



Client Alert

CDE Guidance on Supplement Not Supplant Requirement for Proposition 28 Funds

Key Takeaways

- Education Code Section 88209(g)(2) requires Proposition 28 funding (The Arts and Music in Schools (AMS) Funding Guarantee and Accountability Act) be used by K-12 and charter schools to supplement, not supplant, existing funding for arts education programs.
 - Compliance with the “supplement, not supplant” requirement is verified by an annual audit.
 - Recent guidance from the California Department of Education (CDE) provides a formula for determining whether supplanting has occurred.
 - The formula requires Districts to maintain the same level of non-Prop 28 funds allocated to AMS in the prior year but provides an exception for funding sources that were not available in the audit year.
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Proposition 28—AMS— funding is intended to supplement, and not supplant, existing funding for arts education programs. K-12 and charter schools receiving AMS funding with enrollment of 500 or more students, must spend at least 80% of funding to employ certificated and/or classified employees to provide arts education program instruction. The remaining funding can be used for training, supplies, materials, and agreements with outside arts education agencies or vendors. No more than 1% of AMS funds can be used for administrative expenses.

Schools will have to show compliance with these requirements through annual audits which must include all AMS funds received and distributed.



Districts will need to determine that Prop 28 funds were used to supplement, and not to supplant, existing arts education program funding. Recently released guidance from the CDE provides a formula for supporting this determination. At its core, the formula requires schools to confirm that the amount of non-Prop 28 funds spent on arts education programs in the audit year is equal to or greater than the amount of non-Prop 28 funds spent in the prior fiscal year. However, the CDE formula also allows Districts to subtract from the prior year “baseline” funding those expenditures from non-Prop 28 funding sources which were not available in the audit year. The CDE formula can be found in full on pg. 26 of the **Audit Guide**.

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