

## **Allowable Use of State and Federal Funds for ELLs**

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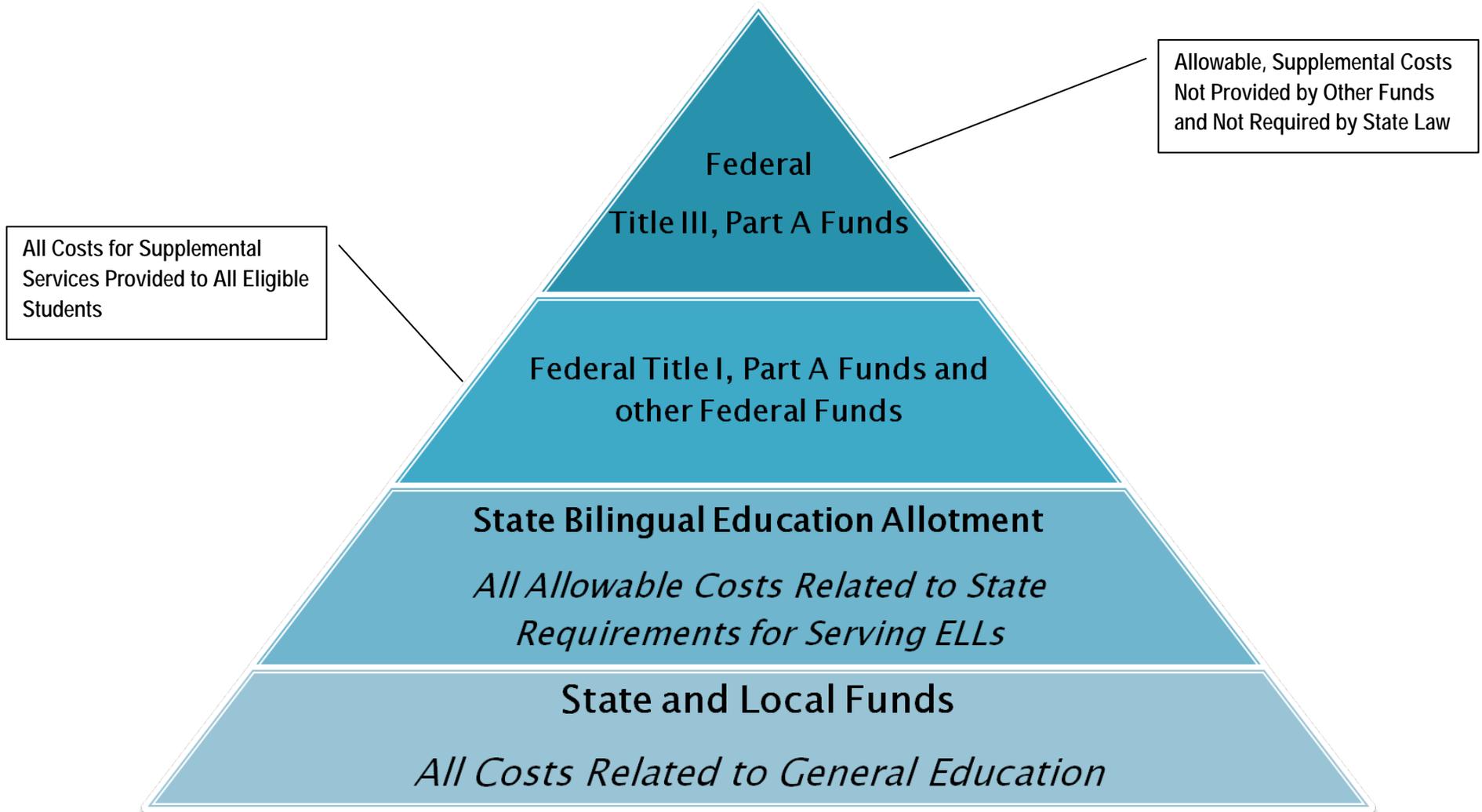
## Introduction

Title III, Part A provides supplemental resources to local education agencies to help ensure that children who are English language learners (ELLs), also identified in statute as limited English proficient (LEP), attain English proficiency at high levels in core academic subjects to meet the same challenging State academic content and student academic achievement standards as are expected of their English-speaking peers.

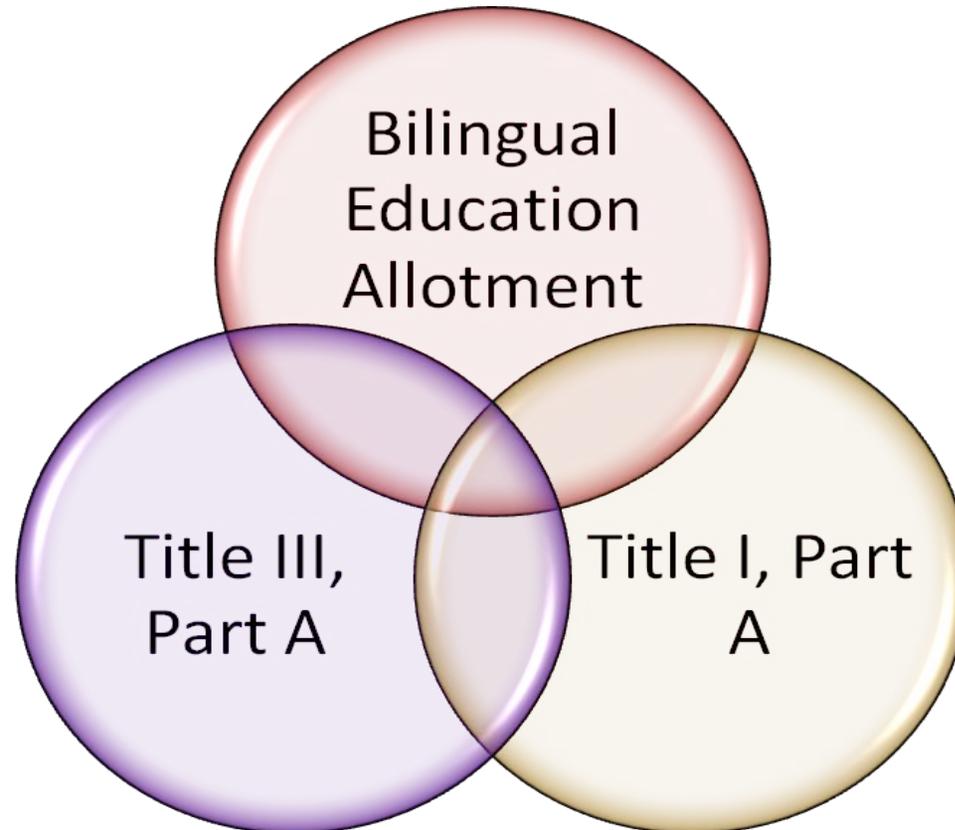
The purpose of the following resources is to assist Local Education Agencies (LEAs) make decisions regarding the use of state and federal funds to support ELLs in Texas. We hope that these documents help LEAs understand how state and federal requirements guide the use of funds in meeting the academic achievement needs of our ELLs.

Thank you for your continued support to ensure the success of ELLs in Texas.

## State and Federal Funds that Serve English Language Learners in Texas



## Supplementing State and Federal Funds



**Supplement** – to add, to enhance, to expand, to increase, to extend, to create something new.

Federal funds may be used only to supplement the education programs generally offered with state and local funds.

## State and Federal ‘Use of Funds’ Terms and Definitions

1. **Administrative Requirements** - Those matters common to grants in general, such as financial management, kinds of frequency of reports, and retention of records.
2. **Appropriation** - The amount of funds approved to be expended under an authorized bill.
3. **Authority reference** - An accepted source of information; usually referencing a particular statute, regulation, rule, guideline, policy, etc.
4. **Code of Federal Regulations (CFR)** - Federal regulations (i.e., governing directions or laws) which have been codified (i.e., classified or arranged in a systematic collection).
5. **Cost Principles** - Establishes principles for determining the allowability/unallowability of certain costs for grants. Also establishes the requirement for prior approval by the grantor agency of certain costs. *OMB circular-87, Cost Principles for State and Local Governments*, established costs principles for grants with school districts and regional education service centers.
6. **Federal Costs** - must conform to federal law and grant terms and must be legal under state and local law; in accordance with Generally Accepted Accounting Principles (GAAP); reasonable; necessary; allocable; and adequately documented.
  - **Reasonable** - a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
  - **Necessary** - a cost is necessary when it is vital or required in order to meet the objectives of the grant or for the grant to be successful. It is not just a “nice to have.”
  - **Allocable** – a cost is in proportion to the value received by the program. For example, if an LEA purchases a printer to use 50% in the Title III program and 50% in a state program, the LEA can only charge 50% of the cost to the Title III program.
  - **Adequately Documented** – auditable records that show compliance, performance, and use of funds.

7. **General Education Provisions Act (GEPA)** - A compilation of general provisions concerning education. These provisions apply to any program administered by the Secretary of Education.
8. **Local Educational Agencies (LEAs)** - A public school district, open enrollment charter school, or regional education service center.
9. **Maintenance of Effort (MOE)** - A provision common to many federal education authorizing statutes. This provision states, in general, that a grantee (usually an LEA) may receive grant funds under a particular federal program for any fiscal year only if either the combined fiscal effort per student or the aggregate expenditures of the LEA with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year. According to this provision, when an LEA has not maintained effort, the state agency must reduce the amount of the allocation of funds under the grant program in any fiscal year in the exact proportion to which the LEA fails to meet the requirement by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA) (example of MOE requirement: P.L. 103-382 Title XIV, Section 14501). Grantees should carefully review the applicable program statute and regulations to determine if the maintenance of effort requirements applies and to ensure they are in full compliance with such requirements.
10. **Supplementing** - using federal funds to enhance or add to existing LEA programs and services.
11. **Supplanting** - using federal funds to replace other non-federal funds.
12. **Supplement, not Supplant** - A provision common to many federal education authorizing statutes. This provision states, in general, that a state agency or local educational agency may use and allocate funds received under a particular grant only to supplement and, to the extent practical, increase the level of funds that would, in the absence of federal funds made available under these grant funds, be made available from non-federal sources, and in no case may such funds be used to supplant funds from non-federal sources. This means:
  - LEAs may not divert state and local funds for other uses simply because these particular federal grant funds are available.
  - LEAs may not use these federal grant funds to pay for activities required by state law, State Board of Education, or local district policy.

- LEAs may use these federal funds to expand existing programs and/or add new programs that would not otherwise be available from state and local funding sources.

*Grantees should carefully review the applicable program statute and regulations to determine if the supplement, not supplant requirement applies and to ensure they are in full compliance with such requirements.*

13. **Texas Administrative Code (TAC)** - The TAC is a compilation of all state agency rules in Texas. These rules are collected and published by the Office of the Secretary of State. There are 16 titles in the TAC. Each title represents a subject category, and related agencies are assigned to the appropriate title. State Board of Education and commissioner of education rules are codified in the TAC under Title 19, Education, Part 2, Texas Education Agency. State Board for Educator Certification rules are codified in the TAC under Title 19, Education, Part 7, State Board for Educator Certification.
14. **Texas Education Code (TEC)** - The TEC is a set of the state statutes (laws) governing public education in Texas. It applies to all educational institutions supported in whole or in part by state tax funds, unless specifically excluded by the code. The TEC directs the goals and framework of public education in Texas. It is established by the Texas Legislature.

## GUIDANCE ON BILINGUAL EDUCATION ALLOTMENT (BEA) AND TITLE III, PART A FUNDS

PURPOSE	BILINGUAL EDUCATION ALLOTMENT (BEA)	TITLE III, PART A FUNDS
<b>A. ALLOWABLE PROGRAM EXPENDITURES</b>		
<b>Program and Student Evaluation</b>	<p>It is allowable to use the Bilingual Education Allotment (BEA) to purchase materials for bilingual and special language programs or for English language learners *(ELLs) student evaluation as long as these are not assessments required to be administered to all students as part of other **district/school evaluations. Allowable purchases are: assessment instruments for identification, placement, and exiting of students, i.e. assessments from the List of Approved Tests for Assessment of Limited English Proficient Students* (LEP); TEJAS LEE, other state supported English language proficiency tests, i.e. Texas English Language Proficiency Assessment System (TELPAS).</p> <p style="text-align: center;">*The acronyms LEP and ELL are used interchangeably</p> <p style="text-align: center;">**The acronym for local education agency (LEA) is used interchangeably with district</p>	<p>Title III does require that LEAs receiving funds provide services that increase the English proficiency of limited English proficient children by providing high-quality bilingual/ESL programs that are based on scientifically based research. The goal is to increase English proficiency and student academic achievement in the core academic subjects.</p> <p>Title III also allows LEAs to use funds to upgrade program objectives and implement effective instructional strategies.</p> <p>Regarding program evaluation, each LEA receiving funds under Title III, Part A is required to submit an evaluation to the Texas Education Agency every fiscal year. The evaluation is used by the LEA for the improvement of programs and activities and to determine the effectiveness of approaches used.</p> <p>An annual compliance report form for Title III, Part A is available to LEAs on eGrants at the end of each school year.</p>
<b>Instructional Materials and Equipment</b>	<p>It is allowable to use the Bilingual Education Allotment (BEA) to purchase materials that ensure linguistic and academic differentiation/support of English language learners. Allowable purchases include: visual aids (cameras, videos, pictures, posters, computers, CDs, DVDs) and manipulatives (math, reading, science, etc) that are directly related to the enhancement of instruction to</p>	<p>LEAs can use Title III funds to improve the instructional program for limited English proficient children by identifying, acquiring, and upgrading curricula, instructional materials, educational software, and assessment procedures. Any instructional materials and equipment purchased with these funds must be supplemental to the regular instructional program and cannot be purchased to meet</p>

PURPOSE	BILINGUAL EDUCATION ALLOTMENT (BEA)	TITLE III, PART A FUNDS
	<p>ELLs. These instructional materials and equipment that serve the needs of ELLs are above and beyond the materials and equipment provided to all the other teachers in the general education program.</p>	<p>state or other federal requirements.</p>
<p><b>Staff Development</b></p>	<p>It is allowable to use the Bilingual Education Allotment (BEA) to build educators' capacity to differentiate instruction, curriculum, and assessment for linguistically, academically, and culturally diverse students. It is allowable to pay for ELL diversity training such as English Language Proficiency Standards (ELPS), Sheltered English Instruction, Gifted and Talented ELLs, Texas English Language Proficiency Assessment System (TELPAS), and Language Proficiency Assessment Committee (LPAC).</p>	<p>Whether this is an allowable use of Title III funds depends on the following:</p> <ul style="list-style-type: none"> <li>• Purpose for Attending – If the training is required (for example, by the district for those with certain teaching placements, etc.), then this is NOT allowable;</li> <li>• Funding of Training – If funded through a source (such as a State grant, etc.) that could provide for this, then it is NOT allowable; and</li> <li>• All Other Supporting Conditions – If it is not to meet a requirement and no other funding source is available for it, this is allowable as long as all other supporting conditions are met (reflected in application, necessary and reasonable, the teachers are serving LEP students, etc.).</li> </ul> <p><b>Examples</b></p> <p>A. It may be allowable to use Title III funds for a teacher to attend Sheltered Instruction training, provided that it is not required by local policy (for certain teaching assignments, etc.) and all other supporting conditions are met (e.g., reflected in the application, necessary and reasonable, the teachers are serving LEP students, etc.).</p> <p>It is NOT allowable to use Title III funds to send a teacher to training on the Texas English Language Proficiency Assessment System (TELPAS), as state policy requires administration of the TELPAS and training is required in order to administer it.</p>

PURPOSE	BILINGUAL EDUCATION ALLOTMENT (BEA)	TITLE III, PART A FUNDS
	<p>It is allowable to use the Bilingual Education Allotment (BEA) to pay for educators to attend conferences, district, and regional Education Service Centers (ESC) bilingual and ESL trainings to serve needs of ELLs if these trainings are above and beyond the trainings received by all the other teachers in the general education program. Trainings must be targeted to meet the affective, linguistic, and cognitive needs of ELLs.</p>	<p>It may be allowable under certain circumstances to use Title III funds to pay for conferences and meetings if they are a part of a long-term, comprehensive professional development plan that is of 'sufficient intensity and duration' as outlined in Title III statute.</p>
<p><b>Bilingual or ESL certification training and certificate</b></p>	<p>At the District's discretion, is allowable to use the Bilingual Education Allotment (BEA) to provide the training for teachers desiring to obtain a bilingual or ESL certification and/or to provide a stipend for certification.</p>	<p>This may be an allowable use of Title III funds if the school district is meeting all state requirements regarding Bilingual/ESL certification of its teachers. It is only allowable to use Title III funds for certification efforts that are above and beyond what is required under state policy.</p> <p><b>Examples</b></p> <p><b>A)</b> It is allowable to use Title III funds to pay for ESL certification training, testing, or stipends to attend the training if the purpose is to build capacity in order to be able to provide content-based ESL, rather than ESL pull-out instruction. This only allowable provided that the LEA is meeting state requirements to provide ESL but wishes to improve the ESL program by paying for more teachers to be ESL-certified.</p> <p>It is NOT allowable for a school district that is under a bilingual exception or ESL waiver to use Title III funds to help meet the state requirement that it uses 10% of its BEA for certification training.</p> <p>This is NOT allowable if the certification meets a state requirement for teachers assigned to teach English language learners.</p>

PURPOSE	BILINGUAL EDUCATION ALLOTMENT (BEA)	TITLE III, PART A FUNDS
<b>Supplemental Staff Expenses</b>	It is allowable to use the Bilingual Education Allotment (BEA) to provide extended-day tutorials for ELLs; academic enhancement; and linguistic acceleration of English proficiency acquisition. It is allowable to use the Bilingual Education Allotment (BEA) to hire bilingual teacher assistants to supplement quality instruction provided by bilingual and/or ESL certified teachers. It is also allowable to pay for a bilingual/ESL program coordinator/facilitator, however; this person should be funded out of BEA indirect costs.	Use of the term, extra-duty pay, typically refers to payment to staff already paid through the same program in question. As long as the activity is Title III-specific and supplemental (and meets all other supporting conditions, such as necessary and reasonable, etc.), it is allowable.
<b>Salary Supplements for Teachers</b>	It is allowable to use the Bilingual Education Allotment (BEA) to provide a stipend to secure highly qualified bilingual and ESL teachers for ELLs.	It is not allowable to use Title III funds to pay bonuses or stipends based on teachers having bilingual/ESL certification, as securing the certified teacher meets a state requirement for teachers assigned to teach English language learners.
<b>Other supplies required for quality instruction and smaller class size</b>	It is allowable to use the Bilingual Education Allotment (BEA) for printing costs for additional bilingual/ESL materials required for quality instruction and smaller class size.	As long as the other supplies are supplemental to all other funds and are not used to meet any other state or federal requirements, Title III funds can be used for this purpose in order to improve the English proficiency and academic achievement of limited English proficient children. This can include the acquisition or development of educational technology or instructional materials; access to, and participation in, electronic networks for materials, training, and communication; and incorporation of the resources into curricula and programs.

PURPOSE	BILINGUAL EDUCATION ALLOTMENT (BEA)	TITLE III, PART A FUNDS
<b>B. ALLOWABLE ADMINISTRATIVE COSTS (DIRECT AND INDIRECT COSTS)</b>		
<b>INDIRECT COSTS</b>	<p>The State Board of Education (SBOE) allows districts to use their state allotment for indirect costs (19 TAC §105.11)</p> <p>Indirect costs are expenditures classified under the following function codes:</p> <ul style="list-style-type: none"> <li>34 – Student Transportation</li> <li>41 – General Administration</li> <li>81 – Facilities Acquisition and Construction</li> <li>90 – Intergovernmental Charges</li> <li>91 – Contracted Instructional Services Between Public Schools</li> <li>92 – Incremental Costs Associated with Chapter 41, Texas Education Code, Purchase or Sale of Weighted Average Daily Attendance (WADA)</li> <li>93 – Payments to Fiscal Agent/Member Districts of Shared Services Arrangements</li> <li>95 – Payments to Juvenile Justice Alternative Education Programs</li> <li>97 – Payments to Tax Increment Fund</li> <li>99 – Other Intergovernmental Charges</li> </ul>	<p>It is allowable to use Title III funds to pay for administrative costs to implement the Title III program. However the amount of Title III funds which may be used to pay administrative costs to implement the program must not exceed 2% of the program’s budget amount. In calculating total administrative costs subject to the 2% limit, all appropriate <u>indirect and direct costs</u>, such as administrative salaries, must be included. If the LEA contracts with an outside vendor to provide Title III services, the LEA must require that the contractor break out administrative costs, which are included within the 2% limit, as well.</p> <p>NOTE: Administrative costs include both direct administrative costs and indirect costs. Indirect administrative costs include costs associated with human resources, budgeting, accounting, purchasing, and other fiscal activities such as auditing. The salaries and benefits of staff that supervise program staff are part of the LEA’s direct administrative costs.</p>

## State and Federal Funding Allocations for ELLs

### Basic Allotment – TEC §42.101

For each student in average daily attendance, not including the time students spend each day in special education program in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment equal to the lesser of \$4,765 or the amount that results from the following formula:

$$A = \$4,765 \times (\text{DCR}/\text{MCR})$$

### Compensatory Education Allotment - TEC§42.152

Funds allocated under this section shall be used to fund supplemental program and services designed to eliminate any disparity in performance on assessment instruments administered under Subsection B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out, as defined by Section 20.081, and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 percent, may be used to meet the costs of providing compensatory, intensive, or accelerated instruction program under Section 29.081 or an alternative education program established under Section 37.008 or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Public Law No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory education allotment shall be used for costs supplementary to the regular education program, such as cost for program and student evaluation, instructional materials, and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction.

### Bilingual Education Allotment – TEC§42.153

For each student in average daily attendance in a bilingual education or special language program, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. A district's bilingual education or special language allocation may be

used only for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

## **Title I – Part A**

Title I, Part A - Improving Basic Programs Operated by Local Education Agencies (LEA) provides supplemental funding to state and LEAs. The funding is for resources to help schools with high concentrations of students from low-income families provide a high-quality education that will enable all children to meet the state's student performance standards. Title I, Part A supports schools in implementing either a school-wide program or a targeted assistance program. These programs must use effective methods and instructional strategies that are grounded in scientifically based research.

### Census Updates

The U. S. Department of Education (USDE) allocates, through the state education agency, Title I, Part A funds by LEA using the Census Bureau's 2008 school district estimates of poor school-age children (NOT free and reduced price lunch) and the annual update of neglected and foster home children.

### Hold-Harmless Amounts

As required by Public Law 107-110, Section 1122(c), the USDE will allocate basic, concentration, targeted, and Education Finance Incentive Grant (EFIG) funds using a variable hold harmless based on the percent the LEA's formula children are of the LEA's 5-17 population as reflected below:

- 95% of prior-year entitlement if formula children are 30% or greater;
- 90% of prior-year entitlement if formula children are 15% and less than 30%;
- 85% of prior-year entitlement if formula children are less than 15%.

### Basic Grant

1. Children to be Counted (ages 5-17, inclusive) – An LEA's Basic Grant shall be based on the number of formula children residing within the LEA boundaries. Formula children are defined as:

- a. low-income children as documented by the Census Bureau's poverty criteria (**not** free/reduced-price lunch criteria);
- b. children who live in foster homes as reported by the Department of Protective and Regulatory Services; and
- c. children who live in facilities for neglected children as reported on the Annual Survey of Children in Local Facilities for Neglected Children (SC9000 through eGrants).

2. LEA Eligibility – in order to be eligible for Title I, Part A Basic Grant funds, an LEA must have:
- a. at least ten formula children; and
  - b. the number of formula children must be greater than two percent of the LEA’s population (ages 5-17, inclusive, as documented by the Census Bureau’s poverty criteria).

(More detailed information is available in *Appendix 15: Funding Formulas* at [www.tea.state.tx.us/nclb](http://www.tea.state.tx.us/nclb).)

### **Title III – Part A – ELA**

Title III, Part A provides supplemental resources to local education agencies to help ensure that children who are English language learners (ELLs), also identified in statute as limited English proficient (LEP), attain English proficiency at high levels in core academic subjects to meet state mandated achievement performance standards.

Title III, Part A funds must be used to supplement, and not supplant, any other federal, state, or local funds. They cannot be used to fund programs that are required by state law. Title III, Part A funds must supplement and not supplant state-required programs and services.

The USDE distributes Title III, Part A funds to states according to a formula that provides 80% of the funds based on the number of ELL students and 20% based on the number of immigrant students.

Funding allotments for all districts and charter schools are calculated based on the number of ELL students enrolled in the districts, according to the most recent PEIMS data available. Additional funding allotments for districts experiencing a significant increase in immigrant enrollment over the two previous years are determined using a formula that takes into account district size, the number of immigrant students, and the percentage increase over two years.

According to statute, the state may not award a subgrant for less than \$10,000. LEAs that are scheduled to receive less than \$10,000 are required to join a shared services arrangement (SSA) with one or more LEAs in order to receive funding.

The state sets aside a percentage of Title III, Part A funds to allocate to LEAs that have experienced significant increases in the number of immigrant students enrolled in the LEA.

#### Allocation of LEP Funds to Local Education Agencies

Allocations are based on the number of students identified as limited English proficient and served with parent permission as reported to PEIMS in the fall of the previous year and served in a bilingual/ESL programs.

### Allocation of Immigrant Funds to Local Education Agencies

Allocations are based on the number of students identified as immigrant in the fall of the previous three years as reported to PEIMS. An average number is obtained from year 2 and year 3 immigrant data. This average is subtracted from the number of immigrant students reported for the most current year and the difference must be a 'significant increase' as defined by the state. A 'significant increase' of immigrant students for an LEA to qualify for immigrant funds is defined as at least 100 or more immigrant students or a 50% increase.

(More detailed information is available in *Appendix 15: Funding Formulas* at [www.tea.state.tx.us/nclb](http://www.tea.state.tx.us/nclb).)

**Thank You!**

Visit [www.elltx.org](http://www.elltx.org) for more information and resources.

The screenshot shows the homepage of the Texas English Language Learners Portal. At the top, the title "TEXAS ENGLISH LANGUAGE LEARNERS PORTAL" is displayed in white on a dark blue background, with the TEA logo to the right. Below the title is a navigation bar with links for "HOME", "BILINGUAL/ESL SERVICES", "TITLE III, PART A - ELA", and "CONTACTS". A search bar is located on the right side of the navigation bar. The main content area features three large, colorful tiles. The first tile is dark blue and contains a photo of a young girl with a backpack, with the text "Assessment, Compliance & Accountability, and Teacher Certification" below it. The second tile is orange and contains a photo of a young woman holding books, with the text "Instructional Environment" below it. The third tile is green and contains a photo of a young boy at a desk, with the text "Professional Development & Additional Resources" below it.