How the Supplement-Not-Supplant Requirement Can Work Against the Policy Goals of Title I

A Case for Using Title I, Part A, Education Funds More Effectively and Efficiently

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Introduction and summary

Title I of the Elementary and Secondary Education Act, a federal program to provide additional assistance to academically struggling students in high-poverty areas, has long contained a provision called the “supplement-not-supplant” requirement.¹ This provision was designed to ensure Title I funds were spent on extra educational services for at-risk students, but in practice, the rule as it is currently enforced can prevent school districts and schools from spending federal money on effective educational strategies. Complying with the supplement-not-supplant rule also carries an enormous administrative burden.

Spending Title I funds effectively on academically struggling and at-risk students can be difficult because the federal government currently tests for supplement-not-supplant violations on a cost-by-cost basis. In other words, school districts and schools must prove that each individual cost charged to Title I supports an activity the district or school would not have otherwise carried out with state or local funds. Any cost a school district or school would have paid for in the absence of Title I is not considered to be extra.

Federal administrative rules instruct auditors and other oversight personnel to presume that activities mandated by law, previously supported with state or local funds, or benefiting all students are, by default, not extra. As a result, it is difficult for school districts and schools to:

- Implement comprehensive programs with Title I funds (please see page 13 for an example)
- Implement innovative programs with Title I funds (please see page 16 for an example)
- Manage administrative responsibilities in a way that minimizes burden (please see page 14 for more information)

This works against Title I’s goals of ensuring all students have access to a high-quality education, and targeting resources effectively to make a difference where needs are greatest.²
Title I was designed to be a flexible program, giving school districts and schools latitude to spend Title I funds on a broad array of educational services as long as they are consistent with the program’s purposes. The supplement-not-supplant rule as it is currently enforced, however, substantially limits how school districts and schools may spend their Title I funds, restricting the ways in which Title I can support at-risk students.

This paper briefly describes the origins of Title I’s supplement-not-supplant requirement and provides examples of how the rule affects state and local implementation of Title I programs. This paper also offers three options for reforming the rule:

• Replace the current “cost-by-cost test” with a test that focuses on the amount of state and local funding Title I schools receive to ensure such funds are allocated neutrally without regard to the Title I funds available to the school.

• Allow the U.S. Department of Education, and perhaps state educational agencies, to waive the supplement-not-supplant requirement as needed to promote effective and efficient educational strategies for at-risk students.

• Eliminate the supplement-not-supplant test altogether.

The purpose of this paper is to explore the ways in which the supplement-not-supplant requirement works against the goals of Title I and to offer suggestions for alternatives that better promote the responsible use of Title I funds.
Potential solutions

To the extent supplement-not-supplant limits districts from using Title I funds on comprehensive, innovative, and reform-oriented costs, it can be said to work against the goals of the Title I program. There are three options to address this issue:

- Use a “Title I-neutral” allocation test for supplanting like the one originally designed for schoolwide programs.
- Allow the U.S. Department of Education, and perhaps state educational agencies, to waive the supplement-not-supplant requirement as needed to promote effective and efficient educational strategies for at-risk students.
- Eliminate the supplement-not-supplant test altogether.

Each option is examined in more depth below.

Use a “Title I-neutral” allocation test for supplanting rather than the traditional cost-by-cost analysis

Possible legislative language for a Title I-neutral allocation test:

In order to demonstrate compliance with the supplement-not-supplant requirement, a school district receiving Title I funds must be able to demonstrate that the methodology it uses to allocate state and local funds to each Title I school ensures the school receives all of the state and local funds it would otherwise receive if it were not a Title I school.27

A Title I-neutral allocation test would look at how a school district allocates state and local funds to its schools to ensure the district’s methodology does not take into account the Title I funds a school may receive. This would allow the U.S. Department of Education and other oversight entities to verify each Title I school receives the state and local money it is entitled to receive, and that its state and local allocation is not reduced as a result of receiving Title I funds. This is the same
test currently designed for testing compliance with supplanting in schoolwide programs and could be expanded to all Title I schools. This test would not require districts or schools to “cost out” each item of their basic educational program supported with state and local funds; rather, this test would focus on whether the LEA had a Title I-neutral methodology to allocate the pot of state and local funds to each Title I school.

It is important to note that this proposed test would not look at whether the amount of state and local money a Title I school receives is equitable. Given the significance of the problems caused by the current supplement-not-supplant test, this issue should be addressed on its own, separate from other Title I fiscal issues. Concerns over equity can be addressed through Title I’s comparability requirement.

While the proposed supplanting test focuses on how districts allocate state and local funds to Title I schools, this is appropriate because Title I funds are driven to schools based on Title I’s ranking and serving requirements. For district-level spending, the cost-by-cost test should also be eliminated because Title I’s “maintenance of effort” test would ensure school districts do not reduce the amount of state and local money they spend to provide education from year to year, therefore eliminating the need for the burdensome cost-by-cost analysis for district-level spending.

It is not necessary to test each and every cost charged to Title I at the school and district level to satisfy the original purposes of the supplement-not-supplant requirement, which were to ensure that states, districts, and schools receiving Title I funds used the money to benefit eligible students; and that they did not reduce the state or local money they would have otherwise spent on education just because they were receiving federal funds.

First, Title I already contains mechanisms to ensure Title I funds benefit eligible students. Second, if a school district can verify it allocates to each Title I school the amount of state or local money the school was entitled to had it not been a Title I school, then the district can demonstrate it did not reduce the state or local money made available to a Title I school because of its Title I status.

In other words, through this type of allocation test, which requires districts to show their state and local allocation process is “Title I neutral” and does not take Title I status into account, districts can demonstrate they provide Title I schools with a “floor” of state and local funds. This way, districts can show Title I money is being used in addition to (supplementing) those funds.
A Title I-neutral allocation test would be easier to administer than the current cost-by-cost test of supplanting, and would make it easier to use Title I funds consistent with the goals of the Title I program. The major benefit of the Title I-neutral allocation test of supplanting is that it would no longer focus on individual costs, but rather would give districts a clear and consistent mechanism to demonstrate Title I funds supplement state and local funds.

There are two ways this test could be implemented:

• Because the initial presumptions that result in the cost-by-cost test were established in documents published by executive agencies, the test could be revised through executive action, such as through OMB Circulars or U.S. Department of Education guidance.

• Through legislative action.

Because of the continued confusion over how to comply with the supplement-not-supplant requirement in a schoolwide program, congressional clarification of this issue might be a powerful way to establish a new test for supplanting generally, and also to address lingering confusion around the intention and scope of the schoolwide program model.

Allow the U.S. Department of Education, and perhaps state educational agencies, to waive the supplement-not-supplant requirement

Currently, the U.S. Department of Education does not have the legal authority to waive the supplement-not-supplant requirement. This is problematic because there is no “safety valve” to permit the use of Title I funds on a cost that constitutes supplanting but benefits the federal program and the students it serves. Even if the first recommendation above were adopted, a waiver provision would be helpful since the proposed test would not address supplanting concerns for state-level costs. As a practical matter, 99 percent of Title I funds are spent at the district and school levels, but there may be instances where states need relief from the cost-by-cost test. Therefore, providing them with an opportunity to seek a waiver from the U.S. Department of Education would act as a “safety valve” in the unique circumstance where a state might need relief.
If the “Title I-neutral” test for supplanting is not adopted, making the provision waivable could at least mitigate some of the problems discussed in this paper. For example, if a district could demonstrate that moving costs from state and local funds to Title I does not reduce the level of state and local funding made available for education, then it might make public policy sense to provide a waiver if doing so would promote reforms or benefit Title I students.

If district-level waivers were permitted, Congress may wish to consider whether the ability to grant a waiver would be limited to the U.S. Department of Education or if it would be appropriate to vest waiver authority with states. Because states have the legal responsibility to oversee their districts’ implementation of Title I programs, it may make sense to permit states the authority to evaluate district waiver requests.

**Eliminate the supplement-not-supplant test**

A third option would be to eliminate the supplement-not-supplant test entirely. Most of the proposals that recommend this option, however, impose new administrative burdens on other Title I fiscal tests, such as comparability and maintenance of effort. Adding new administrative burdens would make it harder to implement effective Title I programs. In addition, eliminating supplement-not-supplant entirely would work against the goal of ensuring Title I funds are supplemental at the school level. Therefore, the first recommendation would be easier to implement and preserve the intent behind the supplement-not-supplant requirement.