

# Supplement, Not Supplant

## Demonstration under the Every Student Succeeds Act



### Changes under the Every Student Succeeds Act

#### Background

Under the No Child Left Behind Act of 2001 (NCLB), the supplement, not supplant (SNS) requirement was met by ensuring individual Title I costs did not fall within the presumptions of supplanting test. This process assessed whether a particular Title I cost was supplemental and focused on the use of the Title I funds. Under the presumptions test, a Title I supplanting violation was presumed if Title I, Part A paid for:

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.

In practice, the three presumptions created confusion about what kinds of costs Title I could support, which sometimes led to fragmented and misaligned services for students in Title I schools.

#### Changes

In response to concerns regarding SNS, Congress changed the way SNS must be tested in Title I, Part A under the Every Student Succeeds Act of 2015 (ESSA). This change shifts the review of Title I, Part A expenses and forgoes the three presumptions test. **Alternatively, the SNS test under the ESSA focuses on and requires demonstration of the local education agency's (LEA's) methodology used to allocate State and local (non-Federal) funds to each school receiving Title I assistance to ensure that it is receiving the same amount it would have regardless of whether the school received Title I assistance.** In other words, the updated SNS test reviews the manner in which LEAs allocate State and local funds to schools to ensure Title I schools receive all of the funds they would have received had they not participated in Title I.

**This shift moves away from the review of individual Title I expenses and toward a review of how LEAs allocate State and local funds.** Under the ESSA, no LEA shall be required to identify that an individual cost or service supported under Title I, Part A is supplemental, nor is the LEA required to provide Title I, Part A services through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance.

### Methodology: Defined

The term "methodology" refers to the manner in which State and local (non-Federal) funds are allocated to schools. Currently, the U.S. Department of Education has not promulgated regulations or non-regulatory guidance for meeting the Title I, Part A SNS requirements and has not indicated a timeline for doing so. The Colorado Department of Education (CDE) acknowledges that there are multiple ways a LEA may allocate State and local funds to schools, which may vary from district to district depending upon local decisions and board policies. Under the ESSA, LEAs must demonstrate to CDE that the methodology used to allocate State and local funds to each school receiving assistance under Title I, Part A ensures that such school receives all of the State and local funds it would otherwise receive if it were not receiving Title I, Part A assistance. In other words, LEAs must demonstrate that the method for allocating funds must be Title I neutral and give no consideration to whether a school receives Title I assistance or not when allocating State and local funds.

### Frequently Asked Questions

#### **Q: Are SNS requirements the same as comparability requirements?**

A: No. While both comparability and SNS look at how LEAs distribute State and local funds and/or resources to schools, they are separate tests that measure different things. Comparability requires 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. SNS requires LEAs to distribute State and local funds to schools without taking into account a school's participation in the Title I program. Though the source of funds for both fiscal tests are similar (i.e. State and local), situations may occur where the LEA satisfies the requirements within one while failing those of the other. For this purpose, CDE will not use comparability results to meet the SNS demonstration requirement.

#### **Q: Does the BOCES submit this on behalf of the LEA?**

A: It depends. The LEA is ultimately responsible for ensuring that CDE receives their demonstration of compliance with SNS requirements within the given timeframe. However, if the BOCES coordinates all aspects of the Consolidated Application on behalf of the member district, the LEA may work with the BOCES to ensure all documentation is submitted to CDE.

#### **Q: I'm a Federal Program Administrator – who should I talk to in my district to find the methodology for allocating State and local funds?**

A: LEA Federal Program Administrators may not have specific knowledge related to the allocation of State and local funds and should connect with the LEA's Finance Director, or similarly situated person(s), for more information.



CDE has recognized the following methodologies that LEAs may select from during the demonstration process:

- a. Distribution of State and local (non-Federal) resources based on the characteristics of the students;
- b. Distribution of State and local (non-Federal) resources based on staffing and supplies;
- c. Distribution of State and local (non-Federal) resources based on a combined approach, or,
- d. Other, as adopted by the LEA.

Note: The ESSA permits the LEA to exclude State and local (non-Federal) funds expended in any school for programs that meet the intent and purpose of Title I, Part A. For example, if the LEA utilizes State and local (non-Federal) funds to provide a schoolwide program in a non-Title I school, these funds may be excluded from the supplanting determination.

CDE does not require that the LEA implement a specific methodology to allocate State and local funds to its schools, as long as the methodology selected and implemented is neutral in regard to the Title I status of the schools and is implemented consistently among all schools in the LEA.

The U.S. Department of Education is not authorized or permitted to prescribe the specific methodology a LEA uses to allocate State and local funds to each school receiving assistance under Title I, Part A.

### Methodology: Examples

To assist LEAs in determining which description best fits the LEA’s methodology for allocating State and local (non-Federal) funds to schools, CDE has provided the examples below. Please note that although the examples provided are derived from the [2015 guidance provided by the U.S. Department of Education referencing the use of Federal funds to supplement school reform in schoolwide programs under the No Child Left Behind Act \(NCLB\)](#), officials from the U.S. Department of Education have indicated that these examples *should* meet the methodology requirements for targeted assistance programs under the ESSA.

#### Example 1: Distribution of State and Local (non-Federal) Resources Based on the Characteristics of the Students

This form of equitable distribution is generally referred to as a “weighted per pupil” funding formula.

Assume:

- ✓ Allocation/student (\$7,000)
- ✓ Additional allocation/student from a low-income family (\$250)
- ✓ Additional allocation/English learner (\$500)
- ✓ Additional allocation/student with a disability (\$1,500)
- ✓ Additional allocation/preschool student (\$8,500)

In a school of 450 students, including 200 students from low-income families, 100 English learners, 50 students with disabilities, and 20 preschool students, the school would be expected to receive \$3,495,000 in non-Federal resources based on the following calculation:

Category	Calculation	Amount
Allocation/student	450 x \$7,000	\$3,150,000
Additional allocation/student from a low-income family	200 x \$250	\$50,000
Additional allocation/English learner	100 x \$500	\$50,000
Additional allocation/student with a disability	50 x \$1,500	\$75,000
Additional allocation/preschool student	20 x \$8,500	\$170,000
		<b>\$3,495,000</b>

In this example, the LEA must distribute non-Federal resources according to the assumptions above to all of its schools, regardless of whether a school receives Title I, Part A funds. However, actual expenditures within each school after the distribution of resources may vary.

#### Example 2: Distribution of State and Local (non-Federal) Resources Based on Staffing and Supplies



Assume:

- ✓ 1 teacher per 22 students (\$65,000/teacher)
- ✓ 1 principal/school (\$120,000)
- ✓ 1 librarian/school (\$65,000)
- ✓ 2 guidance counselors/school (\$65,000/guidance counselor)
- ✓ \$825/student for instructional materials and supplies (including technology)

In a school of 450 students, the school would be expected to receive \$2,051,250 in non-Federal resources based on the following calculation:

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
21 teachers	21 x \$65,000	\$1,365,000
Instructional materials and supplies	450 x \$825	\$371,250
		<b>\$2,051,250</b>

In this example, the LEA must distribute non-Federal resources according to the assumptions above to all of its schools, regardless of whether a school receives Title I, Part A funds. However, actual expenditures within each school after the distribution of resources may vary.

**Example 3: Distribution of State and Local (non-Federal) Resources Based on a Combined Approach**

This form of equitable distribution includes characteristics of the two previous examples, distribution of State and local (non-Federal) resources based on the characteristics of the students and the staffing and supplies needs of the schools.

Assume:

- ✓ 1 principal/school (\$120,000)
- ✓ 1 librarian/school (\$65,000)
- ✓ 2 guidance counselors/school (\$65,000/guidance counselor)
- ✓ Allocation/student (\$7,000)
- ✓ Additional allocation/student from a low-income family (\$250)
- ✓ Additional allocation/English learner (\$500)
- ✓ Additional allocation/student with a disability (\$1,500)

In a school of 450 students, including 200 students from low-income families, 100 English learners, and 50 students with disabilities, the school would be expected to receive \$3,640,000 in non-Federal resources based on the following calculation:

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 a low-income family	200 x \$250	\$50,000
Additional allocation/English learner	100 x \$500	\$50,000
Additional allocation/student with a disability	50 x \$1,500	\$75,000
		<b>\$3,640,000</b>

In this example, the LEA must distribute non-Federal resources according to the assumptions above to all of its schools, regardless of whether a school receives Title I, Part A funds. However, actual expenditures within each school after the distribution of resources may vary.

**Example 4: Other, as Adopted by the LEA**



This form of equitable distribution does not necessarily fit within the parameters provided in the other three examples; however, the LEA assures that this methodology is neutral in regard to the Title I, Part A status of each school. The LEA has adopted this methodology and will provide a description during the demonstration process.

### Demonstration Process

CDE is responsible for verifying that each LEA is in compliance with the demonstration requirements regarding SNS under the ESSA. To ensure all LEAs in Colorado meet these requirements, each LEA will be required to submit the following:

- (a) An assurance stating the LEA is in compliance with the provisions of section 1118(b) of the ESSA;
- (b) An indication of the type of methodology the LEA has adopted and is implementing in regard to the allocation of State and local (non-Federal) funds to all schools; and,
- (c) A narrative description of the methodology *or* a reference to the LEA's Financial Transparency document in which the methodology is described.

The LEA is required to provide the demonstration requirements to CDE one time for the duration of the Title I, Part A program under the ESSA, unless the LEA adopts or implements a revised methodology for allocating State and local (non-Federal) resources. In other words, the LEA must only demonstrate its methodology for allocating State and local (non-Federal) resources once, unless and until Congress reauthorizes the Elementary and Secondary Education Act, so long as no substantive changes are made to the LEA's methodology. **Upon adoption or implementation of a revised methodology, it is incumbent upon the LEA to provide an updated demonstration of compliance form to the Office of ESEA Programs within the Colorado Department of Education.**

**LEAs that have a single school code (i.e. Elementary, Middle and High School levels all have the same school code) are required to submit an assurance, but need not provide additional demonstration requirements.** These LEAs should select the appropriate box on the demonstration template and return it to CDE.

### Timeline

The ESSA requires LEAs be in compliance with the SNS requirements by December 10, 2017. CDE has implemented the following timeline with regard to the SNS requirements:

- LEAs demonstrated compliance with the SNS requirements by May 30, 2018 through the demonstration process outlined above
- LEAs that are unable to meet the demonstration requirements through the process outlined above must resubmit their form prior to or during the intake process for the 2019-20 Consolidated Application year
- Approval of the SNS demonstration methodology is required for LEAs to access funds

**The LEA will not receive substantial approval until CDE is able to verify the information provided upon receiving the LEA's demonstration.**

### Change in Approved Methodology

The LEA is required to provide the demonstration requirements to CDE one time for the duration of the Title I, Part A program under the ESSA, unless the LEA adopts or implements a revised methodology for allocating State and local (non-Federal) resources. **Upon adoption or implementation of a revised methodology, it is incumbent upon the LEA to provide an updated demonstration of compliance form to the Office of ESEA Programs within the Colorado Department of Education.**

### Comparability and Supplement, Not Supplant

While comparability and supplement, not supplant requirements both examine how the LEA distributes State and local funds and/or resources to schools, they are separate tests and are intended to measure different aspects of the supplemental nature of Title I, Part A funds. As such, the demonstration requirements for comparability may not be used to meet the demonstration requirements for supplement, not supplant, or conversely. The following examples provide scenarios where LEAs may satisfy the requirements of one while violating the requirements of the other.

#### **Example 1: Supplement, Not Supplant compliance is met, but Comparability is violated**

The LEA demonstrates compliance with supplement, not supplant because it can demonstrate that it did not consider the Title I status of schools when distributing State and local funds to schools, however the LEA does not satisfy comparability requirements because the LEA's non-Title I schools have lower student/instructional staff ratios than its Title I schools.



**Example 2: Comparability compliance is met, but Supplement, Not Supplant is violated**

The LEA demonstrates compliance with comparability through student/instructional staff ratios, however the LEA does not satisfy supplement, not supplant requirements because additional State/local funding is provided to non-Title I schools for technology purchases but not to Title I schools because the LEA expects the Title I school to pay for those technology purchases with Title I, Part A funds.

**Questions**

Questions regarding compliance with the supplement, not supplant demonstration requirement may be directed to the following CDE staff:

- Questions related to the demonstration requirements, process, or timeline:  
Barbara Vassis  
Office of ESEA Programs  
Federal Programs Unit  
303-866-6065  
[vassis\\_b@cde.state.co.us](mailto:vassis_b@cde.state.co.us)
- Questions related to the description of methodology, budget process, or Financial Transparency documents:  
Jennifer Okes  
Office of School Finance  
School Finance and Operations Division  
303-866-2996  
[Okes\\_j@cde.state.co.us](mailto:Okes_j@cde.state.co.us)

**Where can I learn more?**

- For additional [resources](#) related to fiscal requirements under the Every Student Succeeds Act, visit: [www.cde.state.co.us/fedprograms/ti/a](http://www.cde.state.co.us/fedprograms/ti/a)
- [View all CDE fact sheets:](#) [www.cde.state.co.us/communications/factsheetsandfaqs](http://www.cde.state.co.us/communications/factsheetsandfaqs)



Supplement, Not Supplant Under the Every Student Succeeds Act: Demonstration of Compliance

LEA Name: \_\_\_\_\_

LEA Code: \_\_\_\_\_

I. Purpose

The purpose of this form is to collect the required information necessary for CDE to verify that each local education agency (LEA) is in compliance with the demonstration requirements regarding SNS under the Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act of 2015 (ESSA). To ensure all LEAs in Colorado meet these requirements, each LEA must submit the following:

- (a) An assurance stating the LEA is in compliance with the provisions of section 1118(b) of the Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act of 2015 (ESSA);
- (b) An indication of the type of methodology the LEA has adopted and is implementing in regard to the allocation of State and local (non-Federal) funds to all schools; and,
- (c) A narrative description of the methodology *or* a reference to the LEA's Financial Transparency document in which the methodology is described.

*Note: The LEA is required to provide the demonstration requirements to CDE one time for the duration of the Title I, Part A program under the ESSA, unless the LEA adopts or implements a revised methodology for allocating State and local (non-Federal) resources. Upon adoption or implementation of a revised methodology, it is incumbent upon the LEA to provide an updated demonstration of compliance form to the Office of ESEA Programs within the Colorado Department of Education.*

II. Instructions

**Every LEA must submit an executed Supplement, Not Supplant Demonstration of Compliance upon a change in the adoption and implementation or revision of the methodology for allocating State and local (non-Federal) resources.**

A copy of this form must be duly executed by the President of the School Board or Board of Directors and submitted to: [consolidatedapplications@cde.state.co.us](mailto:consolidatedapplications@cde.state.co.us). Upon submitting the required materials, CDE will verify the information provided to ensure the LEA is in compliance with the ESSA requirements.

III. Demonstration

In consideration of participating in a Title I, Part A program(s) for which Federal funds are made available and of receiving Federal funds to carry out any such program(s), the board of directors of \_\_\_\_\_ (LEA), by action at its meeting on \_\_\_\_\_, 20\_\_\_\_, provides the following to the Colorado Department of Education:

*The LEA need only complete section a. or b. below, as applicable.*

- a. **For LEAs with a single school code (i.e. Elementary, Middle and High School levels all have the same school code):**
  - The LEA assures that it is in compliance with the supplement, not supplant provisions within section 1118(b) of, and referenced throughout, the Every Student Succeeds Act.  
**No further action is required beyond the assurance.**
- b. **For LEAs with more than one school code (i.e. the LEA has multiple schools with different school codes):**
  - The LEA assures that it is in compliance with the supplement, not supplant provisions within section 1118(b) of, and referenced throughout, the Every Student Succeeds Act.
  - The LEA assures that it has adopted and implemented the following methodology to allocate State and local (non-Federal) funds to all schools in the LEA, regardless of Title I status (select only one):
    - o Distribution of State and local (non-Federal) resources based on the characteristics of the students



- Distribution of State and local (non-Federal) resources based on staffing and supplies
  - Distribution of State and local (non-Federal) resources based on a combination of the characteristics of the students and staffing and supplies
  - Other, as adopted and implemented by the LEA
- The LEA has provided a narrative description of either the LEA’s methodology or a reference to the LEA’s Financial Transparency document in which the methodology is described,  
*Note: The LEA may provide the narrative description, as selected, in the text box below or may attach an addendum hereto.*

**This form shall remain in effect for the duration of Title I, Part A as authorized under the Every Student Succeeds Act, unless the LEA adopts or implements a new or revised methodology for allocating State and local (non-Federal) funds during such time. Upon adoption or implementation of a revised methodology, it is incumbent upon the LEA to provide an updated demonstration of compliance form to the Office of ESEA Programs within the Colorado Department of Education.**

**Compliance with the provisions of these assurances and descriptions, including any addenda or external documents referenced herein, constitutes a condition of continued receipt of Federal financial assistance and is binding upon the LEA, its successors, transferees and assignees for the duration of the program.**

**In the event of failure to comply with these conditions, it is understood that funds can be terminated and the right to receive further assistance may be denied.**

\_\_\_\_\_  
 Name of Board President (LEA)

\_\_\_\_\_  
 Signature of Board President (LEA)

\_\_\_\_\_  
 Date