



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

Although ED has issued new guidance that addresses this subject under the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, this guidance remains in effect through the 2016–2017 school year.

October 2, 2008

Dear Chief State School Officer:

We are writing to draw your attention to some issues regarding State and local implementation of the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the No Child Left Behind Act of 2001 (NCLB). During our recent monitoring of Title III programs, the U.S. Department of Education (Department) has encountered several State and local practices that suggest the need to clarify for States some general principles of the Title III non-supplanting provision. In addition, the Department has received a number of questions from States regarding allowable expenditures of Federal funds – particularly Title I and Title III funds – on the development and administration of English language proficiency (ELP) assessments.

Attached you will find guidance to provide you with information on these topics. This guidance represents our current thinking on these issues. It does not create or confer any rights for or on any other person. Furthermore, this guidance does not impose any requirements beyond those required under applicable law and regulations.

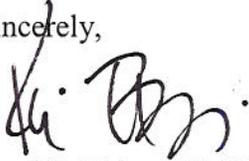
If you are interested in commenting on this guidance, please email the Department at oela@ed.gov or write to us at the following address: U.S. Department of Education, Office of English Language Acquisition, Lyndon Baines Johnson Building, 400 Maryland Avenue, SW, Room 5C-132, Washington, DC 20202-6510.

This guidance is based on our interpretation of relevant statutory provisions. Therefore, the Department strongly urges each State to ensure that both its use of Title III State Activity funds and its subgrantees' use of Title III funds at the local level are consistent with this guidance. The Department intends to include a section on supplanting in State and subgrantee programs and practices, consistent with this guidance, in its monitoring protocols for both our on-site and desk monitoring processes and in the guidance for Single Audit Act auditors, beginning with the Title III grants that will be awarded in July 2009.

We appreciate the resources and efforts that you have expended to help ensure that all limited English proficient (LEP) students attain English language proficiency and meet the high academic standards required by No Child Left Behind. If you have any questions or concerns about the non-supplanting requirements under Title III of the ESEA, or if you

would like technical assistance to ensure that your State's policies and procedures are in compliance with Title III, please do not hesitate to contact us. We appreciate your continued support as we work together to improve the coordination and effectiveness of our services to LEP students under Federal programs.

Sincerely,



Kerri L. Briggs, Ph.D.
Assistant Secretary
Elementary and Secondary Education



Richard L. Smith
Acting Assistant Deputy Secretary
English Language Acquisition

Attachment

cc: State Title I and Title III Directors