

## FREQUENTLY-ASKED QUESTIONS

### Allowable Use of Title III, Part A Funds

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#### **A. Supplement not Supplant**

##### **A-1. What is meant by “Supplement not Supplant?”**

Title III 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 limited English proficient (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 non-federal 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.

## **B. Administrative Costs: Direct and Indirect**

### **B-1. Is it allowable to use Title III funds to pay for administrative costs?**

Yes, it is allowable to use Title III funds to pay for administrative costs to implement the Title III program. However, the amount of Title III funds which may be used to pay administrative costs to implement the program must not exceed 2% of the program's entitlement amount (carryover is not included when calculating the 2% max.). In calculating total administrative costs subject to the 2% limit, all appropriate indirect and direct costs, such as administrative salaries, must be included. If the local education agency (LEA) contracts with an outside vendor to provide Title III services, the LEA must require that the contractor break out administrative costs, which are included within the 2% limit, as well.

**NOTE:** Administrative costs include both direct administrative costs and indirect costs. Indirect administrative costs include costs associated with human resources, budgeting, accounting, purchasing, and other fiscal activities such as auditing. The salaries and benefits of staff who supervise program staff are part of the LEA's direct administrative costs.

### **B-2. An LEA had significant loss of state funding, can Title III funds be used for activities, supplies and materials, professional development, and/or positions that were funded previously with other funds?**

Per Program Appendix 8 – Supplement, not Supplant: Determining Supplement, Not Supplant When State or Local Funds Are No Longer Available:

*If the LEA can demonstrate, and document, that it would not have provided the services in question with non-federal funds had the federal funds not been available. For example, if an LEA could provide programmatic and fiscal documents showing that a teaching position paid for in the previous year with state funds was eliminated in the current year because of State budget cuts. The LEA would need to ensure that it had records to confirm:*

- *There was in fact a reduced amount or lack of state funds available to pay for this position.*
- *The LEA made the decision to eliminate the position without taking into consideration the availability of federal funding, along with the reasons for that decision.*

In order to use Title III funds in place of state or local funds in this particular case, the intent and purpose of the Title III program must still be met. You cannot use Title III funds for any other purpose regardless of how original funds were used for the activity or position. For example, in the event of loss of funding, a regular classroom teacher funded previously with local who does not serve identified LEP students cannot be funded by Title III as this position does not serve the intent and purpose of the Title III program.

\*\*In any case, the independent auditor may still consider it is a supplant.

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<b>C. Positions – Payroll</b>	
<b>C-1. Can Title III funds be used to pay 100% for a Bilingual/ESL Coordinator position that will assist with the monitoring and coordinating of all district and campus bilingual and ESL programs? The coordinator will also manage all student assessment data to ensure that effective interventions are occurring. The coordinator will also assist the campuses with all the district, state, and federal compliance issues. Coordination between campus administrators, classroom teachers, and the bilingual coordinator will occur to support the ongoing monitoring of student achievement. The position is supplemental to the daily practices that are occurring at each campus.</b>	<p>This is not allowable. The position duties as described are required by policy guidance under the Bilingual Education Allotment (BEA) and/or are federally/state mandated. It may possibly be allowable if split funded with local funds, however any duties performed that would be funded under T3A must be supplemental to local and state requirements as well as be supplemental to the Title I, Part A program.</p>
<b>C-2. Can Title III funds be used to pay 100% for a Bilingual Textbook Clerk position that will manage and maintain all bilingual textbooks and resources?</b>	<p>This is not allowable. The position duties as described are required by policy guidance under the BEA and/or are federally/state mandated. It may possibly be allowable if split funded with local funds, however any duties performed that would be funded under T3A must be supplemental to local and state requirements as well as be supplemental to the Title I, Part A program.</p>
<b>C-3. Can Title III funds be used for extra duty pay for staff to carryout Title III-specific activities?</b>	<p>As long as the activity is Title III-specific and supplemental (and meets all other supporting conditions, such as necessary and reasonable, etc.), it is allowable.</p> <p>NOTE: Use of the term, “extra-duty pay,” typically refers to payment to staff already paid through the same program in question.</p> <p>FYI (for negotiators): The response shown here also applies to the following very-specific example received from one LEA—</p> <p><i>Can Title III funds be used to pay for a University Intern to assist in a Bilingual classroom with the goal of becoming a district bilingual teacher?</i></p> <p>This would be allowable as long as the intern is only working in a bilingual classroom or with ELLs specifically 100% of the time and the position is supplemental to other positions.</p> <p><b>NOTE:</b> However, if this is to fulfill their student teaching requirement to earn their degree, then it is NOT allowable.</p>

**C-4. Can Title III funds be used for extra duty pay for staff to assist with assessments to determine LEP students' language proficiency?**

**Initial Assessment** of Proficiency—Title III funds should NOT be used for the initial assessment used to help identify the student as LEP, as the initial ELP assessment is required, under State policy (TAC Ch. 89.1220), if the student has a home language other than English.

**NOTE:** The only time it is allowable to use Title III funds to pay for costs associated with the initial assessment to determine if a student is LEP is when the student is attending a private nonprofit (PNP) school and the assessment is what was chosen (through consultation between the LEA and PNP school official) as a way to identify PNP students who are eligible for Title III services.

**Annual Assessment** of Proficiency—It is never allowable to use Title III funds for an annual assessment of the LEP students' language proficiency, as LEAs are required, under State policy to administer the Texas English Language Proficiency Assessment System (TELPAS). While PNP schools are not required to administer the TELPAS, an annual assessment of English language proficiency is required for LEP students under Title I, Part A, Section 1111(b)(7) and Title III must be supplemental to Title I, Part A.

**C-5. Can Title III funds be used to support sending staff to ELL-specific professional development (e.g., ELPS, LPAC, TELPAS, etc.) by paying for substitute teachers or extra-pay if the training is held outside the staff's work hours (e.g., after school, Saturday, etc.)?**

One factor in determining if this is an allowable use of funds is that it must be supplemental.

- Supplement, not supplant

If the training helps to fulfill a local, state, or other federal requirement, then it is not supplemental and, thus, would not be an allowable use of Title III funds. Examples to consider include:

- English Language Proficiency Standards (ELPS) – LEAs are required by the State to implement the ELPS, just as they are required to implement the TEKS (the State's curriculum standards); thus, training that is part of how the LEA meets this requirement is not supplemental. If, however, the training is provided above and beyond the LEA's plan for ensuring implementation of the ELPS, then it may be supplemental.
- Language Proficiency Assessment Committee (LPAC) – LEAs are required by the State to implement the LPAC process; thus, training that is a part of how the LEA meets this requirement is not supplemental.
- Texas English Language Proficiency Assessment System (TELPAS) – LEAs are required by the State to implement the TELPAS; thus, training that is part of how the LEA meets this requirement is not supplemental. If, however, the training is provided for a purpose above and beyond the processes required by the State, then it may be supplemental. For example, training that is solely on how to **use** student TELPAS data to inform or improve instruction of LEP students may be supplemental.

If the training is supplemental, it would be an allowable use of Title III funds if it reflects the remaining factors:

- Addressed in the application
  - *Extra duty* (and *substitutes pay*, if for substitutes) is checked for Title III in budget schedule; and
  - The professional development is specified in PS3106; if staff is attending a conference, the conference name is included under *OTHER* or *Additional Information*.
- Benefits LEP students – The participants serve LEP students.
- Costs are necessary and reasonable

**C-6. Can Title III funds be used to pay for a person (e.g., a "University Liaison," etc.) to assist current and former English language learners (ELLs) with the SB1528 (TX Residency) process for university or college admission?**

This would not be allowable for two reasons. First, Title III funds cannot be used to serve former ELLs; and, second, the purpose of this position – to assist with Texas residency – is not tied to one of the allowable activities under Title III for subgrantees.

**C-7. Can Title III funds be used to pay for a position the LEA will refer to as “LEP Curriculum and Professional Development Facilitator? Job duties for the position will be to provide guidance/training in ways to adapt/adjust the district curriculum to meet the needs of ELLs.**

This would not be an allowable use of Title III funds, since all LEAs have the responsibility, under *Lau v. Nichols\** (OCR), to ensure that ELLs have equal access to education and making the curriculum accessible to LEP students would be part of meeting that federal requirement.

However, a position as Professional Development Facilitator, in and of itself, may be an allowable use of Title III funds, since Title III specifically requires professional development. The district would have to ensure that the professional development is supplemental and not for meeting other federal, state, or local requirements for serving ELLs and meets all other supporting conditions (appropriately addressed in the application, benefits ELLs only by serving their teachers only, and costs are necessary and reasonable).

*\*Supreme Court decision enforced by the Office of Civil Rights (OCR)*

**C-8. Can an LEA use Title III funds for a Language Translator or Interpreter?**

Whether this is allowable would depend on the exact responsibilities of the translator or interpreter, since Title III funds must only 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 children.

For example, translation of instructional materials or instruction in a language other than English would not be an allowable use of Title III funds, since it falls under the LEA’s responsibility, under *Lau v. Nichols\** (OCR) to offer ELLs services to help them overcome their language barriers and to ensure that ELLs have equal access to education and educational excellence.

This also applies to translation of general information for the LEA (e.g., translating information for the Spanish language version of the LEA website, newsletter, or other communications, translating information related to the LEA data system and to the State’s achievement assessments, etc.).

If, however, the translation/interpreting is for a purpose above and beyond the level of other federal (including OCR and Title I, Part A), state, and local requirements, then this may be an allowable use of Title III funds. Possible examples would be to provide interpretation during a Title III parent involvement meeting or event or providing translation of materials to be used for supplemental parent classes, etc. Such an example may be an allowable use of funds, provided that all supporting conditions were met.

*\*Supreme Court decision enforced by the Office of Civil Rights (OCR)*

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**D. Salary Supplements: Bonuses or Stipends**

**D-1. Is it allowable to use Title III funds to pay teachers a bilingual/ESL bonus (sometimes referred to as a signing bonus, annual bonus, or stipend) for being Bilingual/ESL-certified?**

This is not allowable since LEAs are required to hire appropriately certified teachers required under state policy to serve their ELLs. Thus, providing the bonus or stipend to secure these teachers would not be supplemental.

**NOTE:** If the LEA has Title II, Part A funds, these funds could be used to pay stipends or bonuses to **Highly Qualified** ESL-Certified teachers as part of the LEA's recruitment, hiring, and retention strategies to increase the number of highly qualified teachers in high need areas. This need should be addressed in the district/campus needs assessment.

The district can also use its Bilingual Education Allotment instead of Title III funds to pay for the stipends to teachers certified in a Bilingual Education area. This is an allowable use of state funds pursuant to TEC 42.153(c) (supplements for teachers).

**D-2. Can Title III funds be used to pay for teachers to get ESL-certified?**

This would be allowable, provided that the LEA's efforts are above and beyond what is required under State policy. For example, Title III funds may not go towards meeting the State-required use of 10% of the state bilingual education allotment (BEA) for training if the LEA has been approved for a bilingual exception or ESL waiver.

It is allowable to use Title III funds to assist teachers in preparing for certification to teach ELLs as follows:

- With funds from a Title III, Part A-LEP "subgrant" (which is tied to the NCLB Consolidated Application and can be a Title III subgrant for an LEA that is an independent project or can be a subgrant for a group of LEAs that are members of a Shared Service Agreement)
- It is allowable to use Title III funds to support certification by providing preparation for the certification test. Title III funds may also be used to pay teacher stipends to attend certification preparation training. However, LEAs should use internal controls when disbursing and accounting for any stipends and should pay them at the completion of the training.

It is not allowable for a school district that is under a bilingual exception or ESL waiver to use Title III funds for this training. School districts under a bilingual exception or ESL waiver are required to use 10% of its BEA for certification training. It would raise a supplanting violation if these LEAs were to use Title III funds for this training.

It is not allowable to use Title III funds to pay for the cost of the certification test or for having the certification added to the teacher's certificate.

<p><b>D-3. Can Title III funds be used to pay stipends/extra-duty for staff to attend professional development?</b></p> <p>This is allowable provided that the professional development or training is not required under State policy (in other words, as long as the training is supplemental; also must meet all other supporting conditions, such as necessary and reasonable, etc.).</p>
<p><b>D-4. Can Title III funds be used to pay a stipend for a teacher for having obtained Bilingual or ESL certification?</b></p> <p>This is NOT allowable if the certification meets a State requirement for teachers assigned to teach English language learners.</p>
<p><b>D-5. Can Title III funds be used to pay stipends or bonuses to teachers based on the teachers having Bilingual/ESL certification?</b></p> <p>It is not allowable to use Title III funds to pay stipends or bonuses based on teachers having bilingual/ESL certification, as securing the certified teacher meets a State requirement for teachers assigned to teach English language learners.</p> <p><b>NOTE:</b> If the LEA has Title II, Part A funds, these funds could be used to pay stipends or bonuses to <b>Highly Qualified</b> ESL-Certified teachers as part of the LEA's recruitment, hiring, and retention strategies to increase the number of highly qualified teachers in high need areas. This need should be addressed in the district/campus needs assessment.</p> <p><a href="#">Back to Table of Contents</a></p>
<p><b>E. Professional Development/Training</b></p>
<p><b>E-1. Is it allowable to use Title III funds to pay for ESL certification training or for stipends/extra-duty pay to attend the training?</b></p> <p>This is allowable if the LEA is meeting State requirements to provide ESL but wishes to improve the ESL program by paying for more teachers to be ESL-certified. This is <b>ONLY</b> allowable provided that the efforts are above and beyond what is required under State policy.</p> <p>NOTE: When providing teachers stipends to attend the certification training, LEAs should use internal controls when disbursing and accounting for any stipends and should pay them at the completion of the training.</p> <p><u>It is not allowable</u> for a school district that is under a bilingual exception or ESL waiver to use Title III funds for this training. School districts under a bilingual exception or ESL waiver are required to use 10% of its BEA for certification training. It would raise a supplanting violation if these LEAs were to use Title III funds for this training.</p>



**E-2. Can Title III funds be used to support sending staff to ELL-specific professional development (e.g., ELPS, LPAC, TELPAS, etc.) by paying for substitute teachers or extra-duty pay if the training is held outside the staff's work hours (e.g., after school, Saturday, etc.)?**

One factor in determining if this is an allowable use of funds is that it must be supplemental.

- Supplement, not supplant

If the training helps to fulfill a local, state, or other federal requirement, then it is not supplemental and, thus, would not be an allowable use of Title III funds.

Examples to consider include:

- English Language Proficiency Standards (ELPS) – LEAs are required by the state to implement the ELPS, just as they are required to implement the TEKS (the state's curriculum standards); thus, training that is part of how the LEA meets this requirement is not supplemental. If, however, the training is provided above and beyond the LEA's plan for ensuring implementation of the ELPS, then it may be supplemental.
- Language Proficiency Assessment Committee (LPAC) – LEAs are required by the state to implement the LPAC process; thus, training that is a part of how the LEA meets this requirement is not supplemental.
- Texas English Language Proficiency Assessment System (TELPAS)- LEAs are required by the state to implement the TELPAS; thus, training that is part of how the LEA meets this requirement is not supplemental. If, however, the training is provided for a purpose above and beyond the processes required by the state, then it may be supplemental. For example, training that is solely on how to **use** student TELPAS data to inform or improve instruction of LEP students may be supplemental.

If the training is supplemental, it would be an allowable use of Title III funds if it reflects the remaining factors:

- Addressed in the application
  - *Extra duty* (and *substitutes pay*, if for substitutes) is checked for Title III in budget schedule; and
  - The professional development is specified in PS3106; if staff is attending a conference, the conference name is included under *OTHER* or *Additional Information*.
- Benefits LEP students – The participants serve LEP students.
- Costs are necessary and reasonable

<b>F. Student Services and Program Activities</b>	
<b>F-1. Can an LEA use Title III LEP funds for a Parent Literacy Program?</b>	<p>In accordance with Title III, Part A, Section 3115(d)(6), this would be an allowable use of Title III funds, provided that all other supporting conditions are met, such as:</p> <ul style="list-style-type: none"> <li>• The activity is reflected in the district’s NCLB Consolidated Application;</li> <li>• The cost involved is necessary and reasonable to carry out the activity;</li> <li>• The district has determined that the program cannot be funded by another source (including Title I); and</li> <li>• The program serves only parents of LEP students.</li> </ul> <p>FYI (For negotiators): The response shown reflects general factors to consider for such an activity, although was based on the following specific example described by the LEA:</p> <p><i>“Can an LEA use Title III LEP funds for a Parent Literacy Program? The program will offer a comprehensive computer technology program at their school. It teaches parents in the areas of education, health, immigration, the workforce, and American culture. Parents also learn to use an English glossary to improve transition from Spanish instruction for a better understanding of English concepts as well as a critical topics module that consists of various skills such as basic financial education, understanding the school system, and parenting classes.”</i></p>
<b>F-2. Can an LEA use Title III funds for assessments of LEP students?</b>	<p>Assessments of identified LEP students are required by the State and the use of Title III funds would not be allowable. These assessments include, but are not limited to, initial English language proficiency assessments to identify the student as LEP, annual English language proficiency assessments (TELPAS), and assessments of academic achievement (LAT, TAKS, STAAR, EOC, etc.)?</p>
<b>F-3. Can an LEA use Title III funds to implement English Language Proficiency Standards (ELPS)?</b>	<p>Implementation of the ELPS, just as with the TEKS, is required of all school districts, under State policy and the use of Title III funds would not be allowable.</p>
<b>F-4. Can an LEA use Title III funds to assist with the Language Proficiency Assessment Committee (LPAC)?</b>	<p>This entire LPAC process is required under State law and therefore the use of Title III funds would not be allowable. This also applies to the use of an interpreter/translator to carry out the process according to State policy and procedures.</p>
<b>F-5. Can Title III funds be used for Bilingual summer school for ELLs in Kinder and 1<sup>st</sup> grade?</b>	<p>This is State required and the use of Title III funds would not be allowable.</p>

<p><b>F-6. Can Title III funds be used for Bilingual instruction, ESOL I, or ESOL II?</b></p> <p>These are State required and the use of Title III funds would not be allowable.</p>
<p><b>F-7. If a district is having a parent night and wants to do something “above and beyond” for the parents of their English language learners, can the district pay paraprofessionals to work with these parents during that event?</b></p> <p>Yes, it is allowable to use Title III, Part A funds for activities that “assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children,” provided the activities are above and beyond parent outreach/involvement activities to meet local, state, or other federal requirements.</p> <p><a href="#"><u>Back to Table of Contents</u></a></p>
<p><b>G. Capital Outlay and Supplies/Materials</b></p>
<p><b>G-1. Can an LEA use Title III LEP funds to purchase interactive boards for use in a secondary classroom with ELLs?</b></p> <p>Technology (to include interactive boards, computers, printers, classroom response, systems, etc.) may be an allowable expense for serving ELLs in a secondary classroom, based on the following:</p> <p>For use in a self-contained ESL classroom with ELLs, the purchase of technology would be an allowable expense, provided all other supporting conditions are met (addressed in application, costs are necessary and reasonable, etc.).</p> <p>For use in a general education classroom with ELLs, this would not be allowable.</p> <p><b>NOTE:</b> If this purchase is for a Schoolwide campus served with Title I, Part A, then using Title I, Part A funds would be the better choice as it would serve the whole population of the class.</p> <p>Targeted Assisted campus purchases can only be utilized by those students identified for Title I, Part A services. A technology purchase using TIA funds for a TA campus in this mainstreamed classroom setting would NOT be allowable.</p>
<p><b>G-2. Can Title III funds be used to purchase a vehicle to transport parents to and from parental involvement meetings, training opportunities for parents to learn English and other basic skills?</b></p> <p>The use of Title III funds to purchase a vehicle for this purpose is typically not allowable as Title I, Part A requires parental involvement.</p>

**G-3. Can Title III funds be used to purchase assessment materials for LEP students?**

The purchase of assessment books would not be an allowable use of Title III funds, if they are related to one of the following assessment purposes:

- Initial language proficiency assessment to identify whether student is LEP (State policy requires for all public school students to be identified as LEP);
- Annual language proficiency assessment (TELPAS) of an identified LEP student (State policy requires for all public school students identified as LEP); or
- Academic achievement assessment (STAAR, etc.) of an identified LEP student (State policy requires for all public school students).

If the assessment books are for other purposes, the LEA should forward their request along with an explanation to their negotiator for approval.

**G-4. Can Title III funds be used to purchase library books and media?**

If the library books and media are purchased for bilingual/ESL classrooms serving ELLs, then this would be an allowable cost under Title III.

It is not allowable to use Title III funds to purchase items for the general library as this could cause discrimination issues between identified LEP students and general population and does not serve the intent and purpose of the Title III program.

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**H. Private Nonprofit (PNP) Participation**

**H-1. Are LEP students who attend a private school eligible to receive Title III LEP programs, services, and products?**

Yes, as long as the LEP students are identified in an appropriate manner and the private school has developed an agreement (written documentation and format of agreement used should be the local policy standard) with the LEA of geographic jurisdiction, LEP students in a private school may participate in programs and receive services and products funded by Title III.

Private schools may not receive funds directly but must make arrangements through the agreement to receive programs, services, and products from the LEA.

**H-2. How much of an LEA's Title III funds for LEP students may be used to support programs, services, and products for them in private schools?**

*No Child Left Behind Act* specifies that assistance to LEP students in private schools should be "comparable" to that of LEP students in public schools. The recommended method to determine comparability 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 in the private school. For example, assuming a per pupil allocation of \$100, the private school would receive an equivalent amount of products and services for each of the LEP students served. If 10 LEP students were identified in the private school, then that private school would receive approximately \$1000 worth of products and services.

**H-3. Who maintains control of Title III materials and equipment provided to PNPs?**

NCLB Sec. 9501 states that the LEA, consortium, independent charter school, or entity 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, consortiums, independent charter schools, and entities may allow the private schools to keep the items from year to year, in accordance with approved activities specified in the AGREEMENT, so long as appropriate records are maintained.

**H-4. Must the 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 their needs. 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 are expected to meet.

**H-5. Must private school LEP students be assessed annually?**

Yes, the English proficiency of private school LEP students must be assessed annually to determine their continued eligibility for Title III services. LEAs should use the same instrument that the LEA used for the initial assessment of private school students.

**H-6. Does the Title III requirement on language qualifications of teachers also apply to teachers providing services to private school students?**

Yes, like teachers serving public school LEP students, any teacher providing Title III instructional services must be fluent in English and any other language used for instruction, including having written and oral communications skills.

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