



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

JAN 13 2011

Dear Title III Director:

I am writing to you regarding questions we have received about the immigrant children and youth program authorized in section 3113(d) of the Elementary and Secondary Education Act (ESEA), as amended. Numerous States have requested clarification of the definition of immigrant children and youth in section 3301(6) and additional guidance on applying the definition for the purpose of identifying and counting these students for immigrant subgrants.

“The term ‘immigrant children and youth’ means individuals who-

- (A) are aged 3 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than three full academic years.”

Please note that this definition is specific only to the immigrant children and youth program under Title III of the ESEA.

States have requested clarification of whether to apply the “three full academic years” requirement on a cumulative or consecutive basis for children who have not attended schools continuously. States described situations in which children enroll in a local educational agency (LEA) leave and then reenroll at a later date, and inquired whether, in these situations, all periods of attendance would be counted toward the “three full academic years.” Earlier guidance issued by the U.S. Department of Education (Department) stated that the number of months that a student has been in school in any one or more States must not add up to more than 3 full academic years. This interpretation remains the same. LEAs must apply the “three full academic years” requirement on a cumulative basis. LEAs would need to track the amount of time that a child has attended school in the same district, other districts or States, if applicable, in prior years in order to determine if a child’s period of attendance is within the “three full academic years” requirement.

If you have any further questions, please contact Supreet Anand, Title III Supervisor at [Supreet.Anand@ed.gov](mailto:Supreet.Anand@ed.gov) or 202-401-9795. Thank you for your efforts to meet the needs of immigrant children and youth and English learners.

Sincerely,

Thelma Meléndez de Santa Ana, Ph.D.

cc: Chief State School Officers

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202  
[www.ed.gov](http://www.ed.gov)