

Supplement Not Supplant Provision for Title III of the ESEA

Section 3115(g) of Title III of the ESEA (hereafter “Title III”) provides as follows:

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.

In practice, the prohibition against supplanting under Title III means that recipients may not use those funds to pay for services that, in the absence of Title III funds, would be necessary to be provided by other Federal, or State, or local funds.¹

(Retrieved from www2.ed.gov/programs/sfgp/supplefinalattach1.doc on April 10, 2012)

****As a rule, services for LEP students that are mandated by Title I *may not* be paid for by Title III funds because Title III forbids supplanting of other federal funds *in addition to* forbidding that Title III monies be used to fund activities that would have otherwise been funded through state and local funds.***** (from Thompson, 2008)

Frequently Asked Questions

Can state aid to LEAs for implementing language instruction educational programs for LEP² students be reduced based on the amount of Title III funds the LEAs receive?

No. This would be a violation of federal law. Section 9522 of the ESEA prohibits states from considering Title III payments when determining the amount of State aid an LEA will receive.

Can an LEA or school reduce state or local funds used to implement language instructional education programs for ELL students based on Title III allotments?

No. This is a violation because the LEAs would still be required to provide language instruction educational services and expend funds to meet the needs of ELL students *even in the absence of the Federal funds* (Lau v. Nichols, Castaneda v. Pickard).

¹ Title I, Part A of the ESEA (hereafter “Title I”) also includes a similar “supplement not supplant” provision in section 1120A(b). The “supplement not supplant” provision in Title I prohibits the supplanting of non-Federal funds. A significant distinction between the “supplement not supplant” provision in Title III and the “supplement not supplant” provision in Title I is that the Title III provision prohibits supplanting of Federal, as well as State and local, funds, whereas the Title I provision prohibits only the supplanting of State and local funds.

² Federal language refers to students who are eligible to receive Title III, Part A funds as Limited English Proficient (LEP). In Connecticut, the term English Language Learner (ELL) is more commonly used to describe students with the LEP federal designation. From this point forward, the term ELL will be used in this document to describe those students federally identified as LEP.

Can a State or subgrantee use Title III funds to provide core language instruction educational programs?

No. This would violate Section 3115(g) of the ESEA because such services are required to be provided, even in the absence of Federal Title III funds.

Can a State or subgrantee 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 Section 3115(g) of the ESEA because 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.

Can Title III funds be used to pay for the costs of developing English language proficiency (ELP) assessments?

Generally no. Section 1111(b)(7) of Title I requires State and LEAs to provide an annual ELP assessment to all ELL students in all schools served by the State education agency. Thus, in the absence of Title III funds, Title I requirements would still mean that states would have to develop and administer an annual ELP test for all ELL students. In very limited circumstances some Title III funds may be reserved to assist subgrantees with certain State-level activities related to the development or implementation of ELP measures, but, in general, Title III funds cannot be used for this purpose without violating this provision.

Can Title III funds be used to pay for the costs of developing ELP standards?

Generally yes. Section 3113(b)(2) of Title III requires that State education agencies (SEAs) develop ELP standards, and the ELP assessments used to determine whether Title III subgrantees are meeting Annual Measurable Achievement Objectives (AMAOs) must be aligned to those standards. Title III State activity funds may be used by an SEA to:

- pay for the development costs of an ELP assessment, **which is separate from the ELP assessment required for Title I**, or
- pay for the costs to enhance an existing ELP assessment required under Title I to align it with State ELP standards required under Title III.

At this time, Connecticut is not using State Activity funds in either of these two ways described above.

Can Title III state activity funds or LEA subgrantee funds be used to pay for substitute teachers in order 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?

Generally no. Because Title I requires States to administer an annual ELP assessment to all ELL students, using Title III funds for these purposes would be supplanting. These uses of Title III funds *would be allowable* if a separate ELP assessment was administered for Title III purposes only *in addition to* that which is required for Title I.

For instance, in Connecticut if a district administered the LAS Links assessment to comply with Title I requirements and also administered an additional ELP assessment for Title III purposes

only, Title III funds could be used for activities a through d above as long as these activities are over and above those that would have been required in the absence of Title III funds.

Can Title I or Title III funds be used to develop and/or administer assessments used to identify and place ELL students?

No. States are required to identify ELL 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.

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

No. Title III funds may not be used to translate documents, parent handbooks, assessments, etc. Translations must be paid for through general funds.

What are ALLOWABLE uses of Title III funds?

- Services that occur before and after school such as tutoring, academic assistance, supplementary instructional materials for English language acquisition as well as for summer school programs for ELLs. Districts need to identify the students served and the method used to assess and monitor their progress.
- Professional development that is planned based on student achievement data and provided in a systemic and sustained manner to improve instruction and assessment of ELLs. Staff training could include bilingual/ESL classroom teachers, bilingual/ESL teacher coaches, paraprofessionals, regular education teachers, administrators, and other school-based or community-based organizational personnel who serve ELLs.
- Bilingual/ESL coaches hired to acquire scientific-based research practices, provide professional development, and mentor and coach teachers who are working directly with ELLs. Additionally, such funds can be used to provide stipends to teachers to assist them in completing and obtaining bilingual/ESL endorsements.
- Parent involvement activities including family literacy (ESL) and parenting classes. Also, funds can be used for speakers who conduct informational sessions for parents, with topics such as, but not limited to, enhancing student language acquisition and mastery of core academic subjects. Districts may purchase supplemental instructional materials to support English language learning in the home, and materials and books on parenting skills may also be purchased. A parent liaison can be hired or contracted to enhance ongoing parental engagement in school activities, committees, and functions. This liaison may also be utilized to plan and facilitate parent meetings and connect families to community resources.
- Costs for educational field trips if such a trip is part of high-quality language instruction educational programs/activities (buses and admission).
- Administrative and Indirect costs of Title III/Immigrant may NOT exceed 2% of the total allocation.

Retrieved and adapted from <http://www2.ed.gov/programs/sfgp/supplefinalattach2.pdf> on 6/19/12 and http://michigan.gov/documents/mde/T_III_Immigrant_Allowable_activities_DEc_8_3_342333_7.pdf

Source Websites

<http://www2.ed.gov/programs/sfgp/supplefinalattach2.pdf> The majority of the content in this guidance document was retrieved and adapted from federal ESEA guidance regarding the supplement not supplant provision of Title III. It was retrieved from the website on 6/19/12.

http://michigan.gov/documents/mde/T_III_Immigrant_Allowable_activities_DEc_8_3_342333_7.pdf Additional information regarding allowable uses for Title III funds can be found at this address. This was retrieved on 6/19/12.