

State EL & Title III Mini-Manual



IDAHO STATE DEPARTMENT OF EDUCATION STATE EL & TITLE III PROGRAM

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INTRODUCTION

The Idaho State Department of Education (SDE) supports the efforts of Idaho districts/charters to assist English Learner (EL) students to learn English while simultaneously meeting challenging state academic content and student academic achievement standards.

All Idaho district/charters are required, under the Title VI of the Civil Rights Act of 1964, to provide a comprehensive English language proficiency program for national-origin-minority students who cannot speak, read, or write English well enough to participate meaningfully in educational programs.

In addition, the Idaho SDE adheres to guidance from the Office for Civil Rights (OCR) and Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). The primary purpose of the program is to help ensure that EL students, including immigrant children and youth, attain English proficiency, develop high levels of academic achievement and meet the same challenging State academic content and achievement standards as all children are expected to meet.

LEGISLATIVE FOUNDATIONS

Federal and State legislation requires that district/charters provide Language Instruction Educational Programs (LIEP) and services to support the language development of EL students. This section provides a brief historical development of the legislation and case law that regulate EL programming at both the state and local level.

Federal Legislation Governing EL Programming

Equal Protection Clause of the 14th Amendment (1868)

- The 14th Amendment states that “no state shall...deny any person within its jurisdiction the equal protection of the laws.” The “equal protection” in practice has included fair treatment, nondiscrimination, and the allowing for the provision of equal opportunities.

Civil Rights Act of 1964

- This law prohibits discrimination in any federally funded program. Title VI (Section 2000d) states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activities receiving Federal financial assistance.” While language proficiency is not specifically mentioned, The Civil Rights Act of 1964 will be used in future court case rulings, citing that discrimination based upon language proficiency is discrimination based upon national origin or race.

Bilingual Education Act (1968)

- This law allowed for the first federal allocation to states for language minority students. It is the first law that acknowledged that having limited English proficiency is a barrier to “equal access” to educational opportunity.

May 25 Office for Civil Rights Memorandum (1970)

- This memo disallowed the practice of placing EL students in Special Education based on language proficiency or denying access to college preparatory courses based upon language proficiency.

Equal Education Opportunities Act (EEOA) (1974)

- This law states that “No U.S. state can deny equal educational opportunity to any person on the basis of gender, race, color, or nationality through intentional segregation by an educational institution.” Intentional segregation includes failing to remove language barriers preventing students from being able to equally participate in content classes being delivered in English.

Lau v. Nichols (1974)

- The US Supreme Court ruled that a school was providing a lesser quality LIEP for some of its ELs to learn English. All students deserve a high-quality education, and it is a civil right for students to receive language instruction. A district/charter must have a plan and LIEP in place to support the language development of any EL students enrolled in its school(s).
- The State EL Plan (a.k.a. Lau Plan) is the plan that districts/charters complete annually in the Consolidated Federal and State Grant Application (CFSGA).

Casteñeda v. Pickard (1981)

- The US Supreme Court ruled that a school district was discriminating against EL students by not providing them a type of LIEP that allowed them full access to content

instruction. A three-prong test was established to evaluate whether the district/charter LIEP is being implemented effectively. LIEPs must:

1. Be based upon sound theory and approach that is proven effective in increasing language proficiency.
2. Be implemented with sufficient resources, staff, and space.
3. Be evaluated to determine whether the program's services and supports are meeting the goals for EL students.

Plyler v. Doe (1982)

- The US Supreme Court ruled that schools could not deny the enrollment of any student based on undocumented status. District/charters cannot require SS# or immigration status on any enrollment paperwork. Home Language Surveys (HLS) or registration paperwork cannot ask about country of origin or date of entry into the US. District/charters are required to provide full access to free and appropriate education for all students in its jurisdiction, meaning that if a student resides at an address in the district, then they are entitled to attend in that district.

State Legislation Governing EL Programs

Idaho Statute 33-1617

- Idaho State Statute requiring that each district/charter “shall formulate a plan in sufficient detail that measurable objectives can be identified and addressed which will accomplish English language acquisition and improved academic performance. Funds distributed to school districts based upon the population of EL students and distributed to school districts to support programs for students with non-English or limited-English proficiency shall be utilized in support of the district plan.”

IDAPA 08.02.03-111.04

- Idaho State law requiring that an Educational Learning Plan (ELP) be written for any EL student who requires accommodations on a statewide or district-wide assessment. Assessment accommodations must also be used during regular classroom instruction and testing. The intent is that every ELP team evaluates the individual needs of each EL and that supports are used throughout the school year, not just on statewide assessments.

STATE EL (CORE LIEP)

District/charters must provide a core LIEP to support the language development needs of students identified as EL. The core LIEP and services, as described in a district/charter's State EL Plan in CFSGA, must meet the minimum obligations under OCR, EEOA, and the other federal case law described in the first section of this manual. LIEP services, provided to all ELs in a district/charter, must be educationally sound in theory and effective in practice. Programs and services provided by the core LIEP must be supported and funded by either state or local funding sources.

In addition to federal regulations, there are two Idaho state-specific requirements that district/charters must comply with: (1) annual submission of a plan that details the district/charter's core LIEP, and (2) written ELPs for EL students requiring accommodations on statewide or districtwide assessments.

This section of the manual will detail the Idaho state requirements as well as the funding structure for State EL programs and supports.

State Funding

The State EL program appropriation is determined annually by the Idaho State Legislature and is finalized by the end of the Legislative session. Funds are appropriated into the SDE budget, which is overseen by the State EL and Migrant Department. All State EL funds are distributed directly to Idaho district/charters.

The number of qualified EL students (L1, LE, EW) tested during the annual ACCESS 2.0 assessment determines the district/charter allocation. WIDA reports the EL count by district annually to the SDE in May. Students who have exited (X1, X2, X3, X4, FLEP) should not be taking the ACCESS 2.0 and therefore are not included in the funding calculations. The image below illustrates the State EL funding formula.

$$\left(\frac{\text{State EL Allocation}}{\text{Statewide \# of ELs Assessed on ACCESS}} \right) \times \text{\# of ELs tested on ACCESS in the LEA} = \text{LEA's State EL Allocation}$$

State EL Plans

All district/charters that have EL students receive funding and must use it for English language development services. Idaho Statute 33-1617 requires that district/charters annually submit a plan to the SDE detailing the core LIEP and services provided to EL students who are enrolled in their school(s). All districts receiving State EL funds are required to have an approved State EL plan on file annually.

District/charters submit their State EL Plan within the CFSGA application. Preliminary State EL allocations are uploaded into the CFSGA in early April and are finalized in late May. Unless otherwise communicated, all CFSGA plans are due to the SDE by June 30th. The SDE distributes State EL funds by October. District/charters do not need to request the State funds specifically nor are State funds uploaded to the Grant Request Application (GRA).

Enhancement Grants

The purpose of the EL Enhancement Grant Program is to provide Idaho districts with additional resources to enhance core LIEPs for English learners. Enhancement grants are awarded through a competitive grant application process.

The EL Enhancement Grants are allocated for a block of three years. Continued funding over the three years is contingent on the district/charter meeting all grant specifications and goals. Note that the Idaho Legislature approves EL Enhancement Grant funds on a yearly basis. Thus, the SDE does not guarantee continuous funding of the grants over the lifecycle.

Schools, districts, and charters may submit grant applications to support supplemental EL program enhancements (e.g., Co-Teaching initiatives, EL Regional Coaches, specific EL enhancement). Applications go through a blind review for scoring, with the top grant applications being funded.

EL Enhancement Grant recipients are assigned an EL Enhancement Grant Coach who offers technical assistance in the implementation of the grant and an annual evaluation of the intended goals.

EL Digital Curriculum

The Idaho State Legislature has allocated money for digital EL content. The SDE works with curriculum providers to contract site licenses, technical assistance, and professional development for implementation of the digital curriculum. District/charters are informed regarding the number of licenses reserved for their EL students annually.

Idaho EL Curriculum Adoption

Each year Idaho holds a curriculum adoption for various content curriculums, with EL curriculum being reviewed every six (6) years. District/charter staff can participate in the curriculum adoption process to evaluate curriculum resources during a week-long summer workshop. For more information on the Curriculum Review process or to access the most recent list of approved EL curriculums, see the Idaho SDE [Curricular Materials webpage \(http://www.sde.idaho.gov/academic/curricular/\)](http://www.sde.idaho.gov/academic/curricular/). Recommendation lists can be found, by specific content area, in the dropdown sections under “Recommended Curricular Materials.”

ESEA AND ESSA

The ESEA as amended by ESSA brought numerous changes and increased attention on ELs. Provisions formerly housed in Title III shifted to Title I, including assessment and accountability for ELs. This section of the Mini-Manual provides information on federal regulations, requirements, and an overview of the Federal Title III program in Idaho.

Under ESSA, States were also charged with establishing standardized entrance and exit processes and procedures for ELs. Idaho implemented its standardized entrance and exit criteria beginning school year 2017-2018. All district/charters in Idaho, whether they have ELs or not, must use the Statewide Home Language Survey (HLS) and follow the procedures for identification and screening as outlined in the “Identification and Screening Mini-Manual”. For more information on Idaho standardized entrance and exit process and procedures, see the “Identification and Screening Mini-Manual” and the “Exiting and Monitoring ELs Mini-Manual” on the [Idaho English Learner Program webpage \(http://www.sde.idaho.gov/el-migrant/el/index.html\)](http://www.sde.idaho.gov/el-migrant/el/index.html), Resource Files, and drop-down Manuals.

ELs in Title I

Title I supports students who are at-risk, including but not limited to English Learners. With the passage of ESSA, several requirements formerly held in Title III shifted to Title I. Below is a list of the provisions regarding ELs that now required by Title I.

- **English Language Proficiency (ELP) Indicator in Accountability:** All qualified EL students must be annually assessed for English language proficiency using the state-approved English language proficiency assessment aligned to the state’s English language

proficiency standards and the State's academic content standards. ESSA Section 1111(b)(2)(G). Note that this requirement is housed in both Titles I and III.

- **Academic Achievement of ELs in Accountability:** The district/charter assesses all qualified ELs on the annual academic achievement assessments (in appropriate grades), and exempts first year ELs from the English Language Arts portion of the annual academic achievement assessment. ESSA Section 1111(b)(2)(B)(vii)(III); 1111(b)(3).
- **EL Parent Notification:** Parents have been informed of their child's placement into a LIEP within 30 days of enrolling at the beginning of the school or two weeks in the middle of the school year. Parents have been informed regarding their right to withdraw the child from a program's services upon their request and to decline enrollment or choose another program or method of instruction. ESSA Section 1112(e)(3)(A-B).
- **EL Parent Involvement:** The district/charter ensures that it implements an effective means of outreach to parents of English Learners regarding their education. ESSA Section 1112(e)(3)(C).

Title III

Title III is a federal program designed to support supplemental EL programming and services for English learners and immigrant children and youth. Listed below are the required activities of district/charters qualifying for a Title III subgrant (Section 3115(c)(1)-(3)).

1. Provide effective supplemental LIEP services that meet the needs of ELs that and demonstrate success in increasing English language proficiency and student academic achievement.
2. Provide effective professional development (PD) to classroom teachers (including teachers in general education classrooms), principals, and other school leaders, administrators and other school or community-based personnel.
3. Must provide and implement other effective activities and strategies that enhance or supplement LIEPs for ELs, which must include parent, family, and community engagement activities.

Supplement Not Supplant

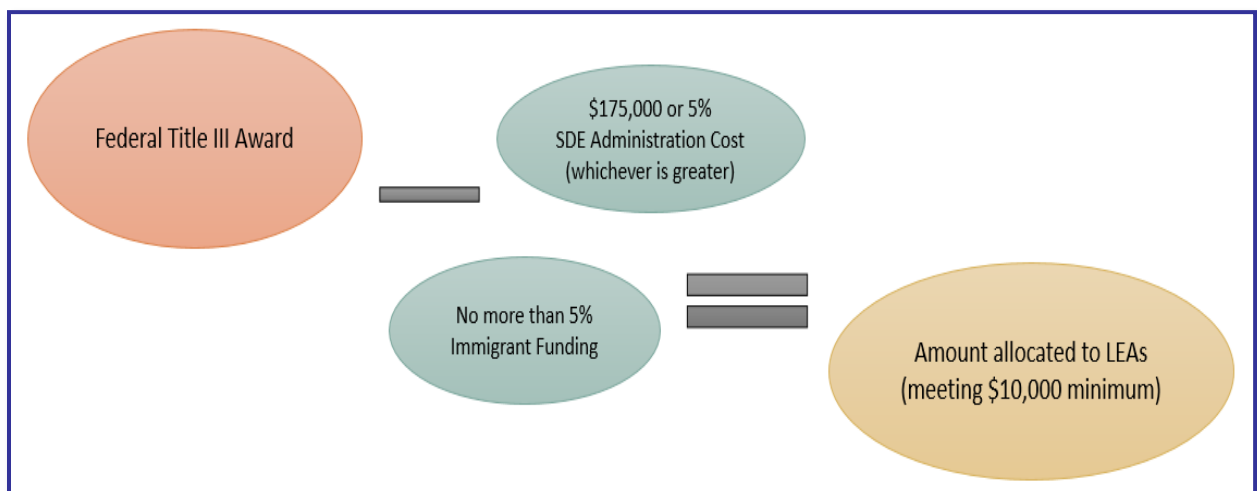
Title III prohibits the use of such funds to supplant LIEP programming and services that would otherwise be required in the absence of federal funds. Meaning that federal funds must be added to, not take the place of, state and local funds that should be used for the same purpose. Any requirements that a district/charter has to provide core LIEP services for ELs under other

laws (e.g., OCR or EEOA) cannot be funded with Title III or any other federal funding source. For example, the following activities cannot be funding using federal funds, as they are obligations required by OCR and EEOA:

- Identification and assessment of ELs.
- Providing ELs with a LIEP that is educationally sound and proven successful (required by *Casteñeda v. Pickard* and *Lau v. Nichols* Supreme Court Rulings)
- Providing sufficiently well prepared and trained staff and support the LIEP for ELs (required by OCR and EEOA)
- Continuing to meet the needs of ELs who opt out of LIEPs
- Exiting and monitoring ELs
- Evaluating the effectiveness of the district LIEP to ensure it continues to meet the needs of the EL population
- Ensuring meaningful communication with parents of ELs

Title III Funding

Federal Title III funds are distributed to the State Education Agency (SEA; in Idaho this is the State Board of Education) directly in a non-competitive format and are allocated according to a formula. Title III allocations are committed annually by July 1 by the U.S. Dept. of Education. The SEA then sends the funding to the SDE to allocate to the districts. The image below illustrates the Title III funding formula.



As with State EL, the number of qualified EL students (L1, LE, EW) tested during the annual ACCESS 2.0 assessment determines district/charter Title III allocation. Students who have exited (X1, X2, X3, X4, FL) should not be taking the ACCESS 2.0 and therefore are not included in the funding calculations. District/charters that do not meet the \$10,000 minimum subgrant are not eligible to receive funds but may participate in Idaho's Title III Consortium to access technical assistance and professional development. More information about Idaho's Title III Consortium is covered in the Title III Consortium section of this Mini-Manual.

Title III Immigrant Funds

Section 3114 (d) of ESSA requires that states reserve a portion of the overall Title III allocation for Immigrant funds. Idaho reserves up to 5% of the Title III funds for Immigrant Fund purposes. An immigrant child or youth is defined as:

1. Aged 3-21
2. Not born in any US State (including District of Columbia or Puerto Rico)
3. Have not been attending one or more schools in any one or more States for more than three (3) full academic years.

The new student does NOT necessarily need to qualify for the district/charters LIEP program and services; however, most new immigrants will. For example, a district could receive an immigrant student from India who is already fluent in English, but can still be counted for Immigrant funds.

Immigrant funds are allocated to district/charters using a completely different formula based upon the number of immigrant students qualified in the district/charter over the past 36 months. Immigrant numbers are determined from the May ISEE upload. District/charter eligibility for Title III Immigrant funds is calculated according to the following formula:

- **A significant increase of immigrants reported, over the average increase of immigrants in the district in the past two years.**

Immigrant funds are allocated on an annual basis. District/charters qualifying under the above formula are allocated Title III Immigrant funds within the CFSGA, where a separate plan must be written and submitted for approval regarding the use of funds to specifically support immigrant children and youth.

Title III Plan in CFSGA

District/charters qualifying to receive their own Title III allocation must annually submit for approval, a Title III plan to the State (ESEA Section 3114(a) and 3116(a)). Title III plans are submitted within the CFSGA. Preliminary Title III allocations are uploaded into the CFSGA in early April and are finalized in late May. Unless otherwise communicated, all CFSGA plans are due to the SDE June 30th.

Title III funds are distributed and uploaded to the GRA by October. District/charters request Title III funds through the GRA. Business Managers should ensure that requests to draw down funds are within three months of the expenditure start date. Requests outside the three-month timeframe will require documentation to support them and could delay the release of funding.

District Title III Administrators and business managers must be familiar with the Federal regulations found in the Education Department General Administrative Requirements (EDGAR) pertaining to appropriately obligating funds. Funds that are not properly obligated within the specified timeframe will revert to the SDE, and the district/charter will lose the ability to seek reimbursement for expenses.

Carryover and Reallocation of Federal Funds

Federal Title III funds can be allocated for up to 27 months after the grant year. Title III does not cap the amount of carryover funds a district/charter can have as long as the district/charter can justify why a substantial portion of carryover is “reasonable and necessary”. Carryover funds are defined as the funds left over from the prior year’s allocation, whereas excess carry over funds are funds from two years prior. If a district/charter has not obligated excess carryover funds by September 30 and drawn down in the GRA by December 15, the SDE will draw back the funds to be reallocated.

No later than October 15 of each year, the SDE shall send the “Intent to Use Excess Carryover” form to each district/charter that has excess carryover to determine whether they will expend the excess funds before the end of the grant period. The district/charter shall submit the form to the SDE for approval no later than October 31. There are no exceptions to this deadline. If the district/charter chooses not to submit the form, or if they fail to respond by the deadline, the funds will be reallocated.

Equitable Services to Private Schools

The following applies only to districts that have private schools accepting Title III services. Districts must engage in “timely and meaningful consultation” with private schools within its jurisdiction to determine whether they intend to participate in federally funded programs and services, including Title III.

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

- How the EL student’s needs will be identified.
- The size and scope of the services to be provided to the private school children and educational personnel and how, where, and by whom the services will be offered.
- The amount of funds available for those services.
- How and when the district will make decisions about the delivery of services, while considering the views of the private school officials on the provision of contract services through potential third-party providers.
- How the services will be evaluated and how the evaluation results will improve services.

Title III services provided to students and educational personnel in private schools must be equitable and timely and address their educational needs. Title III services provided to private school students and educational personnel must be secular, neutral, and non-ideological.

Districts may serve private school EL students and educational personnel either directly or through contracts with public and private agencies, organizations and institutions. Providers of services must be independent of the private school and of any religious organization, and the providers' employment or contract must be under the control and supervision of the district.

The control of funds used to provide services and the title to materials and equipment purchased with those funds must be retained by the district. Funds used to provide services to private school students and educational personnel must not be commingled with non-Federal funds.

For more detailed information on Equitable Services, see the Idaho SDE [Equitable Services webpage](http://www.sde.idaho.gov/federal-programs/equitable-services/) (<http://www.sde.idaho.gov/federal-programs/equitable-services/>).

TITLE III CONSORTIUM

Idaho's Title III Consortium supports district/charters that do not meet the minimum \$10,000 requirement to garner their own federal Title III allocation. These district/charters join together as a single entity, the Title III Consortium, to garner a Title III allocation. District/charters eligible to participate in the Title III Consortium indicate their intention to either participate or decline within the State EL Plan that is submitted in the CFSGA. Participating district/charters receive access to additional professional development and technical assistance to improve language acquisition programs and EL educational opportunities. Beginning school year 2018-2019 district/charters that do not currently have ELs are able to join the Title III Consortium in order to access the supports and professional development as soon as they would enroll an EL.

The Title III Consortium expands the reach of federal Title III dollars to districts with small numbers of ELs, especially in the state's rural districts and charters. The SDE expects the Consortium will produce several outcomes, including:

- Better identification of ELs
- Better prepared teachers (both EL and general education) and support staff
- Quicker response to support ELs when a district or charter is new to having ELs and
- More collaboration among staff from local, state and federal programs that serve ELs to better meet students' identified needs.

The Title III Consortium contracts with EL Coaches to provide regional on-site support for participating district/charters. EL coaches serve as a point of contact for Consortium district/charters and make at least two face-to-face visits with district/charter's EL staff and leadership to offer technical assistance. Whether it be the first EL student they have ever had or an established program serving ELs for many years, the EL Coach is there to provide district/charters the support on implementing their LIEP.

Assurances for participating or declining to participate in the Title III Consortium are done through the State EL CFSGA Plan. Consortium assurances are due along with the State EL Plan by June 30th.

FEDERAL PROGRAMS MONITORING

A State is required to oversee and monitor the activities of its Local Education Agencies (LEAs) (Section 3113(b)(3)(F), 34 CFR §§760700-76.783). The SDE monitors on a 6-year cycle and uses the following factors to determine district priority:

- Coordination with other Federal Programs
- District requests for program evaluation
- New Title III Coordinator and/or New Superintendent
- District improvement status
- Sudden and/or significant increase in the number of English Learners
- Formal compliance complaint filed with the Idaho State Department of Education, Idaho State Board of Education and/or U.S. Department of Education - Office for Civil Rights

For more information on the Federal Programs Monitoring process, see the Idaho SDE [Federal Program Monitoring webpage](http://www.sde.idaho.gov/federal-programs/program-monitoring/) (<http://www.sde.idaho.gov/federal-programs/program-monitoring/>).

For districts participating in the Title III Consortium, initial monitoring for EL/Title III will be provided as a technical assistance visit or workshop. District/charters will be contacted in August by the State EL and Title III Coordinator if they are eligible for this technical assistance.