computers or district funds in an amount equal to the cost of the computers.

The LEA could first equitably equip all schools with computers and then purchase additional computers with Title I funds for services to Title I participants. In this situation, Title I would not be supplanting local funds and the district would equitably be fulfilling its computer equipment goals for all schools. Other alternatives could apply as supplement not supplant applies with respect to state and local public funds: for example, if an LEA provided an equitable amount of nonfederal resources to all its schools, it could then use Federal Title III technology grant funds to buy computers for its non-Title I schools and Title I funds to buy computers for its Title I schools. Also, if the parents in a non-Title I school wanted to raise funds to buy computers for their school, there would be no violation as these funds are supplemental.

USDE Policy Letter 11/1/1995

Discusses computer purchase issues similar to those referenced above:

- (1) Using local funds to purchase computers in a non-Title I school, while Title I funds pay for computers in Title I schools. This is a violation of supplement not supplant.
- (2) Parental or private business partnerships funding the purchase of equipment and other materials. This is permissible subject to any state and local regulatory prohibitions.

USDE Policy Letter 4/24/1996

Addresses the request of an LEA to purchase four computers for each classroom, two funded by non-Title I funds and two funded by Title I funds, which was deemed supplanting, not supplementing, state and local funds. The rationale was that the Title I-funded computers would be used by all students, both non-Title I and Title I.

USDE Policy Letter 4/26/1996

Addresses the request of an LEA to use Title I, Part A funds for services for limited English proficient students in a schoolwide program school, which was approved, as the funds may be used to support *any* of the activities in the schoolwide program.

USDE Policy Letter 8/2/1996

Addresses the request of a special education, private school to use Title I funds and services if students meet poverty and residency requirements established by Title I legislation. The USDE

responded that Title I, Part A funds may be used to coordinate and supplement required services as well as provide additional direct services to children with disabilities.

USDE Policy Letter 12/4/1996

Discusses a determination as to whether State Compensatory Education (SCE) funds qualify as supplemental funds so that an LEA may skip a higher-ranked school attendance area or school receiving SCE funds when allocating Title I funds. The USDE responded that given the broad purposes for which SCE funds may be used, decisions about skipping Title I schools would have to be made on a case-by-case basis. To skip a higher ranked Title I school, an LEA would have to determine that the SCE-funded program in that school meets the criteria outlined in Section 1114 (schoolwide) or Section 1115 (targeted assistance).

USDE Policy Letter 5/21/1996

Addresses a request to charge a \$50 student tuition fee for a Title I summer school program, which was denied. The summer school program was 50 percent split-funded using Title I and local district funds. Title I services must be supplemental and tuition may not be charged for any Title I service. If total funding is insufficient, the LEA must determine who is most at risk of failing to meet state standards, and serve as many of those students, in order of need, as funding permits.

USDE Policy Letter 3/26/1998

Defines how Title I funds can be used to supplement state and/or locally mandated summer school programs. For targeted assistance schools, Title I may provide additional services only to Title I students either during the summer session or for a period of time that would extend the summer session for additional days for Title I participants. Another possibility would be for Title I to supplement mandated Title I summer school with additional services in another subject area, as needed. In a schoolwide program, the school can use Title I funds along with state and local resources to extend the school year for all of its students.

USDE Policy Letter 4/15/1998

Addresses a request to have Title I partially fund the expansion of an innovative laptop computer classroom and at-home computer initiative through a leasing contract. Title I funds, in combination with other funding sources, cannot be used to provide services to children ineligible for Title I assistance; this would result in supplanting state and local funds and is impermissible. However, if the LEA is operating a schoolwide program, this approach would generally be allowed as long as it meets full schoolwide plan objectives.

USDE Policy Letters 7/1/1998 and 7/24/1998

Discusses a Title I program advisor, paid entirely from federal funds, who was appointed by the governor to serve on a committee to hear employee grievances, spending about 1-1½ days per month in this capacity. This was deemed to be supplementing, not supplanting, as limited duties may be assumed by Title I personnel, as long as the amount of time spent is the same proportion of total work time as that for similar personnel (other participating members.)

USDE Policy Letter 1/27/1999

Concerns a project that met fiscal supplement not supplant criteria because of the following:

- (1) Title I services were provided to participating children in a different classroom setting or at a different time than when these children were not participating in the Title I program.
- (2) The Title I program provided services that replaced the course of instruction regularly provided to Title I participants with a program particularly designed to meet the participants' needs.
- (3) The LEA provided funds from other than Title I either the FTE number of staff that would have been provided for the services replaced by the Title I program or the funds required to provide that number of staff.

USDE Policy Letter 3/12/1999

Discusses a targeted assistance school that requested Title I funds to pay for a nominal rental fee for laptop computers for Title I students, while non-Title I students would pay the fee. The USDE advised that such Title I funding *was* permissible as long as it was provided *only* to Title I identified students.

USDE Policy Letter 11/8/1999

Addresses a request to use nine state DOE Title I-funded facilitators, who would work only in Title I eligible schools, so that they can perform the same services in all of the state's low-performing school districts. If the work is in accordance with applicable state code, this would be a supplement not supplant issue because Title I-funded personnel would be used to provide services that state law requires for supplementing low-performing school districts.

USDE Policy Letter 11/18/1999

Addresses a request to use Title I funds to support college awareness presentations, which is allowable if provided only to Title I identified students. If such presentations are given in a schoolwide program, they can be funded by Title I for all students.

USDE Policy Letter 12/17/1999

Concerns whether Title I personnel may be used as substitutes and not violate supplement not supplant. In targeted assistance schools, this is permissible if Title I personnel substitute during non-regularly scheduled teaching periods only and substitute as a normal and proportionate duty required of all teachers in that school. In a schoolwide district, however, it would be allowable to use Title I teachers as substitutes and cancel whatever classes they were scheduled to teach.