



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

April 2, 2010

Dear Superintendent/Administrator:

RE: NCLB 10-04 – Full- day Kindergarten

The decision by the AZ legislature to eliminate state funding for full-day kindergarten creates a critical challenge both fiscally and academically for Title I LEAs serving a K-8 population. In response to numerous questions on this issue received by the ADE, I am providing the following guidance.

Supplement not Supplant - See Section 1120A(b) and Section 9401(c)(4) of the ESEA. The most important fiscal issue is compliance with the supplement, not supplant provisions of Title I. Because the determination of supplanting is both case-specific and presumed to occur unless rebutted, LEAs must be cognizant of the circumstances for which documentation is required in order to avoid a supplanting determination. Failure to completely justify this decision can result in an audit finding that may require funds to be returned to the US Department of Education.

Waivers - There is no mechanism to waive the supplement not supplant provisions of Title I, even by the US Secretary of Education.

Testing for Supplanting - Apply the three supplement not supplant tests to determine whether you will need evidence to rebut the presumption of supplanting when deciding how to use federal funds. A “yes” response to any of the following presumes that supplanting is occurring.

1. Are the expenditures or activities required by state law?
2. Were the expenditures or activities funded in previous years by non-federal funds?
3. Would the expenditures or activities happen in the absence of federal funds?

Documentation –the appropriate documentation to rebut (overcome the presumption of) supplanting can include:

1. Fiscal or programmatic documentation to confirm that, in the absence of federal funds, the LEA would have eliminated staff or other services in question;
2. State or local legislative action;
3. Budget histories and information;
4. Evidence that the expenditure is authorized by the federal program (e.g., Title I).

An Academic School –level Decision- Since Title I programs are school-level programs, the decision to continue full-day kindergarten is also an academic one made at the individual school level. Obviously, non-Title I schools cannot be served with federal funds. Title I schoolwide schools and

targeted assistance schools have different requirements, as outlined below. First, consider the following:

- If a school moves to full-day kindergarten as their Title I program, what data has been collected to show that this is the **academic need** that will best serve the students; e.g., have current 1st or 2nd graders who experienced full day kindergarten been better prepared and have higher achievement?
- If schools want to shift Title I funds to support full-day kindergarten, what other Title I activities are being eliminated? How have identified academic needs of the students changed to drive this decision to change the use of Title I resources?
- If the school is identified for school improvement, what impact will the change to full-day kindergarten have on school improvement efforts as outlined in the ASIP?

Schoolwide (SW) schools need to:

- modify or rewrite school level plans to demonstrate how full-day kindergarten will lead to meeting AYP;
- demonstrate with data how full-day kindergarten fits within the designated school reform model;
- continue to maintain the intervention programs for the most academically at risk students as required in the SW plan;
- develop eligibility criteria based on type of SW program:ⁱ
 - a. in SW3 programs - All children within the school's attendance area would be eligible to attend a full-day kindergarten program;
 - b. SW1 and SW2 programs (that are funded solely with Title I and other federal funds) must have data to justify this shift in program resources;
 - c. Choice transfers – students transferring from another Title I school due to parental choice as required under Section 1116 are eligible;
- modify open enrollment policies to limit transfers from within or from outside the LEA to those students who meet the Title I eligibility requirements as listed under Targeted Assistance schools belowⁱⁱ.

Targeted Assistance (TA) schools need to:

- understand that full-day kindergarten is **not** an option for **all** kindergarten students; as with any targeted program, students must be ranked in terms of academic need based on multiple age-appropriate, educational criteria; a targeted assistance program by its nature usually cannot serve all of the eligible students;
- allow eligibility for students who attended at any time during the two preceding years:
 - Head Start,
 - Even Start,
 - Early Reading First, or
 - Title I preschool programs;
- allow eligibility for:
 - homeless children,
 - migrant children, and
 - children from institutions for neglected or delinquent children ;

- apply family income only if all other criteria are equally applied;
- make program design decisions, such as
 - how often to re-rank students to determine eligibility, and
 - which multiple criteria (not a single benchmark assessment) to use for exit criteria, weighing the impact of moving students out before the end of the year with the need to provide some services to more students.

Non-Title I schools need to:

- ensure that state or local funds (e.g., local K -3 override funds, tax credits or deseg funds) are not used to provide full-day kindergarten with the expectation that Title I funds will be used in the LEA's Title I schools.

Tuition-based programs

- Non-Title I and Title I Targeted Assistance schools may house tuition- based programs;
- In Targeted Assistance schools with Title I and tuition kindergarten students, the salary and program support from Title I funds must be proportional to the ratio of Title I students within the class.

The Title I staff is available to respond to individual questions. Please call my office at 602-542-7847, email me at nancy.konitzer@azed.gov , or contact your assigned program specialist directly.

Sincerely,



Nancy Konitzer
Deputy Associate Superintendent
Title I and NCLB Consolidated Activities

Cc: NCLB Coordinators
LEA Business Managers

ⁱ For additional guidance on the three types of schoolwide programs, see Non-Regulatory Guidance – *Title I Fiscal Issues* from US ED, Section E, Consolidating Funds in Schoolwide Programs, located in the NCLB Document Library on the ADE web site.

ⁱⁱ For additional eligibility guidance see *Serving Preschool Children under Title I - Non- Regulatory Guidance* from US ED, questions D-5 and D-6, located in the NCLB Document Library on the ADE web site.