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Supplement not Supplant under ESSA

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Supplement Not Supplant

**Non-Regulatory Informational Document
Released: June 2019**

<https://www2.ed.gov/policy/elsec/leg/essa/snsfinalguidance06192019.pdf>

2021 Compliance Supplement:

https://www.whitehouse.gov/wp-content/uploads/2021/08/OMB-2021-Compliance-Supplement_Final_V2.pdf

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ESSA HAS MULTIPLE SNS STANDARDS

IT'S CRITICAL TO APPLY THE CORRECT TEST TO THE RIGHT PROGRAM!

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SNS Requirements

SNS Standard	Programs								
	Title I,A	Migrant Education	Title II,A	Title III,A	Title IV,A	REAP/SRSA	21 st CCLC	IDEA	CARES and CRRSA Acts
State and Local Funds	ESSA Sec. 1118(b)	ESSA Sec. 1304(c)(2)							---
Non-Federal Funds			ESSA Sec. 2301		ESSA Sec. 4110				---
Federal, State and Local Funds				ESSA Sec. 3115(g)		ESSA Sec. 5232	ESSA Sec. 4204 Subs Non-federal funds (4202(b)(2)(G))	34 CFR 300.164 (a) (SEA); 300.202(a) (LEA)	---

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Supplement Not Supplant MEP; Title II-A; Title III-A; and Title IV-A

Level of Effort – Supplement Not Supplant (2020 Compliance Supplement)

- An SEA and LEA may use program funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of the federal funds, be made available from non-federal sources for the education of participating students.
- In no case may an LEA use federal program funds to supplant funds from non-federal sources.

Title III, Part A – An SEA or LEA may only use funds under Title III, Part A to supplement the level of federal, state and local public funds that, in the absence of the Title III funds, would have been provided for programs for English learners and immigrant children and youth (Section 3115(g) of ESEA (20 USC 6825(g))).

Supplement Not Supplant MEP; Title II-A; Title III-A; and Title IV-A (cont.)

Presumptions of Supplanting

1. The SEA or LEA used federal funds to provide services that the SEA or LEA was required to make available under other federal, state, or local laws.
2. The SEA or LEA used federal funds to provide services that the SEA or LEA provided with nonfederal funds (or for Title III, Part A, other federal funds, as noted below) in the prior year.
3. The SEA or LEA used MEP funds to provide services for participating children that the SEA or LEA provided with nonfederal funds for nonparticipating children.

These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-federal funds had the federal funds not been available.

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MEP and Title III-A

- **Migrant Education Program** – An SEA and LEA may exclude from determinations of compliance with the supplement not supplant requirement supplemental state or local funds spent in any school attendance area or school for programs that meet the intent and purposes of the MEP, as identified in Title I of ESEA
- **Title III, Part A** – An SEA or LEA may only use funds under Title III, Part A to supplement the level of federal, state and local public funds that, in the absence of the Title III funds, would have been provided for programs for English learners and immigrant children and youth (Section 3115(g) of ESEA (20 USC 6825(g))).

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REAP and SRSA Funds

Rural Education Achievement Program (REAP) and Small, Rural School Achievement (SRSA) – include an additional SNS provisions:

- *if the activity is one that would ordinarily be covered with other Federal, State, or local funds (for example, in most cases, standard textbook purchases would ordinarily be covered with State or local funds)*

To rebut the presumptions: *“the school district may be able to demonstrate that, because of certain changes, it no longer can support an activity with other Federal, State, or local funds that it supported in the prior year.”*

The LEA must be able to demonstrate through written, contemporaneous documentation (e.g., State or local legislative action, budget information, school board minutes, or other materials) that it would not be able to fund a particular activity in the absence of funds.

- <https://oese.ed.gov/tag/elementary-secondary-education/page/69/>

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Supplement Not Supplant ESSA Title I-A (1118(b))

- A LEA may use Part A funds only to supplement the funds that would, in the absence of the Part A funds, be made available from state and local sources for the education of students participating in a Part A program.
- In no case may a LEA use Part A funds to supplant funds from state and local sources.

An LEA may not be required to

- 1) identify that an individual cost or service supported with Part A funds is supplemental; or
- 2) provide services through a particular instructional method or in a particular instructional setting.

Supplement Not Supplant ESSA Title I-A (1118(b)) (cont.)

- To demonstrate compliance, a LEA must demonstrate that it has a methodology (e.g., through written procedures) and uses it to allocate **state and local funds to each Title I school** [and] ensures that the school receives all of the state and local funds it would otherwise receive if it were not receiving Part A funds—i.e., the LEA's methodology may not take into account a school's Title I status

Applies to:

- LEAs; and
- Educational Service Agencies (ESAs) if the ESA obtains Title I,A funding on behalf of LEAs for allocation:
 - The ESA must ensure the allocation of state and local funds meets the SNS requirement or ensure it is met by each LEA depending on the funding structure.

Title I-A SNS Frequently Asked Questions



The SNS requirement is unchanged.



The way to demonstrate compliance has changed.



The LEA must have an allowable SNS methodology.



Presumptions of supplanting DO NOT APPLY to I,A!

Which State/local funds?

“all the State and local funds it would otherwise receive”

- Must include State and local funds for activities required by Federal, State or local law. SNS Guidance Q&A 16.
- Otherwise it includes the State and local funds each school is allocated from its LEA.
 - At LEA discretion
- For State and local funds that an LEA does not allocate to schools, the LEA is required to conduct activities supported by such funds in a manner that does not take into account a school's Title I status.
- Does not take into account private contributions, fundraising, or parent fees.

SNS Guidance Q&A 5 and 6.

What About District-level Activities?

The LEA must conduct activities with those funds in a manner that does not consider a school's Title I status.

- For example, the LEA reserves the State and local funds for a social worker at the district level.
 - The LEA deploys the social worker to different schools throughout the school year on an as-needed basis.
 - Access to or assignment of the social worker must be Title I neutral in order to comply with the general SNS requirement.

SNS Guidance Section VI.

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SNS Methodology Tests

Means two SNS tests!

1. Methodology test applies to school-level expenditures.
 - NO SNS review for school-level expenditures.
2. Allocation of funds test applies to district-level activities.
 - Districtwide activities must be expended in a way that ensures all applicable schools receive the same amount of State/local funding on a neutral basis with respect to Title I status.

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May various Methodologies be used?

If the methodology is neutral, LEAs may :

- Use various methodologies;
- Base methodologies on grade span or school type;
- Use a different methodology for charter schools;
- Vary methodologies based on student enrollment size; or
- Account for schools in need of additional funds to serve high concentrations of children with disabilities, English learners, or other such groups of students the LEA determines require additional support.

SNS Guidance Q&A 8, 9, 13

Are there any SNS exceptions?

EXCLUDED FUNDS:

SEA or LEA may exclude supplemental state or local funds used for program that meet the *intents and purposes* of Title I,A.
SNS Guidance Q&A 7

- This also applies to the MEP program re: supplemental funds that meet MEP intents and purposes.

EXCLUDED FROM METHODOLOGY:

- Single School LEAs;
- LEAs with only Title I schools.
- A grade span that contains only: a single school, non-Title I schools, or Title I schools.

SNS Guidance Q&A 26



Is This District Excluded?

My District has 30 schools:

- 15 Title I Elementary Schools
- 10 Non-Title I Middle Schools
- 5 Non-Title I High Schools



Is This District Excluded?

My charter school is K-6 and we have two campuses.



Is This District Excluded?

My district has 7 schools:

- 4 Title I Elementary Schools
- 2 Middle schools (1 Title I; 1 Non-Title I)
- 1 High School



Is This District Excluded?

I am an educational service agency (ESA).

If the ESA obtains Title I, A funding on behalf of LEAs:

- The ESA must cooperate with LEAs it serves and that do the allocation of state and local funds to ensure that the SNS requirement is met by each LEA.

If the ESA is not a recipient and just provide services, then there is no SNS requirement.

Must the State Approve the Methodology?

No.

- However, the State must monitor compliance under ESSA Sec. 8304
 - Includes a compliant methodology
- State may request to review the methodology as part of its monitoring process.
 - Could include requesting methodology in application
 - EDGAR 76.730/76.731; UGG 200.336 – Record Retention and Access to Records

SNS Guidance Q&A 24.

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Methodology Examples

Distribution of non-Federal resources based on characteristics of students ("weighted per pupil" funding formula):

- 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

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Methodology Examples

Distribution of non-Federal resources based on enrollment and grade level:

- Elementary Schools - \$4,300 per student (grades K-8)
- Secondary Schools - \$4,200 per student (grades 9-12)
- Professional development (PD) - \$20 per student plus an additional \$500 per building
- Technology and supplies - \$50 per student plus an additional \$400 per building
- Additional costs (lunch, library supplies, athletic supplies, utility costs, transportation etc.) \$1,408 per student districtwide

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Methodology Examples

Distribution of non-Federal funds based on student enrollment:

- 1 Principal
- 1 Assistant Principal per 400 students
- 1 School Counselor per 250 students
- 1 School Resource Officer per 250 students
- Teachers based on State class size requirements (Funds are calculated based on the average salary for that position within the district)
- Technology/Supplies: \$25,000 per 100 students
- Professional Development: \$10,000 per building
- Additional Necessary Costs: \$1,500 per student

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Do These Methodologies Work??

Does This Methodology Work?

The LEA uses its state funding to meet State class size requirements of 1 teacher for every 30 students.

Smith Middle School has 600 students so it requires 20 teachers.

Because Smith Middle School has previously used Title I funds to pay for 5 teachers, and because the LEA doesn't want to get the school into a supplanting violation, the LEA uses its State funds only to pay for the remaining 15 teachers needed.



The LEA provides schools funds to make improvements to the school buildings as needed.



To determine how much money a school needs the Building Coordinator for the district uses a form that reviews the damage to the building, taking into account the building's age and other factors.



When the form is completed each school receives a set amount based on their score.

Does This Methodology Work?

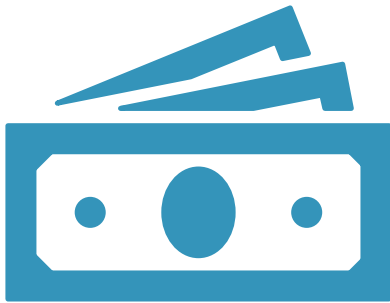
Does This Methodology Work?



Baxter School District does not have a set methodology.



Instead, it has a list of items it discusses with its principals every year and determines based on those conversations what the needs of the schools are. Once those conversations are complete, the district allocates its state resources accordingly.



Does This Methodology Work?

Maxon Elementary School has 450 students and received just over \$2M through the LEA's funding methodology:

- 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)

Maxon instead uses \$200,000 of the state funds to pay for 2 safety officers, and food and entertainment for staff meetings and parties.

Must the LEA
Continuously
Update the SNS
Methodology?

No, the LEA is not required to adjust its allocation of State and local resources to account for changes during the school year.

It's an annual allocation of State and local funds to demonstrate compliance.

Accordingly, an LEA makes this demonstration at only one point during the year and is not required to continuously demonstrate compliance throughout the school year.

SNS Guidance Q&A 14.



What about Last Minute Changes?

- No. Last-minute changes in resources allocation that often occur prior to the beginning of the school should not affect an LEA's compliance.
 - Example: employee transfers or resigns prior to beginning of school year. The LEA may replace that employee as long as the school's Title I status is not a factor.
 - Were an LEA to not allocate a resource because a school is a Title I school, it would not be compliant.
 - SNS Guidance Q&A 15.

Can Supplemental Federal Funding (i.e., CARES Act or CRRSA Act) Effect SNS?

Maybe.

If other federal funding is provided to schools that results in changes to state and local funding to schools, SNS may be affected if a school's Title I status is taken in account in any changes made.

For example, CRRSA Act funds are provided to Title I schools only. Therefore, state and local funds are provided to non-Title I schools to make up the difference in funding. This allocation could violate the Title I SNS provision.

Does SNS still review individual expenditures?

- No, SNS is NOT an expenditure test
- SNS is based on a methodology by which State and local funds are *allocated* to schools.
- Report Cards – actual per-pupil expenditure reporting of Federal, State and local funds, disaggregated by source of funds.
 - Retrospective analysis of how much was spent by each school.
 - This is not a methodology and therefore, can not be used for SNS compliance.
- Expenditures as Risk Assessment?

SNS Guidance Q&A 12.

Does This Mean All Costs are Allowable?

- **NO!!**
- Keep in mind just because a cost is not a supplanting issue does not make it automatically allowable!
- All costs must be allowable under Title I, A!
 - Must be included in your district/schoolwide/targeted assistance plan
- All costs must be necessary, reasonable and allocable under UGG/EDGAR!

SNS Guidance Q&A 28.

Evidence of Compliance



- The LEA must maintain documentation to demonstrate that the LEA allocated State and local funds to schools in accordance with its methodology
- An LEA must keep records to show compliance with program requirements and facilitate an effective audit. (34 C.F.R. §§ 76.730-76.731)
 - Examples: written methodology, calculations performed by the LEA to implement the methodology.

SNS Guidance Q&A 19.

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Audit Objectives (2020 compliance Supp)

For LEAs:

- Determine whether a LEA has a methodology for allocating state and local funds to each Title I school that ensures the school receives all of the state and local funds it would otherwise receive if it were not receiving Part A funds;
- Determine whether the LEA implemented its methodology;
- If the LEA reserves state and local funds for district-level activities, determine whether the LEA conducts activities with those funds in a manner that does not take into account a school's Title I status.

For SEAs: Verify that the SEA reviews LEA compliance with the SNS requirements.

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What happens if the LEA does not meet the SNS requirements?

- Audit Finding
- Update methodology
- Enforcement provisions under GEPA and the UGG (2 CFR Part 200)
 - ED's "Summary Response to Comments on Title I, Part A Supplement Not Supplant Non-Regulatory Informational Document," dated June 19, 2019



Questions?

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