

Federal Grants
3 Year Rule

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SUPPLEMENT, NOT SUPPLANT PROVISION

The term —“supplement, not supplant” is a provision common to many federal statutes authorizing education grant programs.

SUPPLEMENT, NOT SUPPLANT PROVISION

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 (SBOE) rule, or local policy and prohibit those funds from being diverted for other purposes when federal funds are available.

SUPPLEMENT, NOT SUPPLANT PROVISION

- Federal funds must supplement—add to, enhance, expand, increase, extend—the programs and services offered with state and local funds.
- Federal funds are not permitted to be used to supplant—take the place of, replace—the state and local funds used to offer those programs and services.

PRESUMPTIONS OF SUPPLANTING

- Providing Services Required Under State or Local Law
- Providing Same Services as Those Provided in Prior School Year with State or Local Funds
- Providing the Same Services in Federal and Non-Federal Programs

Citation: Supplement, Not Supplant Provision

Carl D. Perkins Career and Technical Education Act of 2006,
P.L. 109-270, Title III, Part A, Section 311

Funds made available under this Act for career and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out career and technical education activities and tech prep program activities.

COMPLIANCE DOCUMENTATION

Examples of the types of documentation auditors may request from an LEA to demonstrate that the expenditure is supplemental to other federal and/or non-federal programs include the following:

- Fiscal or programmatic documentation to confirm that, in the absence of federal funds, the grantee would have eliminated staff or other services in question
- Board minutes/agendas with discussion of elimination of staff due to lack of state funds
- State or local legislative actions
- Itemized budget histories from one year to the next and information
- Planning documents
- Actual reduction in state or local funds
- Decision to eliminate position or services was made without regard to the availability of federal funds, including the reason the decision was made
- Class-size data from previous years and upcoming year
- Specific policies and procedures related to supplement, not supplant requirements

BASIC CRITERIA FOR EXPENDING PERKINS FUNDS

- Expenditures Must:
 - Meet the purpose of the Act
 - Be necessary and reasonable
- Expenditures May Not be Used for:
 - General purposes
 - Maintenance of existing programs

WHAT DO AUDITORS LOOK FOR? *

1. Expenditures are documented & allowable
2. Compliance issues
 - a. Program offerings
 - b. Student participation
 - c. Assessment
3. Funds supplement and not supplant
4. Time distribution records
5. Procurement methods provide free & open competition & prevent conflict of interest
6. Obligations incurred in time frame
7. Expenditures are budgeted

*** See Notes Page for clarification.**



SCENARIO 1

Our college started a welding program at a satellite site two years ago. Funds used for this program were not from Perkins. This year the satellite site program is being considered for elimination due to budget cuts.

May we use Perkins funds to fund the program?

WHY MIGHT THIS BE AN AUDIT EXCEPTION?

- Supplanting – using Perkins funds to offset other college funding sources.
- The decrease in use of state funds and the subsequent increase in Perkins dollars for a particular program would trigger a presumption of supplanting.

SCENARIO 1 ANSWER

Depends:

- Supplanting presumption is rebuttable
“if the college can demonstrate that the services in question would not have been provided if federal dollars were not available.”
- In other words, document that there were no other sources of funds to sustain the program.
(OMB A-133 Compliance Supplement G,2.2)

Documentation – budget meeting minutes where decisions were made to eliminate program.



SCENARIO 2

The college is upgrading computers across the campus on a three year cycle.

May we fund the computer upgrades for the CTE programs using Perkins funds?

SCENARIO 2 ANSWER

- **No**
- Three year funding cycle – implies ongoing use of Perkins funds to accomplish something that other funds should be used to do.
 - Perkins funds should be used for program improvement or enhancement.
- CTE programs should benefit from use of other college fund sources same as other programs.
 - Use of Perkins funds only for could be considered supplanting.



SCENARIO 3

We would like to pay for an economically disadvantaged student's uniform and nurse assistant certification examination.

Would it be appropriate to use Perkins funds for this purpose?

SCENARIO 3 ANSWER

- Yes, Perkins funds may be used under the four very narrow conditions spelled out in the May 27, 1999 OVAE program memorandum 99-13 specifically, for this example,

'assistance only being provided to an individual to the extent that it is needed to address barriers to the individuals successful participation in career technical education'
 - Sec 135 Local Uses of funds - Permissive (c)(16) to provide assistance to students who have participated in services and activities under this title in finding an appropriate job...
- Ensure that the supplement/not supplant requirements contained in General Provisions - section 311(a) of Perkins are not being violated.



SCENARIO 4

Our Horticultural program needs a new greenhouse.

May we use Perkins funds to build the greenhouse?



SCENARIO 5 ANSWER


No, capital expenditures for improvements to land, buildings, or equipment *which materially increase their value or useful life* are unallowable.




For a cost to be allowable to a Federal award, it must meet the following criteria:


- a. Necessary
 - b. Allocable to the Federal grant award
 - c. Reasonable
 - d. All of the above
- 

Costs are allocable to the grant if:

- a. The cost of the goods or services is proportionate to the benefits received by the grant 
- b. At least 50% of the goods or services will directly benefit the grant
- c. The goods or services, in any way, benefit the grant objectives
- d. The cost of the goods or services was included in the budget proposal

Pursuant to EDGAR, a cost is reasonable if:

- a. It supports the grant objectives, but costs more than the fair market value for the item being purchased
- b. The cost does not cause the grantee or subgrantee to exceed its total Federal allocation
- c. It does not exceed the cost that would be incurred by a prudent person under similar circumstances 
- d. None of the above
- e. With Perkins funds, as long as the computer is sometimes used for Perkins activities




At the end of the year, a college/LEA realizes that it has exhausted all of its general funds, but still has ample Perkins funds available. Accordingly, the college LEA shifts costs that it had been paying with general funds over to Perkins funds. This practice is allowable.

a. True

b. False






A subgrantee that used local funds to support the cost of a professional development event in the previous year, may use Perkins funds to support the cost of the same event in the current year.

a. True

b. False





A subgrantee may contract with a vendor who has been suspended or debarred as long as there is no conflict of interest.

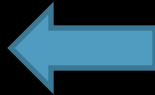
a. True

b. False





Pursuant to OCTAE's policies, Perkins funds can be used to support the following:


- a. Travel, lodging, and the cost of meals at conventions for CTSOs for all CTE students
- b. Travel, lodging, and the cost of meals at conventions for CTSOs for CTE student members of special populations 
- c. Remedial courses
- d. Direct assistance to all CTE students

Perkins funds are used to support the cost of breakfast at a business advisory meeting. Assuming the breakfast is served at 8 am and the meeting starts at 8:30 am, generally this would be an allowable cost.

a. True

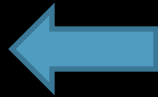
b. False





Supplanting will be presumed when a subrecipient provides the same services to CTE students using Perkins funds as it does to non-CTE students with non-Federal funds.

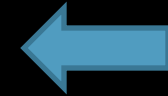
a. True




b. False


An LEA purchases computers with Perkins funds. Except for the 12 days of PARCC testing, the computers are used by all students. Such use is problematic because it violates the following basic cost consideration:

- a. The cost was not reasonable
- b. The cost was not necessary
- c. The cost was not allocable
- d. The cost is not accorded consistent treatment





As part of a nursing program, students get practical experience through working onsite at a local clinic for two hours one day a week. Perkins funds may be used to transport the students to and from the clinic to the school.

- a. True-as long as the students are members of a special population
- b. True-the transportation to and from the clinic is integral to the program 
- c. False-direct assistance is not an allowable use of Perkins funds
- d. False-this raises a supplanting concern

SUPPLANTING

Cannot use federal funds to pay for services, staff, programs or materials that would otherwise be paid for with state or local funds.

Always ask: “What would have happened in the absence of federal funds?”



A-133 Compliance Supplement presumes supplanting when:

- Used Perkins funds to provide services the recipient is required to make available under another federal, state, or local law;
- Used Perkins funds to provide services the recipient provided with state or local funds in the year prior;
- Used Perkins funds to provide services for CTE students that the recipient provides to non CTE students with non Perkins funds.



Presumption may be rebutted if:

The SEA or LEA demonstrates that it would not have provided the services with state or local funds if the federal funds were not available.



To rebut presumption show:

- Fiscal or programmatic documentation to confirm that in the absence of federal funds, would have eliminated staff/service(s) in question
- State or local legislative action
- Budget histories and information

Cost Principles:

“Factors Affecting Allowability of Costs” 200.403

All Costs Must Be:

1. Necessary, Reasonable and Allocable
2. Conform with federal law & grant terms
3. Consistent with state and local policies
4. Consistently treated
5. In accordance with GAAP
6. Not included as match
7. *Net of applicable credits (moved to 200.406)*
8. Adequately documented



AVA AUDIT HANDBOOK

**Avoiding Audit Liability
Under The 1990 Perkins Act**

In our view, useful guidance for defining program improvement may be obtained from the former Perkins Act regulations (401.59(c)). “While a state is free to use the guidelines provided in the previous regulations implementing the previous act, they are not required to do so” (57 FR 36824). This regulation stipulates that any vocational education project, service or activity not offered by the recipient during the instructional term preceding funding under this program may be considered a new, expanded, improved, modernized or developed project, service or activity and may be considered so for up to three years. An improved program, then, is eligible for three years of funding—the year of its inception and the two following years.

36827). It is clear you may not use federal funds to maintain the status quo.


You would not be authorized to use the funds to pay instructors' salaries to provide the same programs year after year. For example, federal funds could not be used to subsidize the costs of an automobile mechanics program if the program offers the

identical curriculum offered in previous years. On the other hand, it would be permissible to use funds to modify the curriculum, update the curriculum or develop a totally new curriculum for auto mechanics.

Full Participation of Special Populations

The following terms are defined in the regulations:

“Special populations” means “individuals with handicaps, educationally and economically disadvantaged individuals (including foster children), individuals with limited English proficiency, individuals who participate in programs designed to eliminate sex bias and individuals in correctional institutions.”



tional services designed to facilitate the transition from school to post-school employment and career opportunities.

To satisfy the requirement for full participation of special populations, you must provide the supplementary and other services necessary for all five categories of special populations to succeed in the vocational education program. You do not have the option, for example, to serve only the disabled or the economically disadvantaged or individuals with limited English proficiency (LEP) and be deemed in compliance. In fact, during an audit review the auditors are quite likely to determine whether all five special population groups were served.

