

2014

Title III, Part A Fiscal and
Programmatic Handbook & FAQs



Oklahoma State
Department of
Education

Title III, Part A, Fiscal and Programmatic Handbook

A

ACCESS for ELLs Test (Assessing Comprehension and Communication in English State-to-State) for English Language Learners

School districts are required to annually assess the English language proficiency of all limited English proficient children regardless of whether or not they receive Title III funds. The test used by school districts in Oklahoma is developed by WIDA (World-Class Instructional Design and Assessment). **The K-WAPT (Kindergarten) and the W-APT (Grades 1-12) WIDA Placement Test** can be downloaded for free from the www.wida.us website. Students who qualify for the program will be given the ACCESS (Assessing Comprehension and Communication in English State-to-State) in the spring until they reach an *Overall* proficiency level of 5.0 **and** 4.5 score in *Literacy*.

- Title I requires that ALL ELLs be assessed using the State's ELP assessment: ACCESS for ELLs. Because of this, in most cases, neither Title I nor Title III funds can be used to pay for the State's ELP assessment, training to administer the assessment, nor any costs associated with the administration of the assessment.

Accommodations

According to the Oklahoma Administrative Code (OAC 210:10-13-2), students identified as ELL may be provided acceptable accommodations, for which the need is to be determined by the local school district. Accommodations must be those normally employed as part of classroom instruction on a regular basis. Given this stipulation, the following are the only accommodations approved by the SDE for use by students who are ELL:

1. Provide the assistance of a qualified translator to translate or clarify test instructions or test items that do not assess reading competency if a translator has been used in classroom instruction on a regular basis.
2. The Test Administrator and/or translator must transcribe answers into a standard scorable answer document/test book. For the Writing test, a student's response may NOT be transcribed from another language into English.
3. Read aloud, simplify, repeat, and clarify test instructions in English. Also, test items may be read aloud and repeated in English if the test is not a Reading, OMAAP English II, ACE English II or ACE English III Multiple-Choice test. A read aloud should never be used in a group larger than 5 students.
4. Provide small group (no more than five students) or individual testing opportunities.
5. Provide word-to-word dictionaries (dictionaries that do not give word definitions).

Accommodations will be used **prior to and during OCCTs**. These accommodations must be

appropriate to the student’s English language proficiency level and reflective of the student’s individual needs.

Administrative Expenses

“Each eligible entity receiving Title III funds for a fiscal year should use not more than **2 percent** of such funds for administering the program.” Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3115 (b)]

- Administrative costs are associated with the overall project management and administration of the Title IIIA program. Indirect Costs (IDC) are included in the 2 percent cap.

Examples of allowable use for Title III Administrative Expenses and/or Indirect Costs

- Title III Program Director or Coordinator
- Office assistance to Title III Program Director
- Data entry clerk for Title III
- Cost of supplies associated with running the program (ink cartridge and paper)
- Postage for Title III specific mailouts (such as the Title III AMAO Parent notification letter or Title III program placement letter)

Allocations

Any LEA enrolling one or more English language learners during the previous school year qualifies for an LEP subgrant. However, under Title III, Part A [Section 3114 (b)], subgrants less than \$10,000 may not be made to individual districts. Individual districts may join together to form a consortium in order to achieve the Title III, Part A Limited English Proficient (LEP) minimum \$10,000 grant award.

The **minimum number of students** needed to meet the \$10,000 benchmark is approximately 116 (number of LEP students multiplied by per a student amount). The members of a consortium may choose the fiscal agent (also known as the “lead district”) by consensus, or the member with the largest allocation will automatically become the fiscal agent. The fiscal agent is responsible for all fiscal transactions of the consortium (filing of the application, requisitions, purchases, and payments) and for maintaining records of all financial transactions carried out on behalf of the consortium.

AMAOs (Annual Measurable Achievement Objectives)

Title III of the *No Child Left Behind Act of 2001* (NCLB), Section 3122(a)(3)(A), requires each state to identify school districts that fail to meet the Annual Measurable Achievement Objectives (AMAO) as “in need of improvement.” The AMAO is determined by three factors:

1. Yearly progress in learning English;

2. Attainment of English language proficiency (ELP) on *Assessing Comprehension and Communication in English State-to-State* for English Language Learners (ACCESS for ELLs) adopted by the State Board of Education as Oklahoma’s ELP test; and
3. Adequate Yearly Progress (AYP) in English-language arts and mathematics.

- Each year, Title III districts must inform the parents of ELL students who participate in the school’s language instruction educational program if the district or consortium did not meet all of the AMAO criteria. **Postage for Title III specific mailouts may be paid out of IDC (Indirect Costs)**. (Indirect Costs (IDC) are included in the 2 percent cap for [Administrative Expenses](#))

C

Carryover

There is no limitation of the unexpended balance of Title III funds to be carried over to the next fiscal year. However, second year carryover must be encumbered by September 30th of each current fiscal year and paid by December 31st; otherwise the LEA will lose those funds.

Castañeda’s Three-Part Test In Compliance Determinations

1st, Is the ELL program informed by sound educational theory?

2nd, are the agency’s “practices, resources and personnel” reasonably calculated to implement the ELL program “effectively”?

3rd, do the ELL program results show that language barriers are “actually being overcome” within a reasonable period of time?

Castañeda, 648 F.2d at 1009-1010

Classroom materials

REQUIRED ACTIVITY- Title IIIA funds **should** be used to increase English language proficiency and access to academic content through scientifically research-based language **instruction educational programs** (see Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3212 (2)(A)]).

Title IIIA funds may be used for “acquiring or developing education **technology** or instruction materials for limited English proficient children, including materials in languages other than English.” (Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3213 (3)(J)])

Technology can be purchased using Title III funds as long as that same technology is not being provided to non-LEP students with other state and/or federal funds.

- Technology of a value greater than \$2500 and with a life time greater than 1 year must be recorded as property (1000-700)
- Software Licenses cannot be claimed for more than 1 year at a time.

Some examples of allowable technology/software

- iPads
- Kindles
- laptops/netbooks
- electronic translators
- word-to-word dictionaries
- Imagine Learning Software
- Rosetta Stone Software
- Renaissance’s English in a Flash Software
- LeapFrog English language learning materials
- National Geographic English language teaching materials

Consortium

(see allocations)

E

ELP (English Language Proficiency) Assessments

Title III funds may not be used to administer State ELP assessments for progress because that would violate the supplement not supplant requirement since the ELP assessment is a requirement under Title I. Neither Title I nor Title III funds may be used to develop or administer ELP assessments for identification and placement purposes, **except** that Title III funds may be used for identification & placement assessments for private school students (if the use of such funds would not supplant other Federal, State or local funds that may be used for such purposes.)

English Language Development Standards

These are the standards that districts must use to establish and maintain a language instruction educational program. Title III districts that are monitored by the OSDE are required to provide documentation noting use of WIDA English Language Development (ELD) Standards. The *2012 Amplification of the ELD Standards, Kindergarten–Grade 12* is available for free download at www.wida.us.

Equal Educational Opportunities Act of 1974

The Equal Educational Opportunities Act of 1974 prohibits state and local educational agencies from denying an individual an equal educational opportunity on the basis of race, color, sex, and

national origin in several ways, including failing to take appropriate action to overcome language barriers that impede students' equal participation in instructional programs. (EEOA), [20 U.S.C. § 1703 (f)].

F

Food

(see parental involvement)

H

Home Language Survey

LEAs are responsible for identifying LEP students who may need language instruction educational services, regardless if they receive federal funds.

- The Home Language Survey (HLS)should be administered as part of the enrollment process. If the HLS indicates that another language is spoken in the home, either “more often” or “less often” than English, the student **may** be ELL and should then be screened for eligibility for language assistance services.

Identification, screening, and parental notification of eligible students occur within 30 days of enrollment at the beginning of the school year. Once the school year is underway, the window for identification, screening, and parental notification of eligibility is within two weeks of enrollment.

(Title III of the *No Child Left Behind Act of 2001* (NCLB), Parental Notification (Section 3302)

I

IDC (Indirect Costs)

(see administrative expenses)

Immigrant children and youth

Immigrant children and youth means individuals who:

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

For the definition above, “state” means the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.

Definition based on Section 3301(6) of the Elementary and Secondary Education Act (ESEA).

Are children (students) born to United States citizens abroad (e.g., children born on a military base overseas) considered immigrants for purposes of Title III, Part A?

These children can be considered immigrants if they meet all the criteria in the definition of immigrant.

Improvement Plan

- Districts who have failed to meet the AMAOs (Annual Measurable Achievement Objectives) for 2 consecutive years are required to submit an Improvement Plan to OSDE. “The improvement plan shall specifically address the factors that prevented the entity from achieving such objectives.” (Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3122 (b)(2)])
- Districts that have failed to meet the AMAOs for 4 consecutive years are required to modify their curriculum, program, and method of instruction. In addition, the OSDE may require the subgrantees to replace educational personnel relevant to the subgrantee’s failure to make AMAOs. Finally, the OSDE will make a determination on the continuation of funding for the subgrantee. (Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3122 (b)(4)(A-B)])

Interpretation

LEAs and schools are obligated to provide meaningful access to information and services provided. Therefore, Title III funds may **only** be used for **supplemental** translation and interpretation activities that are not provided by the LEA for all students, and for translation activities that are **specific to Title III**.

Title III –Translation & Interpretation Examples (Angela Martinez-Gonzalez, USDE Office for Civil Rights, 2011 Webinar)

Translation means converting *written* text from one language to another language.

Interpretation means converting *spoken* language from one language to another language.

- If the LEA has a welcome center with staff who are responsible for administering the home language survey to all students and enrolling LEP students, it would **not** be appropriate to utilize Title III funds to pay their salaries.
- If the LEA has a contract with a translation company that provides translated notices for Federal programs, then **only** the portion of the contract that pertains to Title III notices may be paid for with Title III funds.
- If the LEA or school communicates with all parents about their child’s educational progress by mail, it would **not** be appropriate to use Title III funds to pay for the postage

for LEP students, as this communication is paid for by the LEA or school for all students, and is not Title III-specific.

- If the LEA or school communicates on a weekly basis with all parents about school activities, it would **not** be appropriate to use Title III funds to pay for translation or interpretation of these documents or activities, as this LEA and school are obligated to provide meaningful access to information and services provided. Title III funds could be used to pay for supplemental translation or interpretation.

L

Lau v. Nichols, 1974

“In 1974, the Supreme Court ruled in *Lau v. Nichols* that school districts must provide special services to English Language Learners so that they have equal educational opportunity. In its ruling, the Court noted:

There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he/she must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.” [414 U.S. 563 (1974)]

- Stands as the most basic and fundamental ruling about service requirements for ELLs in all public schools.
- Basis for the Lau Memorandum from the Office for Civil Rights.
- School districts must help ELLs overcome linguistic barriers in order to access instruction.

LEP Survey

The number of LEP students is annually submitted to the Oklahoma State Department of Education on the LEP Survey. This report is located on the Single Sign On System as the **Title III Limited English Proficiency (LEP)/Immigrant Survey**.

LIEP (Language Instructional Educational Plan)

The LIEP (Language Instructional Educational Plan) should be used for each individual ELL student. It contains the student’s information, placement test and ACCESS for ELLs test information, language instruction methods and services, and a list of accommodations for the Oklahoma academic content assessments that are provided to the student. **This documentation is required during desk/site monitoring.**

Limited English Proficient (LEP) Definition

- The term “limited English proficient,” when used with respect to an individual, means an individual —
 - (A) who is aged 3 through 21;
 - (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
 - (C)(i) who was not born in the United States or whose native language is a language other than English;
 - (ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
 - (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
 - (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
 - (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual —
 - (i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society.

No Child Left Behind Act of 2001 (NCLB), Title IX, General Provisions, Part A Definitions, [Section 9101(25)]

LIPDP (Language Instruction Program Delivery Plan)

All schools are responsible for identifying LEP students and to provide language instruction educational services to them, regardless of whether or not they receive federal funds. (see [Lau v. Nichols](#))

- Documentation of the district’s core ELL program should be included in the LIPDP. **This documentation is required during desk/site monitoring.**

P

Parental Involvement

Title III funds **may** be used for “implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children” (Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3212 (2)(B)(iii)]

Food

- Reasonable expenditures for refreshments of food, particularly when such sessions extend through mealtime, are allowable. **Light refreshments are limited to snacks** (i.e. cookies, vegetable/fruit tray, soft drinks, coffee, and water)

Parental Notification

Parents of LEP children identified for participation in or participating in Title III must be annually notified regarding:

- 1) Reasons for identification of their child as LEP
- 2) Child's level of English language proficiency
- 3) Method of instruction in current and other available programs
- 4) How the program will meet the needs of the child
- 5) How the program will help the child learn English & meet State standards
- 6) Exit requirements, rate of transition
- 7) In the case of a child with a disability, how such program meets the objectives of the child's IEP program; and
- 8) Written guidance on parental rights to decline to enroll, immediately withdraw from, or select another program.

Personnel

Can a district use Title III funds to pay all or any part of the salary to keep a tutor or paraprofessional employed?

The LEA would need to determine whether this tutor or paraprofessional provides services that are required by Lau (see Lau v. Nichols, 1974), and also apply the *prior* year test of supplement, not supplant –to determine whether this would be an allowable cost. **Were state or local funds used in the past to pay for this program or activity?** If so, using Title III funds to pay for it is supplanting.

ELL/ESL Teachers are NOT allowed

Examples of allowable Title IIIA personnel:

- Tutors
 - working directly with ELL students
- Bilingual/ESL Paraprofessionals
 - working directly with ELLs under the direction of a certified teacher
- ESL Instructional Coaches
 - Their role is to acquire scientific-based research practices, provide professional development, and mentor and coach teachers who are working directly with English language learners.

Private Schools

Title III does not require LEAs to administer their State's annual ELP English language proficiency assessment for identified LEP students in private schools. LEAs are required under Title IX to consult with the private school officials regarding:

- How the Title III, Part A services provided to private schools and teachers will be assessed; and
- How the results of the assessment will be used to improve those services. [section 9501 (c)(1)(D) of the ESEA]

A State's English language proficiency standards and Title III annual measurable achievement objectives (AMAOs) do not apply to private schools or their students.

Title III Services to LEP students in Private Schools: Types of Activities- Examples (USDE Webinar, August 2013)

- Administration of English language proficiency (ELP) assessment for identification and/or for the purpose of evaluating the effectiveness of services (test booklets, teacher training, stipends to teachers to administer assessments);
- Participation in district-sponsored professional development (PD), or PD organized specifically to meet the needs of the private school teachers;
- Tutoring for students before, during, or after school hours;
- Participation of private school LEP students in summer school;
- Participation of students in a weekend program; and
- Purchase of supplemental instructional materials and supplies.

Title III funds may **not** be used to finance the existing level of instruction in a private school. Services must supplement and not supplant the Federal, state, or local funds the private school would otherwise offer absent the Title III program. (Title III of the *No Child Left Behind Act of 2001* (NCLB) [Section 3115 [(g)]

Professional Development

REQUIRED ACTIVITY- All subgrantees are required to use Title III funds for professional development (no minimum or maximum percentage amount required). Title III will fund professional development for classroom teachers (including teachers in classroom settings that are not the setting of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel that is **designed to improve the**

instruction and assessment of limited English proficient children. (Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3212 (2)(A)(ii)])

Example of allowable TIIIA professional development activities (for instructional teachers and instructional administrators):

- Instructional Strategies for ELL students
- ELL Data Digging Workshop (presented by WIDA and hosted by the OSDE)
- Building Vocabulary for Academic Achievement by Marzano
- Training for use of the district’s language instructional software
- Annual WIDA (World-Class Instructional Design and Assessment) Conference
- Professional development offered by the Title IIIA district lead of the consortium
- SIOP (Sheltered Instruction Observation Protocol)
- La Cosecha (meaning The Harvest)
- National TESOL (Teaching English to Speakers of Other Languages)
- Oklahoma TESOL (Teaching English to Speakers of Other Languages)
- NABE (National Association for Bilingual Education)
- OABE (Oklahoma Association of Bilingual Educators)

Example of non-allowable TIIIA activities:

- Legislative training
- Motivational Speakers
- Training to administer the W-APT Placement Test or the ACCESS for ELLs Test

R

Reallocations

Section 3114(c) of the Elementary and Secondary Education Act of 1965 (ESEA) requires the reallocation of excess Title III, Part A, funds to school divisions in accordance with criteria established by the state educational agency (SEA). The Oklahoma State Department of Education (OSDE) has established procedures for reallocation that include determining: **1)** identification of excess funds; **2)** areas of eligibility; and **3)** time frames for reallocation.

1. Identification of Excess Funds

Excess Title III, Part A, funds are identified as Title III, Part A, funds from a local educational agency (LEA) that has:

- a. Not submitted an application for Title III, Part A, within sixty days of the release of the allocations and has chosen not to apply for funds;
- b. Had its allocation reduced because it failed to meet the maintenance of effort requirements;

- c. Had funds recovered by the SEA after determining that the LEA has failed to spend Title III, Part A, funds in accordance with applicable law; or
- d. Excess funds for other reasons.

2. Reallocation Based on Ability to Expend the Funds

The SEA may reallocate excess Title III, Part A, funds on a per pupil basis to eligible LEAs that have the ability to expend the funds within the grant award period.

3. Determination of Eligibility

LEAs eligible for reallocation shall have accepted current year funds either directly or as a member of a consortium.

4. Reallocation Procedure

Within sixty days of the release of the allocations, each LEA shall submit an application or a letter releasing funds back to the OSDE. If a school division does not submit an application or a letter within sixty days, the funds for that LEA will be reallocated. Funds are reallocated on a per pupil basis to LEAs that have accepted current year funds either directly or as a member of a consortium.

5. Establishment of Time Frames

The SEA must reallocate funds on a timely basis, and funds should be made available to eligible LEAs within the allowable obligation period in which the funds were appropriated. The following guidelines apply:

- a. Sixty days from the release of the allocations, the LEA shall submit an application or a letter releasing funds to the OSDE.
- b. The Department will reallocate funds within 120 days of the release of the allocations.

A standard timeline for reallocation of funds allows the SEA to maintain current timelines for interim and final obligation and expenditure reports, and other variables that influence fiscal management of funds.

Required Activities

The following two activities are required for Title III districts:

1. Increase English language proficiency and access to academic content through scientifically research-based **language instruction educational programs**. (For more information, see [Classroom materials](#))
2. Provide quality **professional development** of sufficient intensity and duration to have a lasting impact on classroom instruction. (For more information, see [Professional Development](#))

(See Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3212 (2)(A)].

S

Software

(See classroom materials)

Stipends

Allowable:

- Stipends to attend professional development activities outside of contract hours
 - Those receiving stipends do not have to be recorded on the Personnel page of the application, but PD worksheets with their names and the PD agenda must be submitted.
- Stipends paid to teachers to modify their language instruction educational program and method of instruction outside of contract hours. (e.g. Personnel working on a Title IIIA Improvement Plan during the summer to submit to the OSDE)

Non-allowable:

- The LEA is obligated to assess the English language proficiency of students identified under the Home Language Survey for placement and identification purposes.
 - Stipends for teachers to assess newly enrolled students for English language proficiency are **non-allowable**.

Summer school

Summer school programs, such as those that offer high intensity language instruction educational programs during the summer are allowed under Title IIIA as long as the school can demonstrate that the program is above and beyond what is provided by the school and the LEA. **In other words**, a summer school program for LEP students cannot be funded out of Title IIIA if a summer school program is already being funded out of Title IA funds and both programs occur at the same time. The Title III summer school program must be designed to assist LEP students in making progress in learning English and achieving the same academic content standards as all other students are expected to meet. The curriculum used must be substantially different than what is used in any other summer school provided to LEP students. In addition, the Title III summer school must be conducted at a different time than the Title IA summer school.

Supplement, Not Supplant

“Supplement, Not Supplant -- Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.” (Title III of the *No Child Left Behind Act of 2001* (NCLB), [Section 3115(g)])

Questions to ask when considering whether Title III funds can be used without violating the supplement, not supplant requirement:

1. What is the instructional program/service provided to all students?
2. What does the LEA do to meet *Lau* (see [Lau v. Nichols](#)) requirements?
3. What services is the LEA required to provide by other Federal, State, and local funds?
4. Was the program/service previously provided with state, local and federal funds?

T

Translation

(See interpretation)

Travel

May Title IIIA funds be used to pay for travel and conference costs?

The costs for staff travel and conferences are allowable if the travel and conferences are specifically related to the Title IIIA program and not to the general needs of the LEA or school and are reasonable and necessary.

Invoices (i.e. hotel) and Travel Reimbursement Forms (i.e. per diem & mileage) must be submitted in the claim along with the professional development agenda.

Travel is coded 2210/2570-**500**

Registration to PD conferences is coded 2210/2570-**800**

Technology

(See classroom supplies)

Tuition

Cost for tuition and fees for teachers to obtain English as a Second Language (ESL) certification may be paid out of Title III funds. The ESL Certification Test may also be paid for out of Title III funds.

Tutors

Tutors must be Highly Qualified teachers; therefore they have to be on the Personnel page of the application.

W

WIDA (World-Class Instructional Design and Assessment)

Oklahoma is a member of the WIDA (World-Class Instructional Design and Assessment) Consortium. WIDA provides the W-APT Placement Test and the K-12 spring assessment: the

ACCESS (Assessing Comprehension and Communication in English State-to-State) for ELLs
Test.

FAQ

Introduction

1. What is the purpose of Title III as reauthorized by the Elementary and Secondary Education Act (ESEA)?

Part A of Title III is officially known as the *English Language Acquisition, Language Enhancement, and Academic Achievement Act*. Section 3102 lists nine purposes of the law. The overarching purpose is to ensure that limited-English-proficient (LEP) students (also called English language learners), including immigrant children and youth, attain English proficiency and meet the same challenging academic content and achievement standards that other students are expected to meet.

LEAs must use Title III funds to implement language instruction educational programs designed to help LEP students achieve standards. The state educational agency (SEA), LEAs, and schools are accountable for increasing the English language proficiency and core academic content knowledge of LEP students.

2. What achievement standards apply to LEP students under Title III?

SEAs, LEAs, and schools are required to hold LEP students to the same academic content and achievement standards established for all children. Additionally, LEP students must meet English language development standards [Title I, Section 1111(b)(1), and Title III, Section 3122(a)(1)].

3. How will the U.S. Department of Education determine the amount of the Title III grant to award to Oklahoma?

The U.S. Department of Education determines the grant award to the states by using a formula based on the number of LEP and immigrant students enrolled in the state. Beginning with fiscal year 2005, the U.S. Department of Education will use American Community Survey data to determine this count, pursuant to the Elementary and Secondary Education Act (ESEA) Section 3111(c). Ninety-five percent of the apportionment will be allocated as subgrants to eligible LEAs serving LEP and immigrant students [Title III, Section 3111(c)(3)].

4. Must an LEA reapply each year for Title III funds?

Yes, eligible LEAs must indicate their acceptance of Title III funds and ensure compliance with Title III statute and regulations each year. LEAs must also submit the results of the Title III – Limited English Proficient (LEP)/Immigrant Survey of all LEP and eligible immigrant students, develop an LEA plan, and meet evaluation and reporting requirements (Title III, sections 3114, 3115, 3116, 3121, and 3123).

Funding of Subgrants to Local Educational Agencies

1. Which LEAs are eligible for LEP and/or immigrant student subgrants?

LEAs include school districts and charter schools that enrolled one or more LEP and/or immigrant students during the previous year [Title III, Section 3114(a)(d)]. In the case of immigrant education funds, the LEA must also meet the enrollment criteria for eligible immigrant students.

2. Are private schools eligible to *directly* receive Title III funds?

No, since private schools are not LEAs, they are not eligible to receive Title III funds directly. However, LEP and immigrant students enrolled in private schools may receive Title III services provided by public schools in their geographical jurisdiction (Title IX, Section 9501).

3. What is the process for private schools to participate in Title III LEP programs?

Title IX, Section 9501, requires LEAs to consult in a timely and meaningful manner with private schools and determine which private schools request participation. Services must be provided on an equitable basis.

4. How does the Oklahoma State Department of Education allocate Title III funds to eligible LEAs?

The Department provides subgrants to LEAs for LEP and eligible immigrant students on the basis of a formula. For the fiscal year, qualifying LEAs will receive an allocation for each LEP student and for each eligible immigrant student enrolled in the LEA.

Any LEA that enrolled one or more English language learners during the previous school year qualifies for an LEP subgrant. Under Title III, Part A [Section 3114 (b)], subgrants less than \$10,000 may not be made to individual districts. However, individual districts may join together to form a consortium in order to achieve the Title III, Part A Limited English Proficient (LEP) minimum \$10,000 grant award. The minimum number of students needed to meet the \$10,000 benchmark is approximately 116 (number of LEP students multiplied by per student amount). The members of a consortium may choose the fiscal agent (also known as the “lead district”) by consensus, or the member with the largest allocation will automatically become the fiscal agent. The fiscal agent is responsible for all fiscal transactions of the consortium (filing of the application, requisitions, purchases, and payments) and for maintaining records of all financial transactions carried out on behalf of the consortium.

5. Which types of subgrants will states make to eligible LEAs?

Under Section 3114 of Title III, there are two types of subgrants that the state can give to LEAs:

Formula subgrants for LEP students: LEAs are eligible for subgrants on the basis of the number

of LEP students enrolled in schools served by the LEA. The number of LEP students is annually submitted to the Oklahoma State Department of Education on the Title III – Limited English Proficient (LEP)/Immigrant Survey.

Set-aside subgrants for immigrant students: LEAs that have experienced a significant increase (at least two percent) in the number of immigrant children enrolled in public and nonpublic schools in their jurisdiction are eligible for subgrants. The number of eligible immigrant students is annually submitted to the Oklahoma State Department of Education on the Title III – Limited English Proficient (LEP)/Immigrant Survey.

6. If eligible, may an LEA receive a Title III subgrant for both LEP students and eligible immigrant students?

Yes. Because most (but not all) immigrant students are also identified as LEP students, LEAs that are eligible for an immigrant education subgrant will also receive an LEP student subgrant under Title III.

7. How does an LEA apply for LEP student funds under Title III?

To be eligible for a direct-funded LEP student subgrant, LEAs must be scheduled to receive a subgrant of \$10,000 or more. LEAs that are scheduled for a subgrant of \$10,000 or more will apply through the Title IIIA Application.

If an LEA is projected to receive an LEP student subgrant of less than \$10,000, the LEA must enter into an agreement to form and/or join a consortium in which the total amount of the subgrants of members of the consortium collectively total \$10,000 or more. In the case of a consortium of LEAs, only the lead LEA is the grantee. (Title III, Section 3114).

8. Is there a cap on the amount of Title III funds that can be used for the administration of the LEP student program?

Yes, An LEA may use no more than 2 percent of an LEP student subgrant for administrative costs and indirect costs (Title III, Section 3115[b]). Program administrative costs include such items as salaries of project personnel, clerical support, and other costs directly incurred in the administration of the program. The U.S. Department of Education's 1997 guidance, *Indirect Cost Determinations, Guidance for State and Local Government Agencies* (referred to as the *Blue Book*) states that any "statutory or regulatory limitation applies to the combined claims for indirect costs and direct administration costs."

9. Is carryover of Title III LEP student funds allowed?

Yes. Reasonable carryover of Title III LEP student funds is allowed for an additional 12-month period beyond the original grant period. For example, for funds granted for the 2013-14, school year (July 1, 2013, to June 30, 2014), carryover is allowed until September 30, 2015.

10. What are the responsibilities of the Consortium lead and members?

The members of a consortium may choose the fiscal agent (also known as the “lead district”) by consensus, or the member with the largest allocation will automatically become the fiscal agent.

Specific Responsibilities of Fiscal Agents (consortium lead districts)

- The fiscal agent of the consortium must have on file a Memorandum of Understanding (MOU) or alternative arrangement that outlines how the consortium will meet all Title III, Part A requirements, which includes the following: Title III, Part A AMAOs, parental notification to parents of participating ELL students, and participation in an improvement plan if the consortium as a whole fails to meet AMAOs for two consecutive years. This memorandum of understanding or alternative arrangement should be signed by superintendents of districts agreeing to be members of the consortium. See sample MOU on pages four through six.
- The fiscal agent is responsible for all fiscal transactions of the consortium (requisitions, purchases, and payments) and for maintaining records of all financial transactions carried out on behalf of the consortium.
- The fiscal agent is responsible for taking steps that result in all participating districts meeting their responsibilities under the Title III, Part A LEP Subgrant to the ELL students and families they serve.
- The fiscal agent is responsible for notifying parents of ELL students served under the Title III, Part A LEP Subgrant which AMAOs were met by the consortium.
- The fiscal agent is responsible for ensuring that an improvement plan, if required, is developed and a copy submitted to the Director of the Office of Bilingual and Migrant Education, Oklahoma State Department of Education.

Responsibilities of Member Districts:

Member districts must meet to discuss and develop a common Plan of Service, which is included in the Title III, Part A LEP Subgrant Application that meets the requirements of the Title III, Part A LEP Subgrant and other issues including the following:

- the needs of partner districts for improving services for ELL students;
- the needs of partner districts relating to professional development to improve instruction for ELL students; and
- a common plan to effectively and efficiently use Title III, A LEP funds to meet the identified needs of the consortium members.

11. May Title III funds be used to remedy the academic deficits of First-year and Second-year Proficient students?

The use of Title III funds is limited to providing English language learners (also known as LEP)

with appropriate language programs and services, so they can attain English proficiency based on the ACCESS (Assessing Comprehension and Communication in English State-to-State for English Language Learners) Test and meet academic standards.

When a student is First-year or Second-year proficient, that student is no longer LEP and is no longer eligible to receive Title III programs or services. Title I funds can be used to help remedy the academic deficits of these students and ensure that they reach the proficient level on academic tests.

Private Schools

1. Are English language learner (ELL) students in private schools eligible to receive Title III programs, services, and products?

Yes, when ELL students are identified in an appropriate manner, when the local educational agency (LEA) and private school(s) within its jurisdiction have conducted meaningful and timely consultation, and when the LEA and private school have developed a memorandum of understanding (MOU), ELL students in a private school may participate in programs and receive services and products funded by Title III (Title IX, Part E, Section 9501). Private schools may not receive funds directly.

2. How can "meaningful consultation" be ensured and what topics need to be addressed by the LEA with the nonprofit private school in the design and development of Title III programs, services, and/or products to be provided?

To ensure timely and meaningful consultation, the LEA must consult with appropriate private school officials during the design and development of the Title III program on issues such as:

- how the ELL student needs will be identified
- what services will be offered
- how, when, and by whom the services will be provided
- how the services will be assessed and how the results of the assessment will be used to improve those services
- what the size and scope of the services to be provided to the private school children and educational personnel will be
- what the amount of funds available for those services will be
- how and when the LEA will make decisions about the delivery of services, including a thorough consideration of the views of the private school officials on the provision of contract services through potential third-party providers

An MOU between the LEA and private school should be developed as a result of initial consultation and address these items. Subsequent meetings should be scheduled between the LEA and private school to assess services and determine areas and plans for improvement.

3. What resources are available to assist LEAs and private school officials with

learning more about Elementary and Secondary Education Act (ESEA), Part A programs, particularly the consultation process and the provision of equitable services?

LEAs and private school officials will find a number of useful resources and guidance in [Title IX, Part E, Uniform Provisions, Subpart 1, Non-Regulatory Guidance](#) (Outside Source). Section J - Resources includes: links to statutory, regulatory, and guidance documents on the U.S. Department of Education Web site; sample consultation checklists; needs assessment forms; consultation timelines; and, a list of state department of education and local public school district Web sites that host ESEA program pages specific to private schools.

4. What process should be used to identify eligible ELL students in private schools?

The Oklahoma State Department of Education (OSDE) recommends that private schools make an agreement with the LEA to use procedures similar to those used by public schools to identify private school students eligible for Title III services. The LEA is responsible for the oversight and costs of initial identification.

The process is as follows: The private school should identify those pupils being considered for participation in the Title III program and administer a Home Language Survey (HLS) that is to be completed by the parent or guardian of selected private school students. Private schools should use the same version of the HLS used by the LEA. If a language other than English is indicated on the HLS, the LEA (in most cases) is required to administer an initial, approved language assessment (the W-APT Placement Test) to those students.

Private schools may wish to further assess identified ELL students in their primary language to diagnose needs and determine the best strategies to assist students in furthering their English language proficiency.

5. Are immigrant students in private school students eligible to receive Title III Immigrant programs, services and products?

Yes, when meaningful and timely consultation has occurred, and when a Memorandum of Understanding (MOU) has been developed between the LEA and the eligible private school, immigrant students in the private school may receive Title III immigrant programs and services. Private schools may not receive Title III funds directly.

6. What information should be included in the Memorandum of Understanding (MOU) between the Private School and the LEA?

The MOU should indicate the name of the LEA and private school involved. It should contain the number of ELL students identified in the private school; how the students' needs will be

identified; what services will be provided; when, where, and by whom the services will be provided; how the services will be assessed and how that information will be used to improve the programs; the size and scope of the equitable services; and, other provisions including timelines for transacting provisions and potential third party contractor information.

7. How much of an LEA's Title III funds for ELL students may be used to support programs, services, and products for ELLs in private schools?

The Elementary and Secondary Education Act specifies that assistance to ELL students in private schools should be equitable to that of ELL students in public schools.

The recommended method to determine equity is to use the per pupil allocation of Title III LEP student funds as the basis for the cost of Title III products and services to be provided to the private school. The private school should receive an equivalent amount of products and services for each of the ELL students served as the public school receives for each of its ELL students according to the per pupil allocation.

8. Do LEAs receive Title III funds for ELL students served in private schools?

Yes. The OSDE collects data on the number of ELL students enrolled and reported in private schools that receive Title III programs and services through the Private School Packet. The OSDE aggregates these data and adds this number to the number of ELL students enrolled in public schools to determine funding amounts.

9. Do Title III accountability measures apply to ELL students in private schools?

No, private schools are not responsible for meeting the Title III accountability requirements. Private schools will not be included in the public school calculation to determine if the LEA has met its Annual Measurable Achievement Objectives (AMAOs).

10. How are LEAs held accountable for meaningful and timely consultation with private schools that request to participate in Title III programs and services?

As a part of the Consolidated Monitoring process, LEAs must provide evidence that they have met the legal requirements of ESEA, Part E, Subpart 1, Section 9501 (c) [1-4]. Evidence must demonstrate that personnel representing the LEA have engaged in timely and meaningful consultation with private school officials in their geographic area and have offered to assist the schools with the identification of ELLs and the provision of services to eligible students, teachers, and families of ELLs.

11. Must private school ELL students be assessed annually?

Yes. English proficiency of private school ELL students must be assessed annually to determine their continued eligibility for Title III services.

12. Must a Title III program design be the same for both public and private schools?

No. If the needs of the private school are different from those of the public school, the LEA, in consultation with private school officials, must develop a separate program design that is appropriate for the private school students. Consultation and coordination between LEA and private school officials are essential to ensure a high-quality program that meets the needs of the students being served and assists those students in attaining English proficiency and meeting the same challenging standards as all students.

13. Does the Title III requirement on language qualifications of teachers also apply to teachers providing services to private school students?

Yes. All teachers providing Title III instructional services must be fluent in English and any other language used for instruction, including having written and oral communications skills. [Title III, Section 3116 (c)].

14. Who maintains control of Title III materials and equipment?

The LEA maintains control of the federal funds used to provide services to private schools. It also maintains title to materials, equipment, and property purchased with those funds. LEAs may allow the private schools to keep the items from year to year, in accordance with approved activities specified in the Memorandum of Understanding (MOU).

Use of Funds

1. May an LEA carry over Title III funds from one school year to another?

LEAs may carry over Title III funds for one year beyond the original year of funding. For example, in the case of a subgrant allocated for the 2013-14 school year (July 1, 2013, to June 30, 2014), the LEA may carry over funds from this particular allocation until September 30, 2015. Any 2013-14 funds not encumbered or expended by June 30, 2015, must be returned through the Oklahoma State Department of Education to the U.S. Department of Education.

2. Must Title III LEP student funds follow the LEP students?

Not necessarily. Although the amount of funds allocated to an LEA is based on a formula

subgrant with a specified amount for each LEP student identified and enrolled, the funds do not have to follow the students in a proportional manner. The LEA has the flexibility to determine where and how the funds will be used for allowable activities on the basis of the needs of its LEP student population (Title III, Section 3115).

3. How may the Title III LEP student funds be used?

LEP student funds must be used to increase the English proficiency of LEP students by providing high-quality language instruction educational programs. These programs must be based on scientific research that demonstrates the effectiveness of the programs in increasing English proficiency and student academic achievement in the core academic subjects. These programs must also provide high-quality professional development to teachers, principals, administrators, and other school or community-based organizational personnel (Title III, Section 3115). In addition to these required activities, there are eight additional authorized activities. A full list of required and authorized expenditures may be found in Section 3115(c), (d) of Title III. These services may be provided directly by the LEA, another LEA, institutions of higher education, community-based organizations, or private sector entities in any combination.

4. How may funds be used to provide professional development?

Title III, Section 3115 (c)(2), specifies allowable professional development activities and states specifically that these activities must be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom. Programs must be designed to improve the instruction and assessment of LEP students; designed to enhance the ability of teachers to understand and use curricula, assessment measures, and instructional strategies; and based on scientific research in increasing students' English proficiency. The law also specifies that professional development shall not include activities, such as one-day or short-term workshops and conferences, unless they are a part of a comprehensive professional development plan that is based on an assessment of the needs of the teacher, the supervisor, and the students.

5. Title III uses the terms "supplement" and "supplant." What do they mean?

Title III, Section 3115(g), requires that funds available under a subgrant be used "to supplement the level of federal, state, and local public funds that, in the absence of such availability, would have been expended for programs for LEP students and immigrant students and in no case to supplant such Federal, State, and local public funds." For example, if a particular activity last year was paid with nonfederal funds, the same activity this year cannot be paid with federal funds. State-mandated activities must be paid with state funds first. In this section, "supplement" means "an addition;" "supplant" means "to take the place of."

6. Can Title III funds be used for alternative bilingual education programs?

Yes. In Title III, Section 3301, a language instruction educational program is defined as a program of instruction:

" . . . that may make instructional use of both English and the native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language."

7. How can Title III funds be used to provide special education services for LEP students?

Special education services, as identified in a student's Individualized Education Plan (IEP), must be provided with eligible non-Title III funds. However, supplementary English learner services may be provided to LEP students who are also identified as special education students [Title III, Section 3115 (g)].

Parental Involvement

1. What are the requirements regarding the role of parents of LEP students?

Each LEA using funds provided under Title III to provide a language instruction educational program must implement an effective means of outreach to parents of LEP children. LEAs must inform such parents about how they can be active participants in assisting their children to learn English, achieve at high levels in core academic subjects, and meet the same challenging state academic content and student achievement standards that all children are expected to meet [Title III, Section 3302 (1)].

2. Which parents should receive the notifications required under Title III?

Title III requires that the parents of students identified for, or participating in, a Title III program be notified of such participation. Therefore, the parents of all LEP students in any LEA using Title III funds shall receive the required parental notifications. The same requirements regarding parents of LEP students are found in both Title I, Section 1118, and Title III, Section 3302.

3. Is parental notification required for LEP students receiving services under Title I?

Notification requirements for parents of LEP students are the same for Title I (Section 1118) and Title III (Section 3301).

4. What is the timeline for LEAs to provide parents with the notifications?

Title III, Section 3302, has two timelines for providing parental notifications: one for the student who is new to the LEA and one for a continuing student.

For LEP students who have been enrolled in the LEA since the previous school year, parental notifications must be provided no later than 30 calendar days after the beginning of the school year. LEAs should use the most current information available regarding each student in these notifications [Title III, Section (a)].

The Title III notification is triggered after all the assessments have occurred and a student is officially placed in a program. For new enrollees, LEAs must provide the parental notifications within two weeks of a child being placed in a program.

5. What kind of information must an LEA provide to parents regarding their child's participation in a language instruction program?

Title III, Section 3302(a), requires that LEAs receiving Title III funds inform parents of the following items:

- a.)** The reasons for identifying their child as being limited-English proficient (LEP) and for placing their child in a language instruction educational program for LEP students
- b.)** The child's level of English proficiency as measured by the W-APT Placement Test and/or ACCESS (Assessing Comprehension and Communication in English State-to-State) for ELLs Test
- c.)** The method of instruction that will be used in the program, including a description of alternative programs
- d.)** How the program will meet the educational strengths and needs of the child
- e.)** How the program will help the child learn English and meet academic achievement standards for grade promotion and graduation
- f.)** The program exit requirement, including the expected rate of transition from the program to an English-language mainstream classroom and the expected rate of graduation from secondary school
- g.)** How the program will meet the objectives of an individualized education program (IEP) for a child with a disability
- h.)** The parents' rights in writing, including (A) the right to have their child immediately removed from a language instruction educational program on their request; and (B) the options that parents have in declining enrollment of their child in such a program or in choosing another program or method of instruction, if available; and (C) written guidance assisting parents in

selecting among various programs and methods of instruction, if more than one program or method is offered.

6. After the initial Title III notification, how often must parents be provided with notifications?

Parental choice and involvement are woven throughout the entire *No Child Left Behind Act*. The intent of Title III, Section 3302, is for parents to be informed of the educational programs offered so that they can make informed decisions regarding their children's placement. To have the most current information and choices available, parents must receive annual notifications.

If LEAs provide separate notifications to parents regarding the various components required in Title III, records about how and when such notifications were issued should be maintained. For example, test results may be mailed to parents under separate cover, the parents' selection of program options may be conducted in another format, and so forth.

7. Are any other separate notifications required?

In addition to providing the parental notification of educational programs, LEAs are required to provide notice to the parents of LEP students who participate in a language instruction educational program funded under Title III of any failure of the program to make progress toward the Annual Measurable Achievement Objectives (AMAOs) described in Section 3122 of Title III. This notice is to be provided no later than 30 days after the AMAO results are released by the OSDE.

8. What format and language are required to be used in the notices to parents?

Federal law requires that schools and districts effectively communicate with all parents and guardians, regardless of the percentage of students that speak a language other than English.

“The information required to be provided under subsections (a) [child’s participation in a language instruction program] and (b) [AMAO notification letter] to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand” [Title III, Section 3302 (c)].

