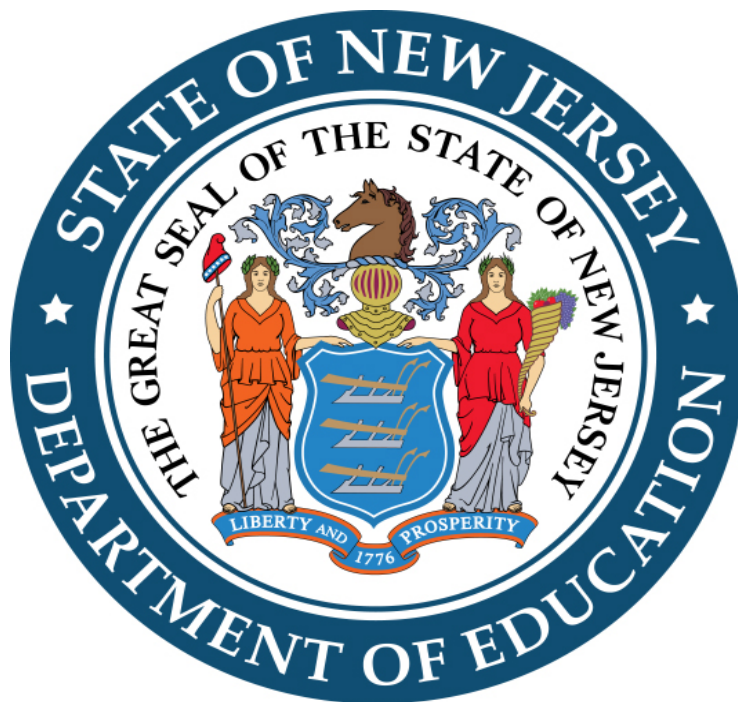


New Jersey Department of Education

*Title I, Part A*

*Supplement Not Supplant*

*Guidance*



*September 2019*

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## Introduction

The purpose of this document is to support New Jersey’s local education agencies (LEAs) in effectively using their Title I, Part A funds to address student needs while meeting the fiscal requirements set forth in the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act of 2015 (ESSA). This guidance will specifically address the supplement not supplant changes from No Child Left Behind (NCLB) to ESSA and provide examples to illustrate how an LEA can meet the federal compliance requirements.

## Background

Under the ESEA as amended by the Every Student Succeeds Act of 2015 (ESSA), an LEA may use the Title I, Part A funds it receives only to “supplement” the funds that would, in the absence of the Title I, Part A funds, be made available from State and local funds for the education of students receiving Title I, Part A services. This requirement is largely unchanged from the supplement not supplant requirement in the ESEA prior to the authorization of ESSA; however, the manner in which LEAs demonstrate compliance with the supplement not supplant requirement has changed.

Supplement not Supplant Compliance <u>Prior to ESSA</u>	Supplement not Supplant Compliance <u>Under ESSA</u>
Three conditions were applied to determine if LEAs were in compliance: <ol style="list-style-type: none"><li>1. If Title I, Part A funds were used to provide services required under federal, or state law.</li><li>2. If Title I, Part A funds were used to provide services that were funded by non-federal funds in prior year(s).</li><li>3. If Title I, Part A funds were used for Title I eligible students to participate in a program that is supported by other funds for the rest of the population.</li></ol>	The ESSA requires LEAs to demonstrate that the LEA methodology used to <b>allocate</b> State and local funds to schools results in each Title I school receiving all the State and local funds it would otherwise receive if it were not receiving Title I, Part A funds.  Explicitly prohibits requiring districts to identify that an individual cost or service, supported with Title I, Part A funds, is supplemental.

A State educational agency or local educational agency shall use Federal funds received under [Title I, Part A] only to supplement the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students participating in programs under [Title I, Part A], and not to supplant such funds. (*ESEA section 1118(b)(1)*)

As noted in the [June 2019 non-regulatory informational document](#) issued by the United States Department of Education (USED), while the general requirement remains largely unchanged, ESEA section 1118(b)(3) “contains a new provision that represents a significant change” from the previous supplement not supplant requirement, with respect to a targeted assistance school and Title I, Part A funds used at the district level. Under ESEA, all Title I schools, including targeted assistance schools are now subject to the provision set forth in ESEA section 1118(b)(3), which states:

No local educational agency shall be required to –

- A. Identify that an individual cost or service supported under [Title I, Part A] is supplemental; or
- B. Provide services under [Title I, Part A] through a particular instructional method or in a particular instructional setting in order to demonstrate such agency’s compliance with [the supplement not supplant requirement].

*(ESEA section 1118(b)(3))*

As a result of this change, LEAs cannot be required to use the three presumptions traditionally used to determine whether an identified use of Title I, Part A funds constitutes supplanting. Instead, an LEA can show compliance with the supplement supplant provision by demonstrating that the manner in which it allocates State and local funds to schools is “Title I neutral,” meaning the methodology does not account for any Title I, Part A funds received by schools. This provision is set forth in ESEA section 1118(b)(2).

To demonstrate compliance with [the supplement not supplant requirement], a local educational agency shall demonstrate that the methodology used to allocate State and local funds to each school receiving [Title I, Part A funds] ensures that such school receives all the State and local funds it would otherwise receive if it were not receiving [Title I, Part A funds].

*(ESEA section 1118(b)(2))*

As noted in the June 2019 [United States Department of Education’s non-regulatory informational document](#), an LEA must utilize a methodology that does not take into account a school’s Title I status when it allocates State and local resources. “When an LEA allocates State and local funds to schools through a methodology that is neutral with regard to whether a school receives Title I, Part A funds, it follows that Title I, Part A funds in a Title I school are supplemental to its State and local funds.” ([June 2019, USDE informational document](#)).

## Demonstrating Compliance

***Please note: The following are only examples of methodologies an LEA may use to demonstrate compliance with the supplement not supplant provision. LEAs have flexibility to develop their own methodology or multiple methodologies that do not follow the provided examples.*** For example, an LEA may decide to distribute its State and local funds based on the characteristics of students in each school (General Education, Economically Disadvantaged, Students with Disabilities, English Learners) or use a formula to determine how to allocate State and local funds first, before allocating Title I, Part A funds in addition to the State and local funds. Essentially, an LEA may use any method it can defend is fair, equitable and Title I neutral.

As long as the chosen methodology or methodologies are Title I neutral, LEAs may consider:

- Whether to use a single districtwide methodology or variable methodology/multiple methodologies based on grade span or school type;
- How the methodology may vary, or scale based on student enrollment size; or
- How the methodology may account for schools in need of additional funds to service high concentrations of students with disabilities, English learners, or other such groups of students the LEA determines require additional support.

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### Example 1:

#### **Allocation of State and Local Funds Based on Student Characteristics**

(Weighted Student Funding)

Assume:

- Base allocation per student = \$7,000
- Additional allocation per student from a low-income family = \$250
- Additional allocation per English language learner = \$500
- Additional allocation per student with a disability = \$1,500
- 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 language 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	Result
Allocation per student	400 students × \$7,000	\$2,800,000
Allocation per student from low-income family	200 students from low-income families × \$250	\$50,000
Allocation per English language learner	100 English language learners × \$500	\$50,000
Allocation per student with a disability	50 students with disabilities × \$1,500	\$75,000
Allocation per preschool student	20 preschool students × \$8,500	\$170,000
<b>Total</b>	--	<b>\$3,145,000</b>

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

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**Example 2:**

**Allocation of State and Local Funds Based on Staffing and Supplies**

Assume:

- 1 principal/school (\$120,000)
- 1 librarian/school (\$65,000)
- 2 guidance counselors/school (\$65,000/guidance counselor)
- 1 teacher per 20 students (\$65,000/teacher)
- \$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	Result
1 principal	1 principal × \$120,000	\$120,000
1 librarian	1 librarian × \$65,000	\$65,000

Category	Calculation	Result
2 guidance counselors	2 guidance counselors × \$65,000	\$130,000
20 teachers	20 teachers × \$65,000	\$1,300,000
Materials and supplies	400 students × \$825	\$330,000
<b>Total</b>	--	\$1,945,000

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

## Questions and Answers

**1. Are any LEAs exempt from developing a methodology to comply with ESEA section 1118(b)(2)?**

Yes, an LEA need not have a methodology to comply with ESEA section 1118(b)(2) if it has:

- a. One school;
- b. Only Title I schools; or
- c. A grade span that contains only: a single school, non-Title I schools, or Title I schools (i.e., no methodology is required for this grade span).

**2. If an LEA is exempt from demonstrating compliance with the supplement not supplant provision, does it still need to meet the supplement not supplant requirements?**

Yes, all LEAs receiving Title I, Part A funds must ensure that Federal funds are used only to supplement funds that would, in the absence of such Federal funds, be made available from State and local sources.

**3. Will the NJDOE monitor LEAs for compliance with the supplement not supplant requirements?**

Yes, the NJDOE will monitor LEAs for compliance with the supplement not supplant requirements. In addition, all non-exempt LEAs will be required to provide an explanation of the methodology used to allocate funds in accordance with the Federal requirements as part of the ESEA Consolidated Subgrant Application process through the Electronic Web-Enabled Grant System (EWEG).

**4. What does it mean for a methodology to be “Title I neutral?”**

According to the [USDE non-regulatory informational document](#), a “Title I neutral methodology ensures that State and local funds to a Title I school are not reduced based on the school receiving Title I, Part A funds because the methodology for allocating State and local funds to schools does not consider Title I status.” (June 2019, USDE)

**5. Must an LEA maintain documentation which demonstrates the methodology used to allocate State and local funds is Title I neutral?**

Yes. ESEA section 8306(a)(6)(B) and 34 C.F.R. §§ 76.730-76.731 require that an LEA keep records to show compliance with program requirements and facilitate an effective audit.

**6. Since LEAs are not required to demonstrate that individual costs are supplemental, must Title I, Part A funds be used only for allowable activities?**

Yes. All expenditures must still be allowable. The type of Title I program determines whether a cost is allowable:

- 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 (see ESEA section 1114(a)(1)).
- In a targeted assistance program and with respect to funds for district-level activities, the ESEA requires Title I, Part 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 (see ESEA section 1115(a)).

In addition, all Title I costs must still be determined necessary, reasonable and allocable in accordance with 2 C.F.R. §§200.403. The cost must be needed for the operation, administration, or proper and efficient performance of the program. The cost must be aligned to an identified need from the LEA’s needs assessment. A reasonable cost will be one where the nature and amount of the cost does not exceed that which would be incurred “by a prudent person under the circumstances.” 2 C.F.R. §200.404 The LEA must also make purchases in alignment with its own procurement procedures. Lastly, a cost must be allocable to the program which means the cost of the purchase benefits the program in proportion to the amount paid for the purchase. For example, if

purchased 100 percent with Title I, Part A funds, then the purchase must benefit Title I, Part A 100 percent of the time it is being used.<sup>1</sup>

**7. May an LEA use its actual per-pupil expenditures data to demonstrate compliance with the supplement not supplant provision?**

No. According to the [June 2019 USDE non-regulatory informational document](#), while the two concepts are related, per-pupil expenditures represents a retrospective analysis of how much was *spent* by each school, while supplement not supplant requires a prospective methodology. The compliance demonstration for supplement not supplant is based on the methodology by which LEAs are allocating State and local funds. Since actual per-pupil expenditure data is not a methodology by which State and local funds are allocated to schools, it cannot be a methodology for an LEA to demonstrate compliance with supplement not supplant.

**8. Is an LEA required to adjust its allocation of State and local resources to account for changes during the school year that might result in the LEA's noncompliance?**

No. According to the [June 2019 USDE non-regulatory informational document](#), an LEA is required to demonstrate compliance at only one point during the year and is not required to continuously demonstrate compliance throughout the school year.

**9. Do the supplement not supplant changes described in this document apply to other ESEA programs?**

No. Other ESEA programs that have a supplement not supplant requirement are not affected by the changes in ESEA section 1118(b). Specifically, those programs not impacted include:

- Title I, Part C
- Title I, Part D
- Title II, Part A
- Title II, Part B, Subpart 1
- Title III, Part A
- Title IV, Part A, Subpart 1
- Title IV, Part A, Subpart 3
- Title IV, Part B
- Title IV, Part C

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<sup>1</sup> A cost does not have to be proportionately allocated when the benefit received by another program is an incidental or *de minimus* benefit.



- Title IV, Part F, Subpart 2
- Title IV, Part F, Subpart 4
- Title V, Part B
- Title VI, Part A, Subpart 1
- Title VII, Subsection (b)

**10. Typically, an LEA creates its budget in February for the subsequent school year.**

**Projected State and local funds are allocated to individual schools based on salaries, benefits, and identified needs for each school. When the Title I, Part A allocations are made available in May, the LEA decides to reduce the level of State and local funds and instead uses Title I, Part A funds to cover the budgeted expenses. Is this an acceptable methodology?**

No. In this situation, reducing the amount of State and local funds in anticipation of utilizing Title I, Part A funds to replace the State and local funds would be supplanting. In this case, the LEA is not allocating funds in a Title I neutral manner because it is using the Title I, Part A funds in place of State and local funds for the school.

**11. An LEA distributed its non-Federal funds through a weighted per pupil formula that was articulated in its written methodology. As the school year goes on, the LEA realizes it has an additional \$100,000 in State resources due to state budget changes, so it decides to distribute the additional funds among schools that have the smallest total budgets. Is this acceptable?**

Yes. ESEA section 1118(b)(2) assumes an annual allocation of State and local funds to demonstrate compliance. Therefore, an LEA is not required to continuously demonstrate compliance throughout the school year. As long as the original methodology used to distribute the available State and local funds was Title I neutral, this would be acceptable.

**12. An LEA provides each school with State and local funds to make improvements to the school buildings as needed. To determine how much State and local funds a school needs, the building coordinator for the LEA uses a form that reviews the damage to the building, taking into account the buildings' age and other factors. When the form is completed, each school receives a set amount of State and local funds based on their score. Is this acceptable?**

Yes. This would be acceptable, as long as the methodology used to allocate the State and local funds is Title I neutral, meaning schools receiving Title I, Part A funds did not receive less State and local funds to make school building improvements because they received Title I, Part A funds.

**13. An LEA has identified improving reading comprehension for elementary students as a districtwide need. As a result, it initiates a districtwide reading initiative, whereby a reading specialist is placed in every elementary school in the LEA to provide supplemental assistance to low-performing students. Because it lacks enough State and local funds to hire a reading specialist for every school, the LEA funds the reading specialists in its Title I schools with Title I, Part A funds and pays for the reading specialists in its non-Title I schools with State and local funds. Is this acceptable?**

No. If the LEA funds reading specialists with State and local funds in the non-Title I schools, then using Title I, Part A funds to implement the districtwide initiative in Title I schools would not be Title I neutral.

Any questions concerning Supplement Not Supplant may be directed to [titleone@doe.nj.gov](mailto:titleone@doe.nj.gov).