

Title III, Part A: Supplement Not Supplant Guidance

Program Purpose

The purpose of Title III, Part A is to improve the education of English learners (ELs) and immigrant children and youth (IY) by assisting students in learning English and meeting the challenging state academic standards. Broadly, local educational agencies (LEAs) can use Title III, Part A funds for items such as resources to support strong English learner (EL) instructional practices, teacher professional development, and EL family support and engagement. (ESSA, Title III, Part A § 3102)

Supplement, Not Supplant, Requirements

Title III, Part A is subject to strict supplement, not supplant requirements that affect how funds are spent. Federal funds made available under Title III, Part A shall be used to **supplement the level of other 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 (ESEA § 3115(g)). In other words, Title III, Part A funds must add to (supplement) and not replace (supplant) other **federal, state, and local** funds.

The following questions are helpful when determining whether the use of Title III, Part A, funds violates supplement, not supplant, requirements:

1. Is the program/service/purchase something that is provided to all students?
2. Is the program/service/purchase something put in place to meet requirements under Title VI of the Civil Rights Act of 1964, the Equal Educational Opportunities Act (EEOA), [Lau v. Nichols](#), [Castañeda v. Pickard](#), or Title I?
3. Is the program/service/purchase something that the LEA or school is required to provide by other federal, state, and local laws or regulations?
4. Was the program/service previously provided with federal, state, and/or local funds?

If the answer to any of the four questions above is yes, the LEA or school could be in violation of supplement, not supplant requirements – making the cost unallowable with Title III

Civil Rights Obligations

Under federal civil rights law, specifically [Title VI of the Civil Rights Act of 1964](#) and the [Equal Educational Opportunities Act \(EEOA\)](#), LEAs have legal obligations to ensure that ELs can meaningfully and equally participate in educational programs and services. Title III, Part A funds may not be used to meet the following civil right obligations:

- Identify and assess all potential ELs in a timely, valid, and reliable manner.
- Provide ELs with a language instruction educational program (LIEP) that is educationally sound and effective, and consistent with the [Castañeda v. Pickard](#) and [Lau v. Nichols](#) U.S. Supreme Court decisions.
- Provide sufficiently well prepared and trained staff to support the LIEP.
- Ensure that ELs have equal opportunities to meaningfully participate in all curricular and extracurricular activities.
- Avoid unnecessary segregation of ELs.

- Ensure that ELs who have or are suspected of having a disability under the [Individuals with Disabilities Education Act \(IDEA\)](#) or [Section 504 of the Rehabilitation Act of 1973](#) are identified, located, and evaluated in a timely manner and that the language needs of students who need special education and disability-related services because of their disability are considered in evaluations and delivery of services.
- Meet the language and academic needs of ELs who opt out of the LIEP and monitor their academic achievement and language progress.
- Monitor and evaluate ELs in the LIEP to ensure they are progressing in acquiring English proficiency and grade-level content knowledge.
- Exit ELs from the LIEP when they have met the state-established English proficiency criteria, and monitor these exited students to ensure they were not prematurely exited and that any academic deficits incurred in the LIEP have been remedied.
- Evaluate the effectiveness of the LIEP to ensure that ELs acquire English proficiency and the LIEP allows ELs to attain parity of participation in the standard instructional program within a reasonable period.
- Ensure meaningful communication with limited English proficient (LEP) parents.

Required Uses of Title III, Part A Funds¹

LEAs must use Title III, Part A funds for three activities under ESEA § 3115(c)(1-3):

1. Providing effective language instruction educational programs (LIEPs) that meet the needs of ELs and demonstrate success in increasing English language proficiency and student academic achievement.
2. Providing effective professional development to classroom teachers (including teachers in classroom settings that are not the settings of LIEPs), principals and other school leaders, administrators, and other school or community-based organizational personnel, that is:
 - Designed to improve the instruction and assessment of ELs,
 - Designed to enhance the ability to understand and implement curricula, assessment practices and measures, and instructional strategies for ELs,
 - Effective in increasing children’s English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers, and
 - Of sufficient intensity and duration (which shall not include activities such as 1-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers’ performance in the classroom.
3. Providing and implementing other effective activities and strategies that enhance or supplement language instruction educational programs for ELs, which must include:
 - parent, family, and community engagement activities, and
 - may include strategies that serve to coordinate and align related programs.

¹ For more information on the allowable use of Title III, Part A funds see the [Title III Allowability Guide](#) and [Title III Non-Regulatory Guidance](#)

Other Authorized Uses of Title III, Part A Funds

In addition to the required three activities above, LEAs may spend their Title III funds on other supplemental activities, including:

- Upgrading program objectives and effective instructional strategies;
- Improving the instructional program for ELs by identifying, acquiring, and upgrading supplemental curricula, instructional materials, educational software, and assessment procedures (not including LEA-wide adoption initiatives);
- Providing supplemental tutorials and academic or career and technical education, and intensified instruction to ELs, which may include supplemental materials in a language that the student can understand;
- Developing and implementing effective supplemental preschool, elementary school, or secondary school language instruction educational programs that are coordinated with other relevant programs and services;
- Improving the English language proficiency and academic achievement of ELs;
- Providing community participation programs, family literacy services, and parent and family outreach and training activities to ELs and their families to improve the English language skills of ELs, and to assist parents and families in helping their children to improve their academic achievement and becoming active participants in the education of their children;
- Improving the instruction of ELs, which may include ELs with a disability, by providing for the acquisition or development of supplemental educational technology or instructional materials; access to, and participation in, electronic networks for materials, training, and communication; and incorporation of these resources into curricula and programs (not including LEA-wide adoption initiatives);
- Offering supplemental early college high school or dual or concurrent enrollment programs or courses designed to help ELs achieve success in postsecondary education; and
- Carrying out other activities that are consistent with the purpose of Title III, Part A subgrants. (ESEA § 3115(d)(1-9)).

As with all Title III costs, the activities described above must be supplemental to federal, state and local programming the LEA is delivering to meet its civil rights obligations to ELs, including activities used to meet civil rights obligations under Title VI of the Civil Rights Act and the EEOA.

Unallowable Expenditures Summary

Title III, Part A: Unallowable Costs or Activities

- **Core EL Program** - The core EL program must be provided by a licensed staff member trained to carry out the program paid only with local and state funds.
- **General Activities** - Activities without a specific focus on developing English proficiency or activities intended for the general school population may not be paid for with Title III funds.
- **Interpretation/Translation Services Required Under Other Laws** - Title VI of the Civil Rights Act of 1964 and ESEA/ESSA Title I, Part A require meaningful language access for parents with limited English proficiency. Activities to ensure regular school communication in an understandable format and/or language must be paid with local and state funds only.
- **Federal/State Mandated Assessments** - Materials associated with and time and effort of administering federal- and state-mandated assessments, including WIDA ACCESS must be paid with local and state funds only.
- **Fluent or Native English Speakers** - Services, materials, activities, equipment, and technology purchased with Title III, Part A must only benefit EL students. Items that will benefit all students, including EL students and native English speakers, must be paid with local and state funds only.
- **Activities Required by Other Laws** - ESEA § 3115(g) requires all Title III, part A funded activities to supplement not supplant activities required by other state and federal laws.

Frequently Asked Questions

1. **Can an LEA use Title III, Part A funds to provide core language instruction educational programs?**
No. This would violate ESEA § 3115(g) as such services are required to be provided, even in the absence of Title III funds.
2. **Can an LEA use Title III funds to pay for the salaries of teachers (i.e., English as a Second Language teachers) who provide the core language educational services for ELL students?**
No. This would violate ESEA § 3115(g) as such services are required to be provided, even in the absence of Federal Title III funds. State and local funds should be used to pay these salaries.
3. **Can Title III, Part A funds be used to pay for the costs of developing and/or administering English language proficiency (ELP) assessments?**
No. ESEA, Title I, Part A, § 1111(b)(7) requires states and LEAs to provide an annual ELP assessment to all EL students in all schools served by the state education agency (SEA). Thus, in the absence of Title III funds, states would still have to develop and administer an annual ELP test.
4. **Can Title III, Part A funds be used to pay for substitute teachers to allow teachers to conduct various activities related to the ELP assessment, such as a) administration; b) scoring or reporting; c) training incentives; or d) materials or equipment related to the assessment?**
No. Because Title I requires SEAs to administer an annual ELP assessment to all EL students, using Title III funds for these purposes would be supplanting. Title III funds would only be allowable if a separate ELP assessment was administered for Title III purposes in addition to the required Title I assessment.

5. Can Title III funds be used to translate documents for parents?

It depends. Title III funds may not be used to translate documents, parent handbooks, assessments, etc. that are required under other laws and/or rules, including:

- Essential school information
- IEP-related or core education information
- Testing/assessment procedures
- Title I, Part A parent and family engagement requirements
- Translation or interpretation required under Office of Civil Right statutes
- Information on why ESL services are being provided
- Predicted outcomes for graduation
- Non-discriminatory procedures

However, Title III funds may be used for supplemental translation and interpretation services if they are related specifically to Title III requirements, including, but not limited to:

- Translation and interpretation services for EL parent and family support and engagement
- Explanations to EL families of:
 - Student placement
 - Exit from ESL services
 - Anticipated length of service
 - Service models

6. Can Title I or Title III, Part A funds be used to develop and/or administer assessments used to identify and place EL students?

No. States are required to identify EL students and make placement decisions for them even in the absence of federal funding. Therefore, it would violate the supplement, not supplant provisions of Title I and Title III to use these federal funds for such purposes.