

# Side-by-Side Guidance Document: Allowable vs. Unallowable Use of Funds To Support English Learners



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## Side-by-Side Guidance Document: Allowable vs. Unallowable Use of Funds to support English learners

This side-by-side document provides guidance on allowable vs. unallowable use of the Bilingual Education Allotment (state) and Title III, Part A (federal) funds. This document serves as a tool for Local Education Agencies (LEAs) to align with each program’s statutory authority, policies and practices. The terms Local Education Agency (LEA) and School Districts are used interchangeably throughout this document.

### Bilingual Education Allotment (BEA) - State Funds

Statutory Authority: Texas Education Code §42.153

Districts are required to spend at least **55%** of BEA on Direct Program Costs

- **Direct Costs:** are costs that can be directly and wholly attributed to a specific fund, function, object, organization, or program intent.

Districts that apply for a Bilingual Education Exception and/or ESL Waiver must assure that they will use a minimum **10%** of their total BEA funds for their comprehensive professional development plans.

*The 10% is applied to the 55% of BEA Direct Program Costs*

### New Under House Bill 3: Expands the Bilingual Education Allotment (BEA) to incentivize funding for dual language programs

<b>Bilingual Education Allotment Weights</b>	
<i>Identified English learners whose parents have denied program services do not generate any funding</i>	
<b>0.1</b>	<b>English Learners</b> in average daily attendance in a standard or alternative bilingual education or an ESL program.
<b>0.15</b>	<b>English Learners</b> in average daily attendance in a dual language immersion one-way or two-way program model.
<b>0.05</b>	<b>English proficient and Reclassified English Learners</b> in average daily attendance in a dual language immersion two-way program model.

#### Resources:

[\(TEC\) §29.051 - 29.064](#)

[Chapter 89. Adaptations for Special Populations Subchapter BB. Commissioner's Rules Concerning State Plan for Educating English Learners](#)

[Allowable Use of BEA Funds for Comprehensive PD Plan](#)

[House Bill 3](#)

[The Financial Accountability System Resource Guide \(FASRG\)](#) provides guidance on each special allotment intent and purpose related to the student group it serves by having Program Intent Codes (PIC) allocations. Additionally, each PIC has a minimum “direct services” expectation which means a specific amount of the money must be spent in direct services to the targeted student population. The following provides guidance on Bilingual Education Allotment (BEA funds):

### Program Intent Code (PIC) 25 – Bilingual Education and Special Language Programs

Costs incurred to evaluate, place and provide educational and/or other services that are intended to make the students proficient in the English language, primary language literacy, composition and academic language related to required courses.

**Program Intent Code (PIC) 35 – Pre-Kindergarten Bilingual Education**

Costs incurred for prekindergarten bilingual education programs designed to develop skills necessary for success in the regular public-school curriculum, including language, mathematics, and social skills.

PIC 25 Costs to Include		
Provision of a Bilingual program	Instruction in primary language	Program and student evaluation
Provision of ESL instruction	Supplemental staff expenses	Salary supplements for teachers
Services intended to make students proficient in English	Staff development	Increase cognitive academic language proficiencies
Bilingual services to immigrant students	Instructional materials and equipment	Supplies required for quality instruction and smaller class size

PIC 25 Costs to Exclude (with correct PIC)		
Foreign language courses (PIC 11)	All Disciplinary Alternative Education Program (DAEP) (PIC 28)	Salary of bilingual/ESL instructors (PIC 11)

*Texas public school districts direct cost expenditure requirement on Bilingual Education Allotment = 55% (Minimum)  
TEA monitors compliance on BEA funds by looking at the percent the school district spends on direct costs (Sum of PIC 25 + PIC 35)*

**Title III, Part A - Federal Funds**

Statutory Authority: Every Student Succeed Act (ESSA)

The state allocates **95%** of Title III funds for Local Education Agency (LEA) subgrantees

The state may only reserve up to **5%** of the total state grant for state activities

Title III statute limits the amount of funds that may be budgeted to administer the program, including direct administrative costs to no more than 2%.

**Shared Service Arrangement (SSA)**

A shared service arrangement (SSA) is an agreement between two or more school districts, open-enrollment charter schools, and/or ESCs. The SSA provides services for all of the entities involved. Such entities may desire to enter into an SSA for the performance and administration of a program in order to maximize the use of funds and services to be provided. In every SSA, a fiscal agent is designated to be ultimately responsible for compliance with grant requirements and conducting administrative duties.

Written SSA Agreement

A formal written agreement is required that defines the composite entity and describes the responsibilities of its fiscal agent and of each SSA member. At a minimum, this agreement contains the following information;

- Legal requirements:
  - Organization of the shared services arrangement
  - Ownership of assets
  - Policies and procedures addressing disposition of assets if the SSA is terminated by one or all members

- Policies and procedures addressing carryover funds if the SSA is terminated by one or all members
- Liabilities, including legal fees due to complaint, grievance, litigation, refund from onsite monitoring, audit, etc.
- Basis for allocation of costs of the fiscal agent
- Uncontrollable costs that impact the fiscal agent
- Responsibilities of the designated fiscal agent:
  - Services to be provided to SSA members
  - Employment of personnel
  - Budgeting and accounting
  - Reporting
- Responsibilities of each SSA member:
  - Employment of personnel
  - Budgeting and accounting
  - Reporting

**Note:** School districts who are participating in an SSA should reference their SSA agreement and/or contact their designated fiscal agent on how Title III, Part A funds are being expended to avoid supplanting at the local and/or fiscal agent level.

#### **Title III, Part A is meant to:**

- Ensure that ELs, including immigrant children and youth, attain English proficiency and develop high levels of academic attainment in English
- Assist all ELs, including immigrant children and youth, to achieve at high levels in academic subjects to meet the Texas Academic Standards
- Assist and establishing, implementing, and sustaining effective language instruction educational programs designed to assist in teaching ELs
- Provide high-quality, effective professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals and other school leaders, administrators, and other school or community based-organizational personnel
- Promote parental, family, and community engagement activities and strategies that enhance or supplement language instruction educational programs for English learners.

#### **Resources:**

[Title III Allowable Use of Funds FAQ](#)

[Clarifying Title III LEA Required Activities under ESSA](#)

[Supplement, Not Supplant Handbook](#)

## **Supplement, Not Supplant**

### **Definition of Supplement, Not Supplant**

The term “supplement, not supplant” is a provision common to many federal statutes authorizing education grant programs. There is no single supplement, not supplant provision. Rather, the wording of the provision varies depending on the various statutes. In order to be in compliance with each program’s version of the supplement, not supplant

requirements, LEAs must be cognizant of how the provision is applied in each specific program.

Citation	Supplement, Not Supplant Provision
<p><b>ESEA of 1965, as amended by ESSA, Title III, Part A – English Language Acquisition, Language Enhancement, and Academic Achievement</b> [Section 3115 (g)]</p>	<p>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 limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.</p>

Title III funds are supplemental and are to be used over and above the LEA’s required services and resources provided to English learners.

**Example**

As a part of the basic allotment to public schools, Texas provides state funding to LEAs that serve English learners (ELs). According to state statute, these funds must be used to provide services to ELs through bilingual education and/or English as a Second Language (ESL) programs. Title III, Part A funds cannot be used to meet the state requirements for serving ELs. Additionally, Title III Part A funds are supplemental to all other funds, including local, state, and **other federal funds**. The LEA must ensure that any services provided with Title III, Part A funds are supplemental and could not be provided with any other funds, including Title I, Part A funds.

Local or State funds may not be decreased or diverted merely because of the availability of Title III, Part A funds.

**Side-by-Side Guidance Document: Allowable vs. Unallowable Use of Funds**

The side-by-side guidance document addresses the following areas:

- A. Certification
- B. Salary supplements for teachers
- C. Supplemental staff expenses
- D. Staff development
- E. Conferences
- F. Assessment/Instructional materials and equipment
- G. Supplemental program services
- H. Other supplies required for quality instruction
- I. Engagement activities

Prior to utilizing your Title III, Part A funds, each cost must be **Budgeted, Reasonable, Appropriate** and **Necessary**.

Districts should incorporate the use of both funding streams into their Campus Improvement Plans (CIPs).

- Budgeted – The cost is clearly documented and prioritized in the appropriate budgetary item.
- Reasonable – Will the cost stand to public scrutiny? Are the costs consistent with state and federal policies and procedures?
- Appropriate – It meets compliance according to federal guidance, policies and procedures.
- Necessary – The cost is essential to carry out the intent and purpose of the program

The side-by-side guidance document does not contain an exhaustive list of allowable/unallowable expenditures.

This will be a living document and will be updated as required. If you have any funding questions, please email us at [EnglishLearnerSupport@tea.texas.gov](mailto:EnglishLearnerSupport@tea.texas.gov).

Side-by-Side Guidance Document: Allowable vs. Unallowable Use of Funds

<p><b>Bilingual Education Allotment (BEA)</b></p>	<p><b>Title III, Part A Funds</b></p> <p><i>Please note: Local or State funds may not be decreased or diverted merely because of the availability of Title III, Part A funds.</i></p>
	<p><b>Certification</b></p>
<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Certification testing fees</li> <li>▪ Emergency Permit fees</li> <li>▪ Reimbursement for the cost of bilingual or ESL certification tests for teachers who passed the certification test</li> <li>▪ Mileage reimbursement to and from a testing center to take a Texas bilingual and/or ESL certification exam</li> <li>▪ Substitute pay to cover teacher staff absent from school to take a Texas ESL and or bilingual certification test</li> <li>▪ School districts under a Bilingual Education Exception or ESL Waiver are required to use 10% of their BEA funds for certification training.</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Payment fee to the State Board of Educator Certification (SBEC) to add a supplemental certificate to an existing teacher’s certificate</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Only allowable when the LEA is meeting all state requirements and <u>is going above and beyond</u> what is required under state policy to build capacity</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Certification testing fees</li> <li>▪ Payment fee to the State Board of Educator Certification (SBEC) to add supplemental certificate to existing teacher’s certificate</li> <li>▪ Training for teachers who are under a Bilingual Education Exception or ESL Waiver</li> </ul>
<p><b>Salaries Supplements for Teachers</b></p>	
<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Salary supplements for certified bilingual and ESL teachers such as stipends, one time hiring bonuses, and extra duty pay (outside of regular school hours, i.e. evenings, weekends) that are approved by the LEA</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Salaries for certified bilingual and ESL teachers</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Extra duty pay is allowable only if the activity is Title III specific and supplemental (during, before, and after school)</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Salaries for certified bilingual and ESL teachers</li> <li>▪ Stipends</li> <li>▪ One time hiring bonuses</li> </ul>
<p><b>Supplemental Staff Expenses</b></p>	
<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Salaries for bilingual/ESL teacher aides/paraprofessionals</li> <li>▪ Salaries for bilingual/ESL instructional coaches who provided targeted professional development for teachers instructing English learners</li> <li>▪ Salaries for Language Proficiency Assessment Committee (LPAC) Clerks</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Salaries for bilingual/ESL instructional coaches (this could be split funded by state and federal funds)</li> <li>▪ Support for personnel, including paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth</li> <li>▪ Clerical positions to support Title III activities</li> <li>▪ Family, literacy, and parent outreach liaison</li> </ul>

<p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>Salaries for Bilingual and ESL Administrators or Coordinators</li> </ul>	<p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>Salaries for Bilingual and/or ESL Administrators/Coordinators</li> </ul>
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**Staff Development**

<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>Costs for trainings at Education Service Centers (ESCs) or at other training sites</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>Professional development only targeting general education teachers</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>Effective professional development for classroom teachers, principals and other school leaders, administrators, and other school or community-based organizational personnel</li> <li>Supplemental training opportunities to enhance the ability to understand and implement curricula, assessment practices and measures, and instructional strategies</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>Training associated with any state required training such as the Language Proficiency Assessment Committee (LPAC), English Language Proficiency Standards (ELPS) or any professional development for teachers under a bilingual education exception and or ESL waiver to get appropriately certified.</li> </ul> <p>Note: A long-term, comprehensive professional development plan needs to be established by a teacher and the teacher’s supervisor for 1-day or short-term workshops and conferences.</p>
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**Conferences**

<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>Travel costs and fees for state and national conferences related to Bilingual and ESL programs</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>Travel costs for out of the country conferences</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>Out-of-State travel costs should be minimal, reasonable, and meet the intent and purpose of the program. The grantee will be required to complete the appropriate <a href="#">TEA justification form(s)</a> and retain the documentation at the local level</li> <li>Conferences that offer effective professional development opportunities to improve the instruction and assessment of English learners</li> </ul> <p><b>Unallowable</b></p> <p>Note: Travel costs for officials such as the executive director, superintendent, or board members may not be funded with Title III.</p>
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**Assessment/Instructional Materials and Equipment**

**Allowable**

- Assessment for Identification
- Assessment for Reclassification
- Smart boards
- Bilingual thesauruses and dictionaries and other manipulatives that are directly related to the enhancement of instruction to serve English learners
- Classroom technology enhancements for teachers and students (i.e., computers, software licenses, etc.).

**Unallowable**

- Instructional material and equipment to be used by general education students only

**Allowable**

- Educational technology/software or instructional materials
- Access to, and participation in, electronic networks for materials, training
- Assessments for progress monitoring of English learners

**Unallowable**

- LEAs may not use Title III funds for purposes related to identification and reclassification of English learners

Note: Equipment should be supplemental.

**Supplemental Program Services**

**Allowable**

- Translation and Interpretation services for English learners and their families

**Unallowable**

- Food
- Shirts or other school gear
- Field trips
- All Disciplinary Alternative Education Program (DAEP) related costs
- Costs incurred relating to foreign language courses

**Allowable**

LEA may fund one or more of the following supplemental program services:

- Upgrading program objectives and effective instructional strategies
- Providing the following:
  - Tutorials and academic or career and technical education for English learners; and
  - Intensified instruction which may include materials in a language that the student can understand
- Developing and implementing effective preschool, elementary school, or secondary school language-instruction educational programs that are coordinated with other relevant programs and services
- Providing community participation programs, family literacy services, and parent and family outreach and training activities to English learners and their families to do the following:
  - Improve the English language skills of English learners; and
  - Assist parents and families in helping their children to improve their academic achievement by becoming active participants in the education of their children
- Improving the instruction of English learners, which may include English learners with disabilities



	<ul style="list-style-type: none"> <li>▪ Offer early college high school or dual or concurrent enrollment programs or courses designed to help English learners achieve success in postsecondary education</li> <li>▪ Foreign transcript evaluations for immigrant students</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Translation and interpretation services that are required under Title VI of the Civil Rights Act may not be paid with Title III funds</li> <li>▪ Pay for the required English Learner Summer School Program for English learners entering Kindergarten and first grade</li> <li>▪ Adult ESL classes for parents and families of non-English learners</li> </ul>
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**Other Supplies Required for Quality Instruction**

<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Manipulatives</li> <li>▪ Realia</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Manipulatives for general education classrooms</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Technology equipment and electronic devices for the purpose of instruction</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Manipulatives for general education classrooms</li> </ul> <p>Note: If the purchase is a district-wide need, then Title I, Part A funds should be considered first before Title III, Part A funds.</p>
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**Engagement Activities**

<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Expenses incurred for disseminating information to parents of ELs</li> <li>▪ Use of technology apps to build communication and parenting resources</li> <li>▪ Light snacks/refreshments</li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Meals for parents or students</li> <li>▪ Door prizes</li> </ul>	<p><b>Allowable</b></p> <ul style="list-style-type: none"> <li>▪ Nutritional snacks for students during extended day (after-school) programs</li> <li>▪ Nutritional snacks for children in child care while parents are participating in grant activities</li> <li>▪ To increase participation or attendance to meet program objects during Title III engagement events, the following expenses are allowed:                         <ul style="list-style-type: none"> <li>○ Refreshments</li> <li>○ Translation and Interpreter services</li> <li>○ Transportation</li> </ul> </li> </ul> <p><b>Unallowable</b></p> <ul style="list-style-type: none"> <li>▪ Meals for parents or students</li> <li>▪ Door prizes</li> </ul>
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