

Translation and Interpretation for English Learners – Requirements under Title VI of the Civil Rights Act of 1964 Related to National Origin Discrimination and Use of Funds Under Title III, Part A and Title I, Part A of the ESEA

WEBINAR

April 21, 2011

***Student Achievement and School Accountability Programs
Office of Elementary and Secondary Education***



Webinar Guidelines and Procedures

- All attendee telephones muted
- Questions can be asked through the online chat function
- Webinar materials will be posted on SASA's website: <http://www2.ed.gov/programs/titleiparta/resources.html>



Agenda

- Requirements under Title VI of the Civil Rights Act of 1964 related to national origin discrimination
- Overview of Title III, Part A and Title I, Part A requirements related to translation and interpretation for English learners (ELs) and their families
- Practical examples of use of Title III and Title I funds for services related to translation and interpretation for ELs and their families
- Discussion – Questions and Answers

Program/Legislation Purpose

- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities that receive federal financial assistance.
- The purpose of Title III, Part A is to help limited English proficient (LEP) students attain English language proficiency and knowledge and skills to meet State academic achievement standards.
- The purpose of Title I, Part A is to help academically at-risk students attain the knowledge and skills to meet State academic achievement standards.

Definition of Terms

- Limited English proficient (LEP) – Section 9101 of the ESEA and “English learner” (EL)
- Translation means converting written text from one language to another language.
- Interpretation means converting spoken language from one language to another language.



Ensuring English Learner (EL) Students and Parents Equal Access

U.S. Department of Education
Office for Civil Rights

Angela Martinez-Gonzalez
Supervisory Attorney/ Team Leader,
Office for Civil Rights, Denver enforcement office
(303) 844-6083

Angela.Martinez-Gonzalez@ed.gov

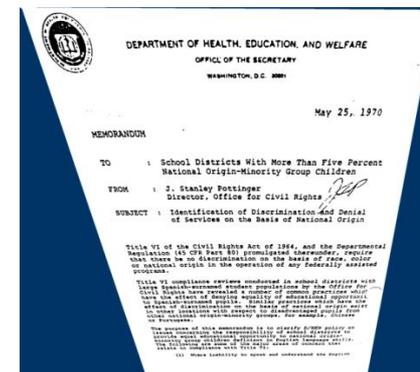
Federal Laws

- **Title VI** of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin.
- Under Title VI, “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 otherwise subjected to discrimination under any program to which this part applies.”



Department's May 1970 Memorandum

- School districts have the responsibility to adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.



Communication with LEP Parents – A few general principles



- School districts should be aware of parents' language needs.
- LEP parents have the right to meaningful access to the same information other parents receive about school matters in an accurate and timely manner.
- Schools may not charge parents for the translation and interpreter services that a school provides.

LEP Parent Communication

- Parent's LEP status is independent of his/her child's English proficiency level.
- Effective, appropriate, and competent interpreters and translators
- Mix of written translations and oral interpretations may be appropriate
- Flexibility in whether to have a written language assistance plan



<http://www2.ed.gov/ocr/ellresources.html>

The screenshot shows the ED.gov website interface. At the top left is the ED.gov logo and the text "U.S. Department of Education". To the right is a search bar with a magnifying glass icon and the word "Search". Below the search bar is a navigation menu with links for "Funding", "Policy", "Research", "News", and "About ED".

The main content area is titled "OFFICES" and features a large "OCR" heading for the "Office for Civil Rights". Below this is a dark blue box containing a list of links: Home, Programs/Initiatives, Office Contacts, Reports & Resources, News, About OCR, Know Your Rights, Prevention, Reading Room, and Questions and Answers.

The central section is titled "English Language Learner Resources" and contains a quote: "Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students." Below the quote is the text "From the OCR May 25, 1970 Memorandum" and a link to "Frequently Asked Questions on the Rights of Limited-English Proficient Students". A note states: "Note : The phrases 'limited-English proficient' and 'English-language learner,' and their respective acronyms, 'LEP' and 'ELL,' are similar in meaning. Both terms are used by the Office for Civil Rights."

Below this is the "OCR Policies" section with a list of links: "May 25, 1970 Memorandum", "September 11, 1984 Memorandum", "December 3, 1985 Memorandum, reissued April 6, 1990", and "1991 OCR Policy".

The next section is "Proposition 227 Questions and Answers" with a link to "Questions That May Be Raised By Proposition 227 (June 10, 1998). U.S. Department of Education, Office for Civil Rights. The document contains questions and answers relevant to Proposition 227 in California."

The final section is "Self Evaluation Materials" with a link to "Programs For English Language Learners - Resource Materials For Planning and".

On the left side, there is a "About ED" sidebar menu with links for Overview, Contacts, Offices (with sub-links for ED Structure and Offices), Boards & Commissions, Initiatives, Publications, ED Performance & Accountability, Budget & Performance, News, Publications, Teaching Resources, FAQs, Contact, Help, Jobs at ED, Online Services, Recursos en español, and Web Survey.

On the right side, there is a "How Do I Find...?" section with a list of links: Grant opportunities, Money for college, Research, best practices, Facts and figures, Accreditation, and More. Below this is a "FD Recovery Act" section with a "LEARN MORE" button. At the bottom right is a "Related Topics" section with a list of links: How to File a Complaint, Topics A-Z, Civil Rights Data, Other Civil Rights Agencies, Recursos de la Oficina Para Derechos Civiles en Español, and Resources Available in Other Languages.

Considerations in Using Title III, Part A and Title I, Part A Funds

- Allowable, allocable, and reasonable costs
- Supplement, not supplant

Use of Funds Requirements in OMB Circular A-87

Office of Management and Budget (OMB) Circular A-87 requires that the use of funds for a specific purpose be:

- necessary and reasonable for the proper and efficient performance and administration of the program; and
- authorized and not prohibited under State and local laws or regulations.

http://www.whitehouse.gov/omb/circulars_a087_2004#43

Supplement, not Supplant

Both Title III, Part A, and Title I, Part A, have supplement, not supplant requirements:

- Under Title I, Part A, funds must supplement, and not supplant non-Federal funds. (section 1120A(b) of the ESEA)
- Under Title III, Part A, funds must supplement, and not supplant other Federal, State, and local funds. (section 3115 of the ESEA)

Supplement, not Supplant – Guiding Questions

To determine if a cost is supplemental, use these four guiding questions to make supplement, not supplant determinations:

1. *What is the instructional program/service provided to all students?*
2. *What does the LEA do to meet Lau requirements?*
3. *What services is the LEA required by other Federal, State, and local laws or regulations to provide?*
4. *Was the program/service previously provided with State, local, and Federal funds?*

“...To the Extent Practicable...”

Portions of both Title III, Part A, and Title I, Part A, contain ‘to the extent practicable’ language, which appears in most instances as follows:

- “...in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.”

Title III – Translation & Interpretation – Parental Notification – Section 3302

Parental notification requirements –

- for Title III-funded local educational agencies (LEAs)
- must be provided by LEAs “...in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand” to parents of all children identified for participation in, or participating in Title III.
- notification of identification for and placement in a language instruction educational program, **and**
- notification of LEA failure to meet Title III annual measurable achievement objectives (AMAOs) if applicable

Title III – Translation & Interpretation – Parental Notification – Section 3302(a)(1-8)

Parents of LEP children identified for participation in or participating in Title III must be annually notified regarding:

- 1) reasons for identification of their child as LEP
- 2) child's level of English language proficiency
- 3) method of instruction in current and other available programs
- 4) how the program will meet the needs of the child
- 5) how the program will help the child learn English & meet State standards
- 6) exit requirements, rate of transition
- 7) in the case of a child with a disability, how such program meets the objectives of the child's IEP program; and
- 8) written guidance on parental rights to decline to enroll, immediately withdraw from, or select another program.

Title III – Translation & Interpretation – Parental Notification – Examples

Examples of LEA use of Title III funds:

- Personnel costs for translating these written notices if the LEA generates its own written notices
- Postage costs for mailing notices
- Personnel costs for holding meetings with families, as needed, in order to orally relay via interpretation information contained in the Title III-required notices
- Contract with a translation company that provides these notices

Title III – Translation & Interpretation – Parental Notification – Examples

Examples of SEA use of Title III funds:

- Personnel costs for translating parental notifications if the SEA provides translated templates for use by LEAs;
- Contract with a translation company that provides these notices.
- Data analysis of State English language proficiency assessment and academic achievement data in order to make LEA AMAO determinations.

Title III – Translation & Interpretation – Supplement, not Supplant

- Title III funds may be used for supplemental translation and interpretation activities that are not provided by the LEA for all students, and for translation activities that are specific to Title III.
- Title III supplement, not supplant requirement (Section 3115(g)): “Federal funds made available under this subpart 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 LEP children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.”

Title III – Translation & Interpretation – Examples

- ***If the LEA has a welcome center*** with staff who are responsible for administering the home language survey to all students and enrolling LEP students, it would not be appropriate to utilize Title III funds to pay their salaries.

Title III – Translation & Interpretation – Examples

- ***If the SEA or LEA has a contract with a translation company*** that provides translated notices for Federal programs, then only the portion of the contract that pertains to Title III notices may be paid for with Title III funds.

Title III – Translation & Interpretation – Examples

- ***If the LEA or school communicates with all parents*** about their child's educational progress by mail, it would not be appropriate to use Title III funds to pay for the postage for LEP students, as this communication is paid for by the LEA or school for all students, and is not Title III-specific.

Title III – Translation & Interpretation – Examples

- ***If the LEA or school communicates on a weekly basis with all parents*** about school activities, it would not be appropriate to use Title III funds to pay for translation or interpretation of these documents or activities, as this LEA and school are obligated to provide meaningful access to information and services provided. Title III funds could be used to pay for supplemental translation or interpretation.

Title III – Translation & Interpretation – Caveats

- Title III funds may not be used by SEAs or LEAs to pay for translation and interpretation costs on State achievement assessments, such as the provision of linguistic accommodations.
- The Title III AMAO notification must be a ‘separate notification.’
- Some LEAs have inquired if they could meet the requirement to provide AMAO notifications in ‘an understandable and uniform format’ by simply posting AMAO results on the LEA website, and sending the link to parents. This action alone would not be sufficient to ensure that parents of LEP students have been notified of their LEA’s AMAO status

Title III – Translation & Interpretation – LEA Activities Under Formula Subgrants

LEAs may provide:

community participation programs, family literacy services, and parent outreach and training activities to LEP children and their families –

- to improve the English language skills of LEP children; and
- to assist parents in helping their children to improve academic achievement and in becoming active participants in the education of their children.
(section 3115(d)(6)(A-B))

Title III – Translation & Interpretation – LEA Activities Under Immigrant Subgrants

LEAs may provide:

- family literacy, parent outreach, and training activities.
- support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth.
- provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth.
- comprehensive community services.

(section 3115(e)(1)(A-G))

Title III – Translation & Interpretation – LEA Activities

For both LEP formula and immigrant subgrants:

Section 3302(e) requires that Title III-funded LEAs implement ...an effective means of outreach to parents of LEP children to inform such parents of how they can (A) be involved in the education of their children; and (B) be active participants in assisting their children to learn English, achieve at high levels in core academic subjects, and meet the same State content and achievement standards all children are expected to meet.

Title I – Use of Funds Requirements

Common requirements apply across Federal programs (such as OMB Circular A-87).

ESEA and ESEA regulations contain specific Title I requirements.

Some requirements vary depending on whether a Title I school operates a schoolwide program or targeted assistance program.

Title I – Use of Funds Requirements – Schoolwide Program School

A Title I school with at least 40 percent low-income children is eligible.

School uses Title I funds to benefit all children in the school.

Bases schoolwide plan on comprehensive needs assessment.

Title I – Use of Funds Requirements – Targeted Assistance School

Title I schools that do not operate as schoolwides are targeted assistance schools.

Provides supplementary educational services to students selected to participate in Title I.

Uses scientifically based research.

Title I – Supplement Not Supplant – Schoolwide Program School

Use Title I funds to supplement the amount of non-Federal funds that the school would receive in the absence of Title I.

Must be sufficient to provide services required by law for children with disabilities and English learners.

Title I – Supplement Not Supplant – Targeted Assistance School

Student-level requirement.

Ensure that Title I funds are used on top of non-Federal resources to provide services to students.

No requirement to use a particular instructional strategy or setting.

Title I – Communications with Families

Title I-specific requirement.

Examples include notification to parents of LEA improvement status and parent involvement policy.

Must be “to the extent practicable” in a language understandable to parents.

Title I – Example – SES Notice to Parents

Supplemental educational services (SES) notice to parents.

Could an LEA use Title I funds to translate or interpret the notice?

Selected factors to consider: necessary and reasonable relationship to SES parent outreach and assistance.

Title I – Example – Parent Teacher Conference Notice to Parents of Title I Students

LEA uses non-Federal funds for parents of non-Title I students.

Considers using Title I funds for the same activity for parents of Title I students.

Could an LEA do this?

Case Study Examples – Bringing it all Together - Applications to Titles III, I, and VI

State-Level Example - State report cards

- The State is required, under Title I, Part A, to prepare and disseminate an annual State report card. Let's suppose the State also wants to prepare an annual report card for parents of ELs, or wants to augment the State report card required under Title I to provide more information about English language proficiency assessments.

Could Title III funds be used for this purpose?

Case Study Examples – Bringing it all Together - Applications to Titles III, I, and VI

LEA Level Example - LEA information to parents

- Title I, Part A requires that certain information be relayed to parents at the beginning of each school year and after achievement assessment results are received.

Could Title III funds be used for this purpose?

Case Study Examples – Bringing it all Together - Applications to Titles III, I, and VI

School Level Example - Services to LEP students

- Let's take an example of a student, Jean, who is a refugee from Cote D'Ivoire and enters the LEA in December. What would the Title VI and other OCR obligations be for Jean in terms of translation and interpretation, and how might Title III and I funds be used to provide translation and interpretation services to him and his family?

Questions and Comments

Resources and Contact Information

Angela.Martinez-Gonzalez@ed.gov, Office for Civil Rights (OCR)

<http://www2.ed.gov/about/offices/list/ocr/ellresources.html>

Todd.Stephenson@ed.gov, Policy Coordination Group, SASA, Office of Elementary & Secondary Education (OESE)

<http://www2.ed.gov/programs/titleiparta/index.html>

Millicent.Bentley-Memon@ed.gov, Title III Group, SASA, OESE

<http://www2.ed.gov/programs/sfgp/index.html>

