



Illinois State Board of Education

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E-BULLETIN NO. 01-14

May 2014

TO: School District Superintendents
School District Title I, Part A Directors
FROM: Melina Wright, Division Administrator, Title Grants Administration
RE: Supplement vs. Supplant considerations for FY 15

This e-bulletin serves as an update on the supplement not supplant provision in light of the increased flexibility in use of Title I funds made possible in FY 15 by the Illinois Elementary and Secondary Education Act (ESEA) Flexibility Waiver and the change in employer TRS rate for TRS employees paid with federal funds. (<http://trs.illinois.gov/employers/bulletins/1403.pdf>)

It is important to remember that federal law requires that federal funds be used to augment the regular educational program. ESEA 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 non-federal sources for the education of students participating in Title I services.

The Supplement, Not Supplant Tests

When determining whether a fiscal expenditure supplements and not supplants, school districts must run these three tests.

Test I: Required – Is the program or activity that the district wants to fund required under state, local, or another federal law? If it is, then it is supplanting.

Test II: Equivalency – Were state or local funds used in the past to pay for this program or activity? If they were, it is supplanting.

Test III: Non-Title I Programs – Are the same programs or activities being implemented in other schools that do not receive Title I funds AND are these programs and activities being paid for with state or local funds? If yes, then this is supplanting.

If an expenditure does not pass any of the above tests, then it is presumed that Title I funds are supplanting state or local funds. **Expenditures must pass all three tests to truly be supplemental.**

Exceptions to the Supplement not Supplant Test

It is possible for a district to have a particular expense that *may look like* supplanting, but in actuality, it is not supplanting. **Districts using these exceptions must be sure to provide adequate documentation to support the exception.** This documentation would need to prove how the three tests outlined above have been passed, including:

- Demonstration that the program or activity would not have been provided if Title I funds were not available.
- Demonstration that the state or local funds that had been paying for this program or activity in years past are no longer available.
- Documentation that a “Title I look-a-like program” was funded by supplemental local funds, specifically set-aside for this purpose in previous years.

Change in FY 15 TRS Rate for TRS employees being paid from federal funds

ISBE understands that districts may have paid for salaries out of state or local dollars to avoid paying the high employer TRS rate for federal funds in recent years. Now that the employer TRS federal funds rate is changing to 7.44% for FY 15, districts may wish to move those salaries back into the federal grant. This may be allowable under one, possibly two, of the exceptions noted above.

- a) Reduction in local or state funds. Depending on the final action of the General Assembly or reductions in local tax revenue, a district may not have the resources to continue paying for Title- I look-alike activities. A reduction of state and local funds is an allowable exception to the supplanting rules but note, the expense must still fulfill the purpose of Title I.

OR

- b) Look-alike Title I services. If salaries were paid with state or local dollars for providing Title I look- alike services (i.e. reading instruction to low achieving students) then those salaries can be moved into the Title I grant. Salaries paid for with local or state funds that are not “Title I-look- alike” would not be allowable under the grant.

New Flexibility allowed in Title I Funds

ISBE is pleased that districts who were formerly in NCLB federal status now have access to up to 30% of their Title I funds to be used in new and innovative ways with our recent waiver approval from the U.S. Department of Education. This is available due to the elimination of the set-aside requirement for 10% professional development for districts in status and up to 20% for choice and supplemental educational services. These newly accessible resources provide a wealth of opportunity to districts and schools. For example additional teachers may be hired, the school day may be extended, or additional equipment for students may be purchased. In making any of these decisions, districts must remember that Title I is an instructional program and these resources must be directed to provide students the opportunity to reach college and career ready standards according to the approved District Title I plan. For either of these changes, the reasonable and necessary test and supplement not supplant test still exists. However, the supplement not supplant test may be overcome by meeting one of the exceptions laid out above.

Required Documentation

Because of the importance of the supplement/supplant requirement, it is very important that districts maintain good fiscal records and other documentation that will permit an auditor or program monitor to conclude that they have overcome a presumption that supplanting has occurred. The supplement, not supplant regulation is included in the monitoring of school districts. If it is determined that districts are supplanting state and local funds with Title I funds – or any federal funds - those funds may be recovered and/or returned to the U.S. Department of Education. Future funding of those districts found to be supplanting may be impacted.

Examples of documentation based on the reduction of funds exemption

- Board Minutes discussing the budget and the reduction of funds
- Budget showing the reduction of funds
- General State Aid distribution comparisons between fiscal years
- Local tax revenue distributions showing reductions between fiscal years

Examples of documentation based on the “Title I look-alike” program exemption

- Job descriptions from previous years (state/local funded) compared with job descriptions of current year (federally funded)
- Time and Effort documentation showing the position is performing the appropriate work being supported by federal funds

- Contractual Agreements including job duties

An annual review of all Title I program expenditures should occur to ensure the activities are allowable.

More information:

The supplement versus supplant issue is not inherent to Title I. OMB Circular A-133 offers general guidance on the application of supplement not supplant provisions. Generally, a supplanting violation is presumed when an institution uses federal funds to provide services that it is required to make available under other federal, state, or local laws. See the 2008 Circular A-133 Compliance Supplement which, in accordance with 73 Fed. Reg. 32059 (June 5, 2008), is available at the following Internet address:

http://www.whitehouse.gov/omb/circulars/a133_compliance/08/ed.doc

Please also refer to the “State and Federal Grant Administration Policy and Fiscal Requirements and Procedures” handbook for continued guidance on supplemental costs,

http://www.isbe.net/funding/pdf/fiscal_procedure_handbk.pdf

Local districts are required to maintain, in each eligible attendance area, a level of expenditure which is at least equal to the level of expenditure that would be maintained if federal/state funds were not being expended in that area.

This e-bulletin contains basic information on ESEA provisions. It is meant to provide a ready reference for school administrators, teachers, and the public on ESEA implementation within Illinois. It is not intended as a comprehensive source of information on the rules and regulations which govern ESEA Title I.