

WHAT IS THE PURPOSE OF TITLE III, AS REAUTHORIZED, BY THE EVERY STUDENT SUCCEEDS ACT (ESSA)?

Title III, Part A, is officially known as the Language Instruction for English Learner (EL) and Immigrant Students Act (Section 3102 of ESSA lists the purpose of the law). The overarching purpose is to ensure that EL students, including immigrant children and youth, attain English language proficiency and meet the same challenging state academic standards that other students are expected to meet.

The Local Education Agency (LEA) must use Title III funds to supplement state language instruction educational programs, designed to assist EL students' achievement goals. The state educational agency (SEA), LEAs, and schools are accountable for increasing the English proficiency and core academic content knowledge of EL students.

<https://www2.ed.gov/policy/elsec/leg/essa/essatitleiiienglishlearners92016.pdf>

WHO QUALIFIES FOR A TITLE III SUBGRANT?

Any Local Education Agency (LEA) enrolling one or more English Learners (ELs) during the previous school year qualifies for a Title III subgrant. However, under Title III, Part A [Section 3114 (b)], subgrants less than \$10,000 may not be made to individual districts. Individual districts that do not meet the \$10,000 threshold 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 English Learner (EL) students needed to meet the \$10,000 benchmark is approximately 112 (number of EL students multiplied by per a student amount). This number can change within any given year and LEAs should contact the Language and Culture Division (LCD) for the current numbers. The members of a consortium choose the fiscal agent by consensus. 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 Title III consortium.

WHAT DOES “SUPPLEMENT, NOT SUPPLANT” MEAN?

Title III requires that funds available under a subgrant be used to supplement the level of federal, state, and local funds that, in the absence of such availability, would have been expended for programs for English Learner (EL) students and immigrant students and in no case to supplant such federal, state, and local funds. That is, supplement means “to add to” and supplant means “to take the place of” or “instead of”.

For example, if a particular activity was paid for using non-federal funds, or other federal funding such as Title II, then the same activity this year cannot be paid for using Title III federal funds. State-mandated activities must be paid for using state funds first.

Can Title III funds be used to support sending personnel to English Learner-specific professional development (PD) by paying for substitute teachers or extra-pay if the training is held outside the hours specified in the employment contract?

Maybe. The PD must be supplemental and should not violate the “Supplement, not Supplant” provision of Title III, Section 3115 (g). Also, see Title III, Section 3115 (c)(2)(D) to ensure PD is of “sufficient intensity and duration”.

CAN TITLE III FUNDS BE UTILIZED FOR ENGLISH LEARNER (EL) SPECIFIC ASSESSMENTS?

No. Assessments of identified EL students are required by the State of New Mexico and the use of Title III funds would not be allowable. These assessments include, but are not limited to, initial English language proficiency screener assessments (W-APT) to identify the student as EL or annual English language proficiency assessments (ACCESS for ELLS 2.0).

CAN TITLE III FUNDS BE USED TO PURCHASE SOFTWARE LICENSES/COMPUTERS, ETC. IN EXCESS OF \$40,000?

Yes, if purchases are approved in the Title III local plan. However, purchases are still required to follow the New Mexico Procurement Code policies. If purchases are over \$60k, they will require an Invitation for Bid (IFB) or Request for Proposal (RFP) as well as posting in the Sunshine Portal, if applicable. Please review NMAC 6.20.2.17 Purchasing “Each school district shall establish and implement written policies and procedures for purchasing which shall be in compliance with the Procurement Code, Section 13-1-21 et seq., NMSA 1978.

Note: for non-professional services between \$20,000 and \$60,000, the District/School should solicit no less than (3) businesses via written requests containing the specifications for the procurement.

CAN TITLE III FUNDS BE USED TO SUPPLEMENT STATE BILINGUAL MULTICULTURAL EDUCATION PROGRAM (BMEP) FUNDING?

No. State BMEP funding is part of the operational state funding that is awarded to districts, so utilizing Title III federal funds to support Bilingual programs would be considered supplanting. Activities such as Spanish spellings bees, as well as any Professional Development that is specifically for dual-language programs are not allowable under Title III. State BMEP funds should be utilized for any BMEP activities as set forth in approved BMEP applications. For more information on BMEPs, please visit the [Public Education Departments BMEP page](#).

CAN TITLE III PAY FOR MILEAGE REIMBURSEMENTS AND PER DIEM?

Mileage and per diem reimbursements are allowable if the approved activity is Title III allowable and approved. Title III funds can be used to reimburse for mileage and per diem as long as the State of New Mexico (state) or the district’s travel policies are followed. New mileage rates are posted every January 1st, and the state will only allow up to 80% of the approved internal revenue service rate.

For example, if a district reimburses their employee’s .60 per mile, but the state only allows 80% of the approved mileage rate, the state will approve the more restrictive rate. So, if the state allows .45 per mile, but the district only allows .40, then .40 will be approved for reimbursement. The same rules will apply with approved per diem amounts.

Please note that reimbursements should be either actuals (requiring receipts) or per diem, but not both. [Please see the travel and per diem act.](#)

MY DISTRICT ORDERED MATERIALS/SUPPLIES BUT I FORGOT TO COMPLETE A PURCHASE ORDER. CAN I USE TITLE III FUNDS FOR THE PURCHASE ORDER AFTER WE HAVE RECEIVED A VENDOR INVOICE?

Purchase Orders should be prepared and approved before materials/supplies are ordered. NMAC 6.20.2.17 (A): Requires that each school shall establish and implement written policies and procure for purchasing which shall be in compliance with the Procurement Code, Section 13-1-21 et seq., NMSA 1978.

Non-compliance with state purchasing requirements places the District/School at risk for fraud or misuse of public funds. Purchase order initiation is not sufficient for ordering materials/supplies. Purchase orders must be approved as required per district/school policy and state guidelines and regulation.

OUR DISTRICT DECIDED NOT TO PURCHASE ITEMS THAT WERE APPROVED BY OUR LOCAL PLAN. WE WANT TO TRANSFER FUNDS FROM ONE LINE ITEM TO ANOTHER. WHAT DO WE NEED TO DO?

The Title III Program Director should complete a local plan amendment form and submit it for approval. Once approval has been received, the transfer request will be completed in the Operating Budget Management System (OBMS) and the approved (signed) amendment form will need to be attached.

WHAT DOCUMENTS SHOULD BE INCLUDED WITH TRAVEL REIMBURSEMENTS REQUESTS FOR APPROVAL?

The travel must be pre-approved in the Title III local plan. The following documents should be attached to the Request for Reimbursement (RfR) for approval:

- The travel request
- The travel authorization
- Mileage charts or map
- The meeting agenda
- A copy of the employee reimbursement check
- A copy of the approved purchase order

DOES TITLE III ALLOW CARRYOVER OF FUNDS?

Yes. Carryover of Title III funds is allowed. Under the federal Tydings Amendment, Section 421(B) of the General Education Provisions Act, 20 U.S.C. 1225(b), Title III funds are awarded to the subgrantee for use within a 27-month grant period. Local Education Agencies (LEAs) have a maximum of 15 months to expend and obligate current-year funds from as early as July 1 of any federal fiscal year through September 30th of the subsequent year, or the funds will be reallocated. LEAs have an additional 12-month carryover period extending from October 1 through September 30 of the succeeding fiscal year. Funds not obligated within the Tydings period of the 12 months must be returned through the New Mexico Public Education Department to

the U.S. Department of Education (Tydings Amendment of General Education Provisions Act, Section 76.709 of Education Department General Administrative Regulations).

HOW CAN TITLE III FUNDS BE USED TO PROVIDE SPECIAL EDUCATION SERVICES FOR ENGLISH LEARNER (EL) 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 EL services may be provided to improve the instruction of ELs with a disability. (Title III, sections 3115(d)(7) and 3115 (g).)

WHY DOES THE LCD CONDUCT TECHNICAL ASSISTANCE AND FOCUSED MONITORING (TAFM) REVIEWS?

Federal laws of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA) requires the LCD to:

- Administer and enforce the provisions of the ESSA regulations for the implementation of the Title III Subgrants.
- Assist Districts/Charter Schools in developing and evaluating English Learner Programs to utilize Title III subgrants accurately.

MY DISTRICT HAS BEEN SELECTED FOR A TITLE III TECHNICAL ASSISTANCE AND FOCUSED MONITORING (TAFM) REVIEW. WHAT DOES A REVIEW ENTAIL, AND WHAT RESOURCES ARE AVAILABLE TO BETTER UNDERSTAND THE PROCESS?

The LCD monitors and evaluates districts and schools in two ways. On-site visits are conducted to assess how districts and schools monitor and evaluate the effectiveness of their own EL program and services, including the use of Title III supplemental program funding. This process includes document review of student cumulative files (including parent notification, parent engagement, evidence of program), lesson plans and other artifacts and documents. Further, during on-site TAFM visits, program directors, principals, and/or parents may be interviewed regarding the district/school’s programs.

Additionally, desktop monitoring and evaluation of the effectiveness of district and school EL program and services are also conducted through a review of the following data sources:

- District/school data as reported in NOVA (formally STARS)
- English language proficiency data from the WIDA ACCESS for ELLs©
- Fiscal documentation from OBMS, BARs, and RfRs
- If applicable, documented concerns of parents, community, and others, including complaints from the OCR.

[For more information, resources, and forms.](#)