

## Draft Regulatory Language

### §200.XX. Supplement not supplant.

#### **(a) In general.**

##### (1) An SEA or LEA--

(i) Must use Title I, Part A funds only to supplement the funds that would, in the absence of the Title I, Part A funds, be made available from State and local sources for the education of students participating in Title I programs; and

(ii) May not use Title I, Part A funds to supplant the funds from State and local sources.

##### (2) An LEA is not required under this section to--

(i) Identify that an individual cost or service supported with Title I, Part A funds is supplemental; or

(ii) Provide services with Title I, Part A funds through a particular instructional method or in a particular instructional setting.

#### **(b) Compliance.**

##### (1) School costs or services.

(i) To comply with paragraph (a) of this section, an LEA must **annually demonstrate, at such time and in such manner as the SEA may reasonably require,** that the methodology it uses to allocate State and local funds to each Title I school ensures that the school receives all of the State and local funds it would otherwise receive if it were not a Title I school.

(ii) An LEA may determine the methodology it will use to allocate State and local funds to its schools, **provided that the methodology--**

**(A) Results in the LEA spending an amount of State and local funds per pupil in each Title I school that is equal to or greater than the average amount spent per pupil in non-Title I schools, as reported under Section 1111(h)(1)(C)(x) of the Act; and**

**(B) Allocates an amount of State and local funds that is sufficient to enable each Title I school to provide-**

**(I) The basic educational program as defined under State or local law; and**

**(II) In conjunction with funds provided under the Individuals with Disabilities Education Act, services required by law for students with disabilities; and services required by law for English learners.**

(2) Districtwide costs or services. To comply with paragraph (a) of this section in allocating State and local funds for districtwide costs or services, an LEA must ensure that each Title I school receives a share of those costs or services **equal to or greater than** the share it would otherwise receive if it were not a Title I school.

(3) Exceptions.

(i) An LEA may demonstrate compliance with paragraph (b)(1)(ii)(A) of this section districtwide or on a grade-span basis.

(ii) An LEA with only a single school or only a single school per grade-span does not have to meet the compliance requirements in paragraph (b) of this section, except paragraph (b)(1)(ii)(B).

(iii) For purposes of demonstrating compliance with paragraph (b)(1)(ii)(A) of this section, an LEA may exclude--

(A) A school that enrolls fewer than 100 students; and

(B) Supplemental State or local funds expended in any school for programs that meet the intent and purposes of title I, part A.

(4) Transition Timeline.

(i) An LEA must--

(A) Demonstrate to the SEA no later than December 10, 2017 that its current methodology, which the LEA will continue to use in school year 2018-2019, meets the requirements in paragraph (b) of this section; or

(B) Submit a plan to the SEA no later than December 10, 2017 for how it will fully implement a methodology that meets the requirements in paragraph (b) of this section beginning no later than the 2019-2020 school year.

(ii) Prior to either the 2018–2019 or 2019–2020 school year, as applicable under paragraph (4)(i) of this section, an LEA may use either--

(A) The methodology it will use to comply with paragraph (b) of this section; or

(B) The methodology it used for complying with the applicable Title I supplement not supplant requirement in effect on December 9, 2015.