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Council of the Great City Schools®

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Memorandum

To: Superintendents, Council of the Great City School Member Districts
 From: Michael Casserly, Executive Director
 CC: Chief Academic Officers
 Legislative Directors
 English Learner Program Directors
 Date: October 5, 2020
 Subject: U.S. Department of Education Guidance Regarding Provisionally Identified English Learners and the October EL Count for Title III Allocations

U.S. Department of Education: *State Educational Agencies (SEAs) must include all ELs in an LEA, including those identified using temporary entrance procedures, in the calculation for Title III allocations.¹*

Background

In mid-August, the Council submitted a formal query to the U.S. Department of Education’s Office of Elementary and Secondary Education (OESE), prompted by data indicating that a significant number of states were not allowing provisionally identified English learners to be included in the formal EL count for funding purposes. The specific question posed was:

“Can LEAs include the students provisionally identified as English learners in the official October EL count submission for purposes of Title III funding?”

U.S. Department of Education Response

On September 21, 2020, the Council received a formal response from Fariba Hamedani, Education Program Specialist in the *Office of School Support & Accountability, Formula Grants*, in the Office of Elementary & Secondary Education. In the following excerpt, we have italicized the re-stated question and bolded the response for further clarity—

“You stated that due to COVID-19, many of your member districts “have continued to use provisional screening protocols to identify students who will need supports and services for English language development.” You asked whether LEAs should include the students provisionally identified as English learners in the official October EL count submission for purposes of Title III funding. We assume that you are asking whether, in computing Federal fiscal year (FY) 2021 (school year 2021-2022) Title III, Part A (Title III) allocations for eligible local educational agencies (LEAs) under section 3114(a) of the Elementary and Secondary Education Act of 1965 (ESEA), an SEA would include ELs identified through the provisional

¹ U.S. Department of Education. (2020, May 18). *Fact sheet: Providing services to English learners during the COVID-19 outbreak.* <https://www2.ed.gov/documents/coronavirus/covid-19-el-factsheet.pdf>

approach in its computation. As described in more detail below, **the answer to this question is yes.**”

The Department’s response further expands as follows (bold added)—

“With respect to within-State Title III allocations of funds that the ESEA requires an SEA to allocate to LEAs, **ESEA section 3114(a) stipulates that the SEA**, after reserving funds under ESEA section 3114(d) for the immigrant children and youth subgrant to LEA(s), **must allocate the remaining funds to LEAs based on each LEA’s share of ELs relative to the total number of ELs in the State. In making this computation, the SEA must include all ELs in an LEA, including those identified using temporary entrance procedures.**”

The U.S. Department of Education has indicated that a public formal communication on this issue is forthcoming, but as of today, it has not been issued. OESE staff have indicated that their email response to our query is to be considered an official response from the U.S. Department of Education.

We have attached the Department’s response in its entirety should it prove helpful in your communications with your SEA to ensure that the English learners you have provisionally identified during the COVID-19-related school closures, are included in your official October count for Title III funding.

Attachment

ATTACHMENT—COPY OF EMAIL RESPONSE FROM U.S. DEPARTMENT OF EDUCATION

From: OESE.titleiii-a <OESE.titleiii-a@ed.gov>

Sent: Monday, September 21, 2020 4:04 PM

To: Gabriela Uro

Cc: OESE.titleiii-a <OESE.titleiii-a@ed.gov>; Hamedani, Fariba; McElwain, Lorena; Anand, Supreet; Michael Casserly; Spitz, Deborah

Subject: RE: Questions regarding provisionally identified ELs during COVID-19 health emergency

Dear Gabriela,

On August 19, 2020, you emailed several questions to Lorena McElwain, OELA's Assistant Deputy Secretary. Please find here the response to one of the question that is specific to Title III, Part A policy, provided to you by the Department's Title III, Part A program office.

CGCS Question:

*"LEAs have provided the language instructional support to students provisionally identified as English learners since the March closings of schools and through summer programs, mostly through virtual instruction. **Can LEAs include the students provisionally identified as English learners in the official October EL count submission for purposes of Title III funding?"***

Response:

You stated that due to COVID-19, many of your member districts "have continued to use provisional screening protocols to identify students who will need supports and services for English language development." You asked whether LEAs should include the students provisionally identified as English learners in the official October EL count submission for purposes of Title III funding. We assume that you are asking whether, in computing Federal fiscal year (FY) 2021 (school year 2021-2022) Title III, Part A (Title III) allocations for eligible local educational agencies (LEAs) under section 3114(a) of the Elementary and Secondary Education Act of 1965 (ESEA), an SEA would include ELs identified through the provisional approach in its computation. As described in more detail below, the answer to this question is yes. (If you are asking a different question, would you please clarify in a reply to this email?)

In light of the COVID-19 national emergency and as discussed in the fact sheet titled *Providing Services to English Learners During the COVID-19 Outbreak* (see <https://www2.ed.gov/documents/coronavirus/covid-19-el-factsheet.pdf>), the Department provided flexibility to States to identify an EL using temporary entrance procedures (page 3 of the fact sheet). Any such student is an EL and an LEA must provide appropriate language instruction services to such students.

With respect to within-State Title III allocations of funds that the ESEA requires an SEA to allocate to LEAs, ESEA section 3114(a) stipulates that the SEA, after reserving funds under ESEA section 3114(d) for the immigrant children and youth subgrant to LEA(s), must allocate the remaining funds to LEAs based on each LEA's share of ELs relative to the total number of ELs in the State. In making this computation, the SEA must include all ELs in an LEA, including those identified using temporary entrance procedures.

If you have further Title III, Part A policy questions, please contact us at OESE.Titleiii-a@ed.gov.

Kind regards,
Fariba Hamedani

Fariba Hamedani
Education Program Specialist
Office of School Support & Accountability, Formula Grants
Office of Elementary & Secondary Education
U.S. Department of Education