

Section G: Programs for English Language Learners (Title III)

Capsule: Funding for programs for limited-English-proficient (LEP) and immigrant children.

The No Child Left Behind Act (NCLBA) provides two options for serving the needs of limited-English-proficient (LEP) students. One would keep the Bilingual Education Act more or less intact, with little or no increase in funding.



The other would largely replace it, introducing a formula grant system to support instructional programs, accountability mechanisms that stress the rapid acquisition of English and a central role for state education agencies (SEAs).

To trigger the latter option (Part A), Congress must appropriate at least \$650 million annually to support programs for LEP and immigrant students. If funding dips below that level in a given year, the federally administered competitive grant system (Part B) would be restored. For fiscal year 2002 (which will generally fund programs in school year 2002-03) Congress appropriated \$665 million, up from \$446 million in FY 2001, and the Bush administration has requested the same amount for FY 2003.

The underlying bargain gives Republicans the policy changes they wanted in exchange for more money.

The U.S. Education Department (ED) and SEAs are proceeding under the assumption that the formula-grant system is here to stay, and so does this guide. While its policy implications remain uncertain in several areas, the new Title III will bring major changes in the way programs for LEP students are financed and designed.

What's New:

- Consolidates 13 bilingual and immigrant

education programs into two new programs: SEA-administered formula grants to support the instruction of LEP students, and federally administered competitive grants for professional development.

- Requires SEAs and local education agencies (LEAs) to submit detailed plans for accountability and coordination with other provisions of the No Child Left Behind Act (NCLBA).



- Mandates assessments of English proficiency for LEP students each year and achievement testing in English for students in U.S. schools for at least three years.

- Increases LEAs' obligations to inform parents about English learner programs.

- Sets aside funding for language programs among Native Americans and students in outlying areas.

- Replaces competitive grants to support foreign language instruction at the elementary and secondary levels with a Foreign Language Incentive Program that awards formula grants to support instruction at the elementary level only.

- Renames the federal bilingual education office to the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students (OELA).

Supplemental and Influential

Enacted in 1968 at the height of the War on Poverty, the Bilingual Education Act (BEA) was never intended to be the main source of funding for English learner programs, which were seen as a state and local responsibility. The program concentrated its resources in a relatively small number of LEAs and institutions of higher education (IHEs). Awarding grants on a competitive basis, its main purpose was to promote innovative

pedagogies while building schools' capacity to serve LEP students. A special priority was professional development to remedy the chronic shortage of teachers trained to work with these children.

Nevertheless, by awarding grants directly to LEAs, the federal government exerted a dominant influence on policy in the field. For more than 25 years, the BEA reserved a lion's share of funding



for programs that used LEP students' native language for instruction. Endowed with this external source of support, bilingual education tended to develop autonomously in many districts, unconnected with state reform efforts and with other federally funded programs such as Title I. This trend was bolstered by a 1974 U.S. Supreme Court decision that effectively required schools to provide special instruction to children who do not speak English.

The Emergency Immigrant Education Act (EIEA), added in 1984, was an impact aid program designed to help LEAs cope with an influx of newcomer students (since immigration policy is considered a federal responsibility). While these formula grants could be spent for a wide variety of purposes, they provided far less than the actual cost of educating immigrant children. EIEA payments for 1999-2000 came to \$184 per student.

In recent years, demographic changes have put pressure on both programs. State enrollments of LEP students nearly doubled during the 1990s, to an estimated 3.7 million. In 1999-2000, one in 12 U.S. students was identified as limited in English. Growth rates were most dramatic in states like Kansas (290 percent), Georgia (392 percent), Oregon (480 percent),

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and North Carolina (809 percent) that had limited prior experience in serving these children.

Over the same period, federal spending for bilingual and immigrant education rose only modestly. Most of the resources flowed to states like California, New York, and Texas, where districts had long experience in bilingual program design that gave them an advantage in grant-seeking. States with newer immigrant populations tended to receive less than a proportionate share of this funding.

Meanwhile, the shortage of qualified teachers was growing more acute. A 1993-94 survey found that 42 percent of U.S. public school teachers had LEP students in their classrooms. Of these teachers, only 3 in 10 had any special training in this area; only 3 in 100 had degrees in bilingual education or English as a second language.

Politics and Pedagogy

At the same time LEP populations were burgeoning and qualified teachers were becoming scarcer, political opposition to bilingual education was brewing. By the early 1980s, a furious debate was underway both in the educational realm, where experts argued the merits of different instructional approaches, and in the political realm. Conservatives portrayed bilingual programs as an expensive sop to “ethnic pride” that isolated LEP students from the mainstream for too long and taught them too little English.

In recent years, voters in California (1998) and Arizona (2000) passed initiatives to replace most bilingual programs with all-English immersion programs intended to last only one year. Similar legislation is being considered in other states.

In terms of federal policy, opponents of bilingual education eventually succeeded in winning federal support for “English-only” instructional programs and whittling away at the facet of the BEA’s mission that focused on maintaining children’s native language while they learn English.

In 1978, Congress added a provision stating that native language could be used only “to the extent necessary to allow a child to achieve competence in the English language.” While this statutory restriction was eased in 1984, for another decade only a tiny portion of federal funds flowed to maintenance — now known as “developmental bilingual education” (DBE). Over the next decade, amendments allowed some funds to flow to schools using English-only instructional approaches.

The 1994 ESEA reauthorization effectively removed the cap on such programs by adding broad exemptions. The Improving America’s Schools Act (IASA) also sought to depoliticize the contentious issue of how to apportion funds between bilingual and all-English approaches by

recategorizing programs by purpose rather than instructional philosophy. At the same time, the IASA gave preference to programs that sought to develop native-language skills while simultaneously fostering English acquisition and academic achievement.

This policy change encouraged the growth of late-exit, “developmental” bilingual programs that featured a more gradual transition to English — typically four to five years — as compared with early-exit, “transitional” bilingual programs. One variant, known as “two-way bilingual education” or “dual language immersion,” includes English-speaking children learning a second language alongside minority children learning English.

No Child Left Behind Act

With NCLBA, Republicans finally achieved a goal that had eluded them since the 1980s — eliminating ESEA’s funding preference for native-language programs. Indeed, some Republicans sought to ban the use of native-language programs entirely.

Funding for LEP Programs (dollars in millions)

	FY 2001 Appropriation	FY 2002 Appropriation	FY 2003 Bush Budget
Bilingual and Immigrant Education (IASA, Title VII)			
Instructional programs	180	-	-
Support services	16	-	-
Professional development	100	-	-
Emergency immigrant education	150	-	-
English Language Acquisition (NCLBA, Title III, Part A)			
State formula grants	-	414	469
Professional development	-	38	38
Continuation grants	-	198	143
Other	-	15	15
Total Funding	446	665	665

Division of funds between programs for FY 2002 and 2003 based on U.S. Education Department estimates.

The state formula grant system, as well as other provisions, dovetails with the legislation's overall focus on accountability, flexibility, and state authority. The new funding mechanism also serves to spread federal resources more broadly, addressing the concern that school districts facing novel influxes of LEP students were disadvantaged in competing for funding.

While Title III increases flexibility in state and local policymaking, it also uses federal leverage to move policy in new directions, albeit more subtly than some conservatives would have liked. The law stops short of imposing explicit time limits on English learner programs or restrictions on the use of native-language instruction, both of which were included in the legislation originally passed by the House. But as a practical matter, some features of Title III could foster the same results.

Changes likely to have far-reaching effects include:

Goals. English acquisition and academic achievement in English will continue to be stressed, but the goal of developing LEP students' native-language proficiency has been dropped. A quick transition to English will now take precedence. Cultivating bilingual skills is no longer an approved purpose of "language instruction educational programs." Indeed, all references to promoting bilingualism have been removed from what used to be called the Bilingual Education Act. Its official short title is now the English Language Acquisition, Language Enhancement, and Academic Achievement Act.

Accountability. As under IASA, programs must be coordinated with state efforts to ensure that LEP students meet the same challenging academic standards demanded of all students. But states must now set "annual measurable achievement objectives" for LEAs in moving LEP students toward English proficiency and in helping them meet high standards. Benchmarks will include the percentage of students reclassified as fluent in English each year and "adequate yearly progress" on

English-language achievement tests, as required under Title I.

Only LEP students who have been enrolled in U.S. schools less than three years will be exempted. (Title III allows exemptions for to children who have not been *in the country* for three years, but references the Title I requirements, which will presumably apply.)

LEAs falling short of these objectives will face sanctions and corrective action. (For more information on the NCLBA accountability requirements, see Section A.)

Funding allocations. Federal resources for English learner programs will be increased overall and distributed more broadly, benefiting several states and numerous districts that received few if any competitive grants under IASA. But the new SEA-administered formula grants will also be spread more thinly, providing less funding to support individual LEA programs than in the past — about \$150 per LEP student in FY2002.

Professional development. Appropriations for preservice training of teachers and career-ladder programs for paraprofessionals will be capped at less than half of FY2001 levels. Those now receiving financial aid will be allowed to complete their education. But unless Congress doubles its initial ap-

propriation for Title III, federal support for training new professionals for the field will decline.

Flexibility and science. Two principles stressed throughout Title III could lead to policy conflicts. One the one hand, LEAs are promised "flexibility" to decide which pedagogical approaches to use in educating LEP students. On the other hand, the design of instructional and professional development programs must reflect "scientifically based research," a requirement open to varying interpretations. Such provisions could intensify the longstanding debates over whether a single approach — bilingual or all-English — has been proven superior, and should therefore be mandated.

Eligibility and Allocations

As long as Congress appropriates at least the \$650 million needed to trigger the state formula grant system, about 92.2 percent of Title III funds will be distributed in formula grants to the states, the District of Columbia, and Puerto Rico. Allocations will be based 80 percent on counts of LEP students and 20 percent on counts of recent immigrant students residing in a state. Under this formula, immigrant children who are LEP will be counted twice.

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Definition: "Limited English Proficient"

A limited-English-proficient student is an individual, age 3 to 21, who is enrolled (or about to enroll) in a U.S. elementary or secondary school and meets these two requirements.

1. Belongs to one of the following categories:

- Was not born in the United States or speaks a native language other than English;

- Is a Native American, Alaska Native, or native resident of outlying areas and comes from an environment where a language other than English has had a significant impact on the individual's level of English language

proficiency; or

- Is migratory, speaks a native language other than English, and comes from an environment where a language other than English is dominant.

2. May be unable, because of difficulties in speaking, reading, writing, or understanding the English language, to:

- Score at the proficient level on state assessments of academic achievement;

- Learn successfully in classrooms where the language of instruction is English; or

- Participate fully in society.

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The minimum state allotment is \$500,000; the maximum allotment for Puerto Rico is 0.5 percent of all state grants.

Child counts: For the first two years, the NCLBA requires ED to use either Census data or SEA enrollment figures. These counts tend to differ substantially, and ED has not yet announced the exact formulas it will use in calculating state grants. Beginning in 2004, ED must use figures from the annual American Community Survey by the Commerce Department or the number of LEP students in a state who are being assessed for English proficiency, as the Title I accountability rules demand. ED is to determine which is the “more accurate” set of statistics.

LEA Grants: States must pass on at least 95 percent of their allotments as subgrants to school districts. LEAs and other entities, including public charter schools, will be eligible for allotments on the same formula basis. Only districts eligible for a grant of at least \$10,000 are to receive funding, and LEAs with less than 65 eligible students would probably not qualify.

An SEA may reserve up to 15 percent of its grant for districts that have experienced a “significant increase” in immigrant student enrollment as compared with the previous two years. At state discretion, an LEA may be awarded funds from this set-aside in addition to a regular subgrant.

Continuation Awards

A transitional provision will extend instructional and professional development grants awarded under IASA to the end of their cycle (in some cases, through FY2005). These continuation grants, which total about \$200 million in FY2002, will be awarded before state formula grants are calculated.

Winners and Losers

States with fast-growing LEP and immigrant populations that previously

won few bilingual education grants, such as Georgia and North Carolina, will gain the most from the move to a formula grant system. Those with the largest LEP and immigrant populations, such as California and Texas, will benefit from the nearly 50 percent increase in Title III appropriations.

The losers will be low-population states that were relatively successful in winning grants under IASA — especially for Native American programs — such as Alaska, Montana, North Dakota, Oklahoma, and South Dakota. While BIA and tribally controlled schools will be able to compete separately for setaside funding, most Native American students are enrolled in public schools under state jurisdiction. And most of those who are LEP live in states where allocations are being cut for LEP programs.

Setasides

State activities: SEAs may reserve up to 5 percent of their allocations for state activities, of which no more than 60 percent or \$175,000 (whichever is greater) can be used for planning and administrative purposes. The remaining state funds can be spent for a variety of purposes, including teacher certification, program evaluation, technical assistance, and incentive awards for subgrantees.

Special populations: ED must reserve .5 percent of total funding for English programs in territorial schools, and

at least .5 percent, or \$5 million, for Native American grants. Eligible entities — including schools operated by or under contract with the Bureau of Indian Affairs (BIA), tribal governments, or Native Hawaiian educational organizations — must apply directly to the ED for these funds. Unlike LEA programs funded under state subgrants, Native American programs may foster the goal of native-language proficiency.

National activities: The remaining 6.5 percent of total appropriations is reserved for professional development grants, awarded on a competitive basis to IHES; ED’s evaluation activities (up to 0.5 percent); a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs (up to \$2 million); and administrative expenses of OELA.

Professional Development: A “National Professional Development Project” will award competitive grants of up to five years to IHES, in consortia with SEAs and LEAs, to train personnel working with LEP students, including those seeking certification in the field. Funds may be used to upgrade the skills of paraprofessionals, to develop curricula for English learner programs, and to provide scholarships for teachers in training. Fellowships for postgraduate study, previously available under IASA, have been eliminated.

Research: Title III eliminates re-

Definition: “Language Instruction Educational Program”

A “language instruction educational program” is a course of instruction for LEP students that may use both English and the students’ native language – or English alone – “for the purpose of developing English proficiency while meeting challenging State academic content and student academic achievement standards.”

The goal of cultivating fluent bilingualism and biliteracy, which IASA made explicit for the first time in 1994,

is conspicuously absent.

But the definition includes a proviso that will allow support for dual language immersion approaches. A “language instruction educational program” may include English-proficient students for the purpose of “enabl[ing] all participating children to become proficient in English and a second language.” In other words, if native English speakers participate in a Title III-funded program, it may promote the goal of bilingualism for all students.

search programs previously funded under IASA (except in the unlikely event that the annual appropriation falls below \$650 million and Part B takes effect). Discontinued grant categories include field-initiated research, academic excellence demonstration programs, and instructional materials development.

It reauthorizes the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs (formerly the National Clearinghouse for Bilingual Education). The Clearinghouse will continue to collect statistical data, research on educating LEP students, and information about Title III grantees, and to disseminate this material through publications and the Internet.

SEA Plans

Initial SEA plans were to be submitted by May 28, 2002. Among other things, states must explain how they will develop objectives for moving students toward English proficiency in the four domains of speaking, listening, reading, and writing, and for aligning these objectives with challenging state academic standards; how it will hold LEAs accountable for meeting these goals; and they will ensure both local flexibility in methodology and the use of “scientifically based research” in designing programs for LEP students.

Local Program Requirements

School districts may apply for subgrants on their own, or in collaboration with other districts, IHEs, community-based organizations, or the SEA itself. Public charter schools may also apply if they are considered LEAs under state law and are of sufficient size to develop an effective program.

Programs must be designed to help LEP children learn English and achieve the state’s academic standards. They must also use “approaches and methodologies based on scientifically based research” on teaching LEP and immigrant children.

Activities can include schoolwide or districtwide initiatives, but must include English instruction, staff training (which must meet the definition of “professional development” set in the NCLBA — see

Section F-1 for details) and a plan for meeting educational goals set by the state.

Other approved uses of subgrants include the enhancement of English acquisition programs, curriculum development, remedial tutoring, technology acquisition, parent involvement, and language assessment. No more than 2 percent of the funds may be spent for administrative purposes.

Title III funds must “supplement, not supplant” federal, state, and local funds that would have been spent, if no Title III funding had been available, for the education of LEP students

LEAs are also required to explain in their applications how they have consulted with teachers, researchers, administrators, and parents, and others in developing the plan; and demonstrate that all teachers in the program have written and oral fluency in English and any other language used for instruction.

Immigrant Programs

For purposes of calculating state formula grants, “immigrant children and youth” are students aged 3 to 21 who were not born in any U.S. state and who have attended one or more U.S. schools for less than three full academic years. This is the same definition previously used under the EIEA. In 1999-2000, that program served 811,154 immigrant children nationwide.

Subgrants awarded to LEAs experiencing substantial increases in immigration (under the optional 15 percent set-aside) must be spent on activities that target the specific needs of immigrant students. But the list of allowable activities is broad.

Activities may include family literacy, parent training, and other outreach efforts to encourage parents to become active participants in their children’s schooling; hiring personnel, including paraprofessionals, trained to address the needs of immigrant students; tutorials, mentoring, and academic or career counseling; acquisition of curriculum materials and educational technology; spending for classroom supplies, transportation, and other support for basic instruction; civics education and other instruction to orient immigrant students to U.S. schools; and

working with community organizations and IHEs to provide comprehensive social services to immigrant families.

Parent Notification

Within 30 days of the beginning of each school year, parents must be notified of a child’s assessment as LEP, the reasons for that assessment, the method of instruction to be used, how this method will help the child learn English and meet academic standards, procedures for exiting the program, students’ expected rate of transition to English, and their expected rate of secondary school graduation.

In addition, parents of LEP students must be informed of their rights to remove their child from the program and to enroll the child in an alternative program, if available. “To the extent practicable,” these notifications must be provided “in a language the parent can understand.”

Evaluation and Reporting

At the end of every second fiscal year, an LEA receiving Title III funds must provide to the SEA an evaluation of its programs, which must be used for school improvement purposes. This biennial report must describe:

- LEA programs and activities for LEP students;
- Progress of LEP students toward acquiring English and meeting state academic standards;
- The number and percentage of LEP students achieving English proficiency by the end of each school year; and

The progress of formerly LEP students toward meeting state academic standards in the two years after they leave English acquisition programs.

Based on these evaluations, SEAs receiving formula grants must submit biennial reports to ED. Also every two years, ED must submit its own report to Congress, including types of language instruction programs funded under Title III; the estimated number of certified teachers for LEP students and projected staff demands over the next five years; major findings of scientifically based research; the number of

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Title III programs terminated because of failure to meet objectives; and the number of LEP students transitioned into mainstream classrooms.

Accountability

SEAs must hold subgrantees accountable for meeting annual measurable achievement objectives and adequate yearly progress toward academic standards. An LEA that fails to do so over two consecutive years must develop an improvement plan specifically addressing the causes of its failure. SEAs must provide technical assistance in developing and implementing such plans.

An LEA that fails to meet objectives over four consecutive years must modify its curriculum and instructional methods and replace personnel responsible for the failure. The SEA must also consider whether to cancel the LEA's subgrant.

An LEA that fails — in any fiscal year — to make progress toward its annual measurable achievement objectives must send a special notification of this failure to the parents of LEP students within 30 days.

Potential Policy Impact

Title III explicitly provides that the ED “shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient children.” It would appear that the law leaves such decisions entirely to states and school districts.

Other provisions, however, are open to different interpretations. In particular, the requirement to link program design and staff training to “scientifically based research” — which must demonstrate a curriculum's “effectiveness” in promoting English acquisition and academic achievement — could lead to the rejection of certain pedagogies as unscientific.

If broadly defined, the seal of scientific approval could be applied to a variety of program models for LEP students now in use. In 1997, for example, an expert panel of the National Research Council (NRC) reviewed the scientific literature and found evidence for the effectiveness of both bilingual education and all-English immersion approaches.

NCLBA introduces a specific definition of scientific research, featuring rigorous experimental protocols that have been used in relatively few studies to evaluate English learner programs (indeed, few educational programs in most areas). On this basis, some critics have argued that there is no scientific evidence for the effectiveness of bilingual education. Others have made the same argument about all-English immersion programs.

A further complication is that the requirement to use scientifically based research applies not only to “approaches and methodologies,” which could be broadly defined, but also to “language instruction educational programs and curricula.” Few specific programs and curricula, which feature numerous components in addition to language of instruction, have been studied using the strict criteria for scientific research detailed in NCLBA.

The rule also applies to professional development efforts, such as inservice training. This would seem to necessitate a process for screening teacher trainers and their materials to ensure that the viewpoints espoused are scientifically based. But exactly how such questions will be handled under Title III, and by whom, remains unclear.

Requiring states and districts to justify their plans as research based could serve primarily as an incentive to treat program design seriously. Or it could be seen an invitation to take sides in a continuing scientific and political debate, and to adopt policy mandates accordingly.

How SEAs interpret these provisions — and how much oversight ED tries to exercise — will determine the degree of flexibility that LEAs will have in educating LEP students.

So far, ED has provided no guidance on these points. Indeed, the draft guidance for the Title III formula grant program contains little emphasis on “scientifically based research,” in stark contrast to ED's guidance for the “Reading First” program.

More information on “scientifically based research” in the NCLBA generally appears in Section J-2. Discussion of the concept, and its political applications, in the section on Reading First (Section D-1) may also be of interest to administrators of Title III programs.

Legislation: ESEA, Title III

Nonregulatory Guidance: Preliminary Guidance on the Title III State Formula Grant Program (March 26, 2002): <http://www.ed.gov/offices/OELA/nrgcomp.html>.

For More Information

At ED: Office of English Language Acquisition, U.S. Department of Education, 330 C Street, SW, Washington, DC 20202; (202) 205-5463; Fax: (202) 205-8737; <http://www.ed.gov/offices/OELA/>.

Also Online: Presentations by ED staff on Title III grant programs and procedures can be found at the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs: <http://www.ncbe.gwu.edu/oela/institutes/2002/index.htm>.

This section was written by James Crawford, an independent writer and lecturer who specializes in the politics of language. A former Washington editor of Education Week, Crawford has been reporting on the English Only movement, bilingual education, efforts to save endangered languages, and language rights in the U.S., since 1985. He can be found on the Internet at <http://ourworld.compuserve.com/homepages/JWCRAWFORD/>.