

Language Assistance Plan Guidance

General Fund LAP

All students that are designated as English Learner (EL) have the right to supports provided by the language assistance program (LAP). This program is a requirement of all districts. Title III supplemental funds are accessible to districts only after they have met this **general fund requirement**.

- *“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.”* **OCR May 25, 1970 Memorandum.**
- *In 1974, the Supreme Court upheld this requirement to take affirmative steps in the [Lau v. Nichols decision, 414 U.S. 653 \(1974\)](#). The May 25th Memorandum, as affirmed by Lau, continues to provide the legal standard for the Education Department's Title VI policy concerning discrimination on the basis of national origin. This decision states that the lack of supplemental language instruction in public school for students with Limited English Proficiency (LEP) violated the Civil Rights Act of 1964.*

The LAP focuses on two main components of support for EL students. These supports become part of the Tier I instruction for all ELs. These two components are:

- Meaningful Access to the Core Curriculum
 - These are the supports that are put in place to support ELs to access the core instruction in the classroom. Some examples of these supports might include push in support from an EL teacher or paraprofessional, modified classes (sheltered) for ELs, language instructional supports (vocabulary pre-teaching, alternate texts, etc.), or extra tutoring.
- Direct English Language Development Instruction
 - This instruction is intentionally designed to develop English language. This support is provided by a **certified and endorsed EL teacher**. This direct instruction must happen with sufficient frequency and intensity to ensure that students achieve proficiency in English.

All Local Educational Agencies (LEAs) receiving **any** supplemental State or Federal funds are required to **demonstrate how they are using general funds to support ELs** by completing the “LAP Provided to English Learners” template located on the OES website under Programs, Title III - English Learner & Immigrant Education Programs. The Template will be completed in the Consolidated Application in NexSys. LEAs that do not have ELs enrolled during the submission of the Consolidated Application will have a plan in place for new EL enrollees and must also submit the “LAP Provided to English Learners” Template articulating that in NexSys.

Title III – Supplemental Funds

LEAs may only use Title III funds to [supplement the existing supports for ELs](#) (see pg.6). For Title III to be considered supplemental, Title III funds must be used to supplement **the level of Federal, State, and local funds** that, in the absence of Title III funds, would have been expended for programs for ELs and Immigrant children and youth (**ESSA Sec.3115(g)**). One such program is the Office of Civil Rights' requirement of districts to provide LAP services to ELs (**Title VI of Civil Rights Act, 1964; Lau vs. Nichols, 1974 - see above**).

Federal funds must be used to supplement **the level of Federal, State, and local funds** that, in the absence of Title funds, would have been expended for programs for ELs (*i.e. LAP*). To determine if a cost is supplemental, use these guiding questions to make supplement, not supplant determinations:

1. Does the LEA use Federal funds to provide services that the LEA was required to make available under other laws (as in the LAP)? or
2. Does the LEA use Federal funds to provide services that the LEA provided with non-Federal funds in the prior year (**ESSA Sec. 3115(g)**)?

Adequate Services:

Teachers of ELs must have the qualifications and preparation necessary to deliver evidence-based instruction that would help ELs develop proficiency in English while meeting State academic content and student academic achievement standards. This includes a Michigan-issued teaching license as well as an English as a Second Language (ESL) or Bilingual endorsement.

LEAs are expected to employ the teachers necessary to implement their chosen EL and Immigrant Program of Services properly within a reasonable period of time. They must maintain documentation of proper certification/license (endorsements) for instructional staff of ELs (**Title VI of the Civil Rights Act of 1964 - OCR Guidelines and ESEA Sec. 3115**).

Note: LEAs may not relegate ELs to second-class status by indefinitely allowing teachers without formal qualifications to teach them while requiring teachers of non-EL students to meet formal qualifications (**34 C.F.R. §100.3(b)(ii)**).

- (ii) Provide any service, financial aid, or other benefit to an individual that is different, or is provided in a different manner, from that provided to others under the program.
- R390.1105(1) (1) A person employed as a teacher in grades K to 12 with instructional responsibilities shall hold a certificate, permit, or occupational authorization valid for the positions to which the teacher is assigned.

Meaning, ELs should not be receiving instruction from aides (paraprofessionals) rather than teachers.

For questions, contact your OES Regional Education Consultant; or email Kelly Alvarez, MDE EL Consultant at AlvarezK@michigan.gov, or Michelle Williams, Manager, OES Special Populations Unit at WilliamsM48@michigan.gov.