

# Supplement, Not Supplant

## Guidance for Targeted Assistance Schools



### Definition

The term “supplement, not supplant” is a provision common to many federal statutes authorizing education grant programs. Although the definition may change from statute to statute, “supplement, not supplant” provisions basically require that grantees use state or local funds for all services required by state law, State Board of Education (SBE) regulation, or local policy and prohibit those funds from being diverted for other purposes when federal funds are available. **Federal funds must supplement (add to, enhance, expand, increase, extend) the programs and services offered with state and local funds. Federal funds should not supplant (take the place of, replace) the state and local funds used to offer those programs and services.**

### Presumptions of Supplanting at Targeted Assistance Schools

There are three scenarios in which the US Department of Education (USDE) will presume that supplant (i.e., a case in which federal dollars have been diverted) has occurred. In all three cases, once the presumption of supplanting has been made, it is the Local Education Agencies (LEA) responsibility to rebut the presumption. While this is technically possible, it can be extremely difficult for LEAs to meet the burden of proof.

#### 1) Providing Services Required Under State or Local Law (e.g., Read By Third Grade-Learning Strategist, Victory requirements)

Any services that an LEA is required to provide under state law, SBE regulation, state superintendent regulation, or local policy must be provided using **state and/or local funds**. If federal funds are used to provide those services, the United States Department of Education (USDE) will presume that supplanting 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. **If a Targeted Assistance School is using Title I funds to support an activity/service and that activity/service is now required by the state (e.g., Learning Strategist) they must use state and/or local funds and reallocate Title I funds elsewhere.**

For example, if you are supporting a position that is designated as an elementary school’s Learning Strategist with Title I funds and that position is now a **requirement under new state legislation, you must switch funding sources to reflect state required funding and reallocate Title I funds elsewhere.** Alternatively, if you use Title I funds to support a supplemental reading specialist or similar position in an elementary school, you may maintain this position so long as the designated Learning Strategist is supported with state/local funds.

#### 2) Providing Same Services as Those Provided in Prior School Year with State or Local Funds (e.g., Read By Third Grade-Learning Strategist, Wrap-Around Services)

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 USDE will presume a supplant has occurred if the state

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or local funds are replaced by federal funds. LEAs are not permitted to use federal funds to replace state or local funds. In cases where a budget shortfall is anticipated, the LEA *may not plan to use federal funds* to cover a shortage of state or local funds.

**However, it is possible to document that services from the prior year would not have been continued as a result of a lack of state or local funds.** If the state funds are eliminated and schools/districts wish to continue that activity/service, you must document that the original source of funding is no longer available and that activity/service is no longer supported by the state. **This situation must be documented at the time the decision is made to discontinue services; it cannot be documented after the fact.** Title I funds can then support that activity/service with the presumption that supplanting has not taken place and that activity/service would be considered supplemental.

For example, an LEA paid for a learning strategist in a Title I school in the previous year from state and local resources but decides to use Title I funds to pay for that learning strategist in the current year. This would be supplanting because the LEA is replacing state and local resources with Title I resources to pay for the same position, unless the **LEA can document that the position had been eliminated because of a lack of state or local funds and, only after the position was eliminated, the decision was made to fund it using federal funds.**

### 3) Providing the Same Services in Federal and Non-Federal Programs

LEAs may not provide the same services to students participating in a program funded by federal dollars that they provide to other students using state or local funds.

### Exclusion/Exception to Supplement Not Supplant

Title I authorizes an exception to the “supplement, not supplant” requirement by allowing Local Education Agencies and State Education Agencies (SEA) to exclude certain funds from the supplanting analysis. In determining compliance, **an SEA or LEA may exclude supplemental state and local funds that are expended in any school 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, if a school currently has a Title I Pre-K program and they choose to use Victory Funds for additional Pre-K programs this would be providing a program with the same intent and purpose of Title I. **In accordance with this exception this is not in violation of “supplement, not supplant” because the program meets the intent and purpose 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.**