



U.S. Department of Education
Office of State Support
Office of Elementary and Secondary Education

**Non-Regulatory Guidance:
English Learners and Title III
of the Elementary and Secondary Education Act
(ESEA), as amended by the
Every Student Succeeds Act (ESSA)**

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

October 5, 2016

3:00 – 4:00 PM EST



Welcome and Introductions



U.S. Department of Education
Office of State Support
Office of Elementary and Secondary Education

- Patrick Rooney, Acting Director, Office of State Support
- Roberta Miceli, Deputy Director, Office of State Support
- Millie Bentley-Memon, Office of State Support
- Kelly Gonez, Office of Planning, Evaluation, and Policy Development
- Chuenee Boston, Office of State Support
- Megan Oberst, Office of State Support
- Leticia Braga, Office of Special Education and Rehabilitative Services



Webinar Purpose and Format

Purpose: To provide State Educational Agencies (SEAs) a high-level overview of the English Learner (EL)/Title III, Part A, guidance issued on September 23, 2016

Format: Presentation followed by question and answer



EL/Title III Guidance: Background

- **Purpose:** To help States, school districts, and schools provide effective services that improve the English language proficiency and academic achievement of ELs and to provide guidance on the requirements of Title III, Part A of the ESEA
- This guidance:
 - ✓ provides information about changes to Title III under the ESEA, as amended by the ESSA, clarification on issues, and policy/programmatic recommendations.
 - ✓ does not address topics that will be addressed through rulemaking (e.g. accountability and assessments)
 - ✓ will be in effect after the 2016-17 school year.



A- Fiscal Issues (A-1)

General – State Responsibility with Respect to Title III funds

Several ESEA provisions regarding ELs have **moved** from Title III to Title I.

Each State:

- ✓ must still use Title III funds in a manner consistent with Federal law and guidelines.
- ✓ retains all of its oversight responsibilities to ensure that its local educational agencies (LEAs) spend Title III subgrants in a manner consistent with Federal law and guidelines.
- ✓ is required to conduct Title III fiscal monitoring of its LEAs.
- ✓ may use consolidated State administrative funds for fiscal support teams.

LEAs can:

- ✓ also consolidate administrative funds.
- ✓ use State and local funds to expand the reach of fiscal support teams.



A- Fiscal Issues (A-2 - A-3) *Supplement-not-Supplant*

- The amended supplement-not-supplant provision in the ESEA that applies to Title I does not apply to Title III funds.
- Title III has its own provision prohibiting supplanting of other Federal, State, and local funds. (Section 3115(g)). In general, it is presumed that supplanting has occurred:
 - 1) if the SEA or LEA uses Federal funds to provide services that the SEA or LEA was required to make available under other laws; or
 - 2) the SEA or LEA uses Federal funds to provide services that the SEA or LEA provided with other funds in the prior year.
- Title III funds cannot be used to fulfill an LEA's obligations under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA).



A- Fiscal Issues (A-4 - A-5) *Supplement-not-Supplant*

- Some State and LEA EL-related activities have **moved** from Title III to Title I, including accountability for ELs.
- A State and LEAs may **still** use Title III funds for EL-related activities previously required under Title III and now required under Title I as long as:
 - ✓ the use of funds is consistent with the purpose of Title III and are “reasonable and necessary costs;”
 - ✓ the use of funds is supplemental to the SEA’s or LEA’s civil rights obligations to ELs under Title VI and the EEOA; and
 - ✓ the SEA or LEA can demonstrate it is also using Title III funds to conduct activities required under Title III.



A- Fiscal Issues (A-6-8) *Supplement-not-Supplant*

- States may not use Title III funds to develop the annual English language proficiency (ELP) assessment.
- LEAs may not use Title III funds to administer the annual ELP assessment.
- LEAs may not use Title III funds for purposes relating to identification of ELs.
- States may use Title I or Title III administrative funds, alone or consolidated, to align the ELP assessment with the ELP standards (though amount of funds restricted.)
- States may use State Assessment and Enhanced Assessment Grant funds to develop or align State ELP assessments.
- LEAs may use State Assessment Grants to administer ELP assessments or provide for appropriate accommodations for ELs with disabilities on the ELP assessment.



A- Fiscal Issues

State Administrative Costs (A-9)

- State reservation for State-level activities – up to 5% of total State award
- State funds may be used for:
 - ✓ planning, evaluation, administration, and interagency coordination;
 - ✓ TA to subgrantees – including parent/community outreach
 - ✓ recognition of subgrantees
- State funds now may **also** be used for:
 - ✓ establishing and implementing standardized Statewide entrance and exit procedure for ELs (required under Section 3111(b)(2); and
 - ✓ professional development to improve teaching of ELs.
- Up to 50% of State funds or \$175,000, whichever is greater, for planning and **direct** administrative costs: providing more flexibility to States



A- Fiscal Issues

District Administrative Costs (A-10 – A-12)

- 2% cap on LEA funds for administrative costs –for **direct** administrative costs
- LEAs may consolidate Title III funds in a schoolwide program.
- LEAs may combine Title I and Title III funds for the same EL-related purpose.



A- Fiscal Issues

LEA Subgrants (A – 13 – A-17)

- States must award Title III formula subgrants **in a timely manner**, i.e., so LEAs can offer services to ELs at the beginning of the school year, to each LEA with an approved Title III plan.
Funds should be spent in a thoughtful and meaningful way
- States may reallocate formula subgrant funds if they are not to be used for the purpose for which they were awarded.
- LEAs may join with other LEAs to form a consortium of LEAs to receive Title III funds.



A- Fiscal Issues LEA Subgrants (A-16)

- State reservation – not more than 15% of the State Title III allocation for immigrant subgrants to LEAs with “significant increase” in %/# of immigrant children and youth
- States determine definition of “significant increase” – may change from year-year
- “Significant increase” in immigrant children and youth – **now based on the current fiscal year compared to the average of the last two fiscal years**
States without current year data may award subgrants using estimates from prior year data and adjust as necessary.



A- Fiscal Issues

Local Uses of Funds (A- 18 – A-23)

- **Required** Activities for LEAs receiving Title III subgrants:
 - professional development
 - providing a language instruction educational program
 - parent, family, and community engagement activities
 - **New** authorized activities for LEAs receiving Title III subgrants:
 - preschool language instruction educational programs
 - early college high school
 - dual or concurrent enrollment programs
- *Note that there are many other authorized activities that have not changed.



A- Fiscal Issues

Local Uses of Funds cont'd (A- 18 – A-23)

- LEA use of funds to implement all or part of a comprehensive support and improvement plan – if activities are allowable under Title III and supplemental
- All uses of Title III funds must be supplemental. An LEA may not use Title III funds to meet its obligations under Title VI and the EEOA, including obligation to provide EL students with an educationally sound language assistance program and the obligation to ensure meaningful communication with limited English proficient parents.



B – English Language Proficiency Standards (B-1 – B-3)

- Each State plan must demonstrate that the State has adopted ELP standards that are aligned with the State’s academic content standards.
- States need not change or update ELP standards as long as they meet ESEA Section 1111(b)(1)(F) requirements –
 - ✓ 4 domains of language;
 - ✓ address proficiency levels of ELs; and
 - ✓ aligned with State academic content standards
- ELP standards must be implemented in every LEA in the State.



B – English Language Proficiency Standards (B-4 – B-8)

- State ELP standards:
 - ✓ must be aligned with State academic content standards in reading/language arts, math, and science.
 - ✓ should reflect language demands of each content area.
 - ✓ should reflect research.
 - ✓ should assist teachers in moving ELs towards proficiency in content and ELP.
 - ✓ should be aligned with State academic standards in additional subjects.
- State ELP assessments must be aligned with State ELP standards.



C – Language Instruction Educational Programs (LIEPs) (C-1 – C-6)

- LIEPs must be effective.
- States may use State-level Title III funds to incentivize highly effective LIEPs by providing financial awards to LEAs that have improved EL progress.
- States and LEAs should adopt criteria to ensure LIEPs are effective.
- States and LEAs may select any LIEP that is effective and is consistent with Federal laws.
- LEAs are required under Title VI and the EEOA to provide a language assistance program that is effective, and LEAs must use Title III to supplement, not supplant funds used to meet this obligation.
- States must monitor and support LEAs so they implement effective strategies.
- LEAs must provide for equitable participation of eligible private school students, teachers, and other educational personnel.



D – Educators of ELs (D-1 – D - 7)

- Teacher and principal preparation and professional development must be effective.
- States may use Title III State-level funds for professional development to improve teaching skills.
- LEAs must use Title III funds for effective professional development for teachers and principals of ELs.
- Teacher qualifications – not dictated by ESEA; determined by States
- Preparation and professional development programs for teacher of ELs should be based on the highest available level of evidence and measured for effectiveness.
- Title III funds may be used for supplemental staff to support ELs as long as a State or LEA has already met its civil rights obligations.



E – Parent, Family, and Community Engagement (E-1)

- ESEA provisions for parent, family and community engagement with regard to ELs:
 - Title I-funded LEAs must: provide effective outreach to parents of ELs including regular meetings.
 - Title III-funded LEAs must: use part of funds for parent, family, and community engagement.
 - State plans must: be developed in consultation with parents of ELs and other stakeholders.
 - Title III State-level funds *may*: be used for TA to LEAs on family engagement.
- An LEA may use Title III funds to supplement, but not supplant, its obligations under Title VI and the EEOA to ensure meaningful communication with LEP parents.



E – Parent, Family, and Community Engagement (E-2 – E - 7)

- LEA required parental notification on child’s identification as an EL and placement in an LIEP
 - ✓ No later than 30 days – beginning of school year
 - ✓ Within 2 weeks of placement in an LIEP for students who enroll after the start of the school year
- Parents of ELs may decline to enroll in or have the student removed from an LIEP.
 - ✓ Parental decision must be knowing and voluntary.
 - ✓ LEA must still meet Title VI and EEOA obligations.
 - ✓ Child must still be annually assessed for English language proficiency.



Early Learning (F – 1 – F - 6)

- ESSA promoted the inclusion of ELs in early learning programs as part of Title III (ESEA Sections 3102 and 3115)
- Title III funds may be used for professional development for teachers of ELs in publically funded preschool programs.
- LEAs may use a portion of Title III funds to provide effective LIEPs in preschool
 - ✓ Coordinated with other programs and services
 - ✓ Supplemental
 - ✓ High-quality and effective



Immigrant Subgrant and Serving Immigrant Students (G – 1 – G - 5)

- States must make at least one Title III immigrant subgrant.

States may determine:

- ✓ award size and scope
- ✓ discretionary or formula
- ✓ multi or single year
- ✓ definition of ‘significant increase’ – based on the current year as compared to the average of the two preceding fiscal years
- LEAs must use funds to provide enhanced instructional opportunities for immigrant children and youth. Changes include family outreach as an allowable activity.
- ED *encourages* States to provide awards of adequate size for a high-quality program.



Reporting and Data Collection (H – 1 – H – 4)

- LEA reporting requirements for ELs – under Titles I (State and local report cards) and III
- LEA Title III reporting requirements:
 - ✓ Title III programs and activities
 - ✓ # and % of ELs making progress in English
 - ✓ # and % of ELs attaining ELP and exiting LIEPs
 - ✓ # and % of former ELs who meet content standards – four 4 years
 - ✓ # and % of ELs who have not exited LIEPs after 5 years as an LIEP
 - ✓ Any other information required by the SEA
- States and LEAs encouraged to disaggregate EL performance data by other EL subgroups – long-term, recently arrived, students with interrupted formal education.



Title III Reporting: Long-Term and Former ELs (I – 1 – I – 3 and J – 1 – J - 3)

- **Long-term ELs:** LEAs must annually report the # and % of ELs who have not attained ELP within five years of initial classification as an EL and first enrollment in the LEA.

For students who move to a new LEA, that LEA should still include a student in reporting on this measure if he/she has not attained ELP.

- **Former ELs:** LEAs must annually report # and % of ELs meeting State standards for four years after students achieved ELP and no longer receive Title III services.

Must report for each of the four years

Must include results on reading/language arts, math, and science

Must be disaggregated by ELs with disabilities



Title III Reporting: ELs with Disabilities (K – 1 – K - 4)

- LEAs must disaggregate by ELs with disabilities:
 - # and % of ELs making progress in English.
 - # and % of former ELs meeting content standards for each of the four years they no longer receive Title III services.
- LEAs encouraged to disaggregate other additional measures by ELs with disabilities – for program planning, professional development, instructional decision-making
- Title III reporting requirements differ from IDEA reporting requirements.
- Instruction for ELs with disabilities should take into account specific special education and related services needs, as well as language needs.
- IDEA contains personnel qualification and personnel development requirements that apply to personnel serving ELs with disabilities.



Resources

Title III guidance:

<http://www2.ed.gov/policy/elsec/leg/essa/index.html?src=essa-resources>

2015 Dear Colleague Letter about EL students and LEP parents jointly released by the Department of Education and the Department of Justice:

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf>

ED's English Learner Tool Kit:

<http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/eltoolkit.pdf>

Using Evidence to Strengthen Education Investments Non-Regulatory Guidance:

<http://www2.ed.gov/policy/elsec/leg/essa/guidanceusesinvestment.pdf>



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Questions



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Thank you!