California Department of Education May 2020

# General and Program Assurances

## Elementary Secondary Education Act, Title III English Learner and Immigrant Student Program Subgrants

1. The local educational agency (LEA) will use Elementary and Secondary Education Act (ESEA), Title III funds according to the purposes of the ESEA. (20 United States Code [U.S.C.] § 6812; Public Law [PL] 114-95, § 3102.)
2. The LEA agrees to expend the funds to improve the education of English learner (EL) and Immigrant students by assisting them to learn English and meet the challenging State academic standards. In carrying out activities with such funds, the eligible entity shall use effective approaches and methodologies for teaching EL and immigrant children and youth. (20 U.S.C. § 6825[a]; PL 114-95,   
   § 3115[a].)
3. ESEA, Title III funds 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 EL children and immigrant children and youth and in no case to supplant such federal, state, and local public funds. (20 U.S.C.   
   § 6825[g]; PL 114-95, § 3115[g].)
4. The LEA will submit an updated Local Control and Accountability Plan Federal Addendum that addresses Title III provisions of the state and ESEA, Title III Section 3116 (20 USC § 6826; PL 114-95, § 3116). The LEA shall provide to the California Department of Education (CDE) a proposed budget per the Title III program requirements, as part of the Consolidated Application and Reporting System (CARS). (20 U.S.C. §§ 6824, 6825, 6826, PL 114-95, §§ 3114, 3115, 3116.)
5. The LEA assures that it annually assesses the English proficiency of all English learner students enrolled in their schools using the state’s English language proficiency assessment (20 U.S.C. § 6311[b][2]), PL 114-95, § 1111[b][2].)
6. The LEA shall consult with appropriate private schools officials in a timely and meaningful manner to provide Title III, Part A equitable services to eligible English learner and Immigrant students attending private schools located within the LEA’s geographical boundaries. (20 U.S.C. § 7881, PL 114-95, § 8501.)

## ESEA, Title III English Learner Student Program Subgrant

1. The LEA receiving Title III EL funds agrees to use the funds to increase the English language proficiency of English Learners, provide effective professional development, and implement effective parent, family, and community engagement activities and strategies that enhance or supplement language instruction educational programs for English learners. (20 U.S.C. § 6825[c]; Public Law [PL] 114-95, § 3115 [c]). Subject to this subsection, the LEA also may use the funds to achieve any of the authorized activities described in 20 U.S.C.   
   § 6825(c)(d).
2. The LEA may use no more than two percent of the EL student subgrant for administrative costs for a fiscal year. (20 U.S.C. § 6825[b]; PL 114-95,   
   § 3115[b].)
3. LEA can apply its approved indirect rate to the portion of the subgrant that is not reserved for direct administrative costs. A list of approved indirect cost rates are available on the CDE Indirect Cost Rates web page at <https://www.cde.ca.gov/fg/ac/ic/index.asp>.
4. The LEA is not in violation of any state law, including State constitutional law, regarding the education of EL children, consistent with 20 U.S.C.   
   § 6826(b)(4)(B); PL 114-95, § 3116(b)(4)(B).
5. The LEA shall provide the CDE with a report every fiscal year addressing all elements under 20 U.S.C. § 6841(a); PL 114-95, § 3121(a).
6. The LEA assures that it annually assesses the English proficiency of all English learner students enrolled in their schools using the state’s English language proficiency assessment (20 U.S.C. § 6311[b][2][G][i]).

## ESEA, Title III Immigrant Student Program Subgrant

1. Each LEA receiving funds under 20 U.S.C. § 6825(e)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include:
   1. Family literacy, parent and family outreach, and training activities designed to assist parents and families to become active participants in the education of their children;
   2. Recruitment of, and support for personnel, including teachers and paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
   3. Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;
   4. Identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with awarded funds;
   5. Basic instructional services that are directly attributable to the presence of immigrant children and youth in the LEA involved, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as directly attributable to such additional instructional services;
   6. Other instructional services that are designed to assist immigrant children and youth to achieve in elementary and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and
   7. Activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services. (20 U.S.C. § 6825[e]; Public Law, 114-95 § 3115[e].)
2. Recommended direct administration expenses for a fiscal year may not exceed two percent of such funds for the cost of administering the program.
3. LEAs are authorized to assess approved indirect costs to the portion of the subgrant that is not reserved for direct administrative costs. A list of approved indirect cost rates are available on the CDE Indirect Cost Rates web page at <https://www.cde.ca.gov/fg/ac/ic/index.asp>.

## State Program for English Learner Students

1. A Home Language Survey (HLS) is used at the time of initial enrollment to determine the student’s primary language, and within 30 calendar days of initial enrollment, each student whose HLS indicates a language other than English, is assessed for English proficiency by means of the state-designated instrument. (California *Education Code* [*EC*] § 313, 60810; Title 5, *California Code of Regulations* [5 *CCR*] § 11308.5[a], 11511[a][1]; 20 U.S.C. § 6312[e][3][A][i]; PL 114-95, § 1112[e][3][A][i].)
2. All English learners are annually assessed for English language proficiency until the pupil is redesignated as English proficient. The assessment used must be aligned with the State’s English language proficiency standards (EC § 313,   
   § 60810[c][5], § 60810[e][7]).
3. All parents of EL and fluent English proficient (FEP) students are notified in writing of their child's English language proficiency assessment results. (U.S.C.   
   § 6312[e][3][A][ii]; PL 114-95, § 1112[e][3][A][ii].)
4. The LEA provides each English learner a program of instruction in English-language development in order to develop proficiency in English as effectively and efficiently as possible. (20 U.S.C. § 1703[f], § 6825[c][1][A]; EC §§ 300, 305, 306, 310; 5 CCR § 11302[a]; *Castañeda v. Pickard* [5th Circuit (Cir.) 1981] 648 F.2d 989, 1012-1013.)
5. The LEA provides all English learners access to the content and performance standards for their respective grade levels or the LEA has a plan that describes how academic deficits will be monitored and overcome within a reasonable time before such deficits become irreparable. (20 U.S.C. § 1703[f], § 6825[c][1][B]; *EC* § 305[a], 5 CCR § 11302[b]; *Castañeda v. Pickard* [5th Cir. 1981] 648 F.2d 989, 1012-1013.)
6. The Individualized Education Program team determines placement of each student with disability, regardless of language proficiency. (20 U.S.C.   
   § 1414[d][a].)
7. The LEA assign an adequate number of qualified teachers to implement the required English-language development instruction and all other academic areas of the curriculum. (20 U.S.C. § 6826[c]; *EC* §§ 44253.1, 44253.2, 44253.3,   
   44253.10; *Castañeda v. Pickard* [5th Cir. 1981] 648 F.2d 989, 1012-1013.)
8. The LEA provides a staff development program to qualify existing and future personnel (both teachers and paraprofessionals) in the skills necessary to help each EL learn English and access the core curriculum. (20 U.S.C. § 6825 [c][2][A]; *Castañeda* v. *Pickard* [5th Cir. 1981] 648 F.2d 989, 1012-1013.)
9. The LEA provides adequate basic and supplemental resources to each English Learner with learning opportunities in an appropriate program providing equal opportunity for academic achievement across the core curriculum, including classes necessary to complete graduation requirements. (20 U.S.C. § 1703[f]; *Castañeda* v. *Pickard* [5th Cir. 1981] 648 F.2d 989, 1010, 1012-1013.)
10. The LEA uses verifiable criteria consistent with *EC* § 313 to change a student's designation from EL to reclassified fluent English proficiency (RFEP) status that have been established by the district if ELs are enrolled. Each former EL student who has been redesignated to RFEP has:
11. demonstrated English language proficiency comparable to that of the average native speakers; and
12. participated equally with average native speakers in the school's regular instructional program. (20 U.S.C. § 1703[f]; *Gomez* v. *Illinois State Board of Education* [7th Cir. 1987] 811 F.2d 1030, 1041-1042, *Castañeda* v. *Pickard* [5th Cir. 1981] 648 F.2d 989, 1010, 1012-1014; and *Keyes* v. *School Dist. No. 1* [D. Colo. 1983] 576 F. Supp. §§ 1503, 1516-1522; 5 CCR §§ 11302, 11303[d].)
13. The LEA meets the requirements of EC § 62002.5 regarding the advisory functions of the LEA and school committees on services for English learners.   
    (*EC* § 62002.5)
14. The LEA establishes and implements a process and criteria to determine the effectiveness of the program(s) for English Learners. (20 U.S.C. § 1703[f], 6841; *Castañeda* v. *Pickard* [5th Cir. 1981] 648 F.2d 989, 1012-1013.)
15. Upon submission of Title III English Learner and Immigrant subgrant application on CARS, LEAs acknowledge responsibility for accuracy of all data and narrative information submitted to the CDE.
16. Acceptance of the CARS application by the CDE does not:
17. constitute approval or validation of the information provided, or acceptance of that information for purposes of satisfying any outstanding corrective actions under program determination letters or program monitoring reports; or
18. limit or compromise in any way the CDE’s ability to conduct audits, investigations, or program monitoring in connection with the information provided in your application and then secure any needed corrective actions.