



Dr. John D. Barge, State School Superintendent
"Making Education Work for All Georgians"

Federal Funding for Translation / Interpretation Services

Recently, staff from the Office for Civil Rights (OCR), Title I and Title III at the U.S. Department of Education (USED) shared guidance concerning the use of Title I and Title III funds for translation and interpretation services. (Please see: <http://www2.ed.gov/programs/titleiparta/resources.html>). A summary of this guidance is provided below.

Supplement, Not Supplant

As we well know, the "supplement, not supplant" provision applies to the use of Title III funds. In practice, this means that a supplanting violation occurs when a district uses Title III funds to provide services that it is required to provide under other Federal, State or local laws. Thus, when budgeting for expenditures of Title III monies, it is important to first consider whether the activities proposed are *already required to be performed* under another law. If such is the case, the non-supplanting provision dictates that Title III funds may not be spent in support of that activity.

Litmus Test – Prior to expending Title III funds on an activity/service, consider: "Is this an activity/service required of our district by the **Office for Civil Rights**? Is this an **I.D.E.A.** requirement? Is this a **Title I** requirement?" If the response to any of these questions is "yes," then Title III funds should not fund this activity/service.

Details regarding a number of OCR, I.D.E.A and Title I translation/interpretation requirements follow.

Fundamental Office for Civil Rights Translation/Interpretation Requirements

The OCR branch of the USDE is a law enforcement entity that ensures non-discriminatory and equal access for national-origin and language-minority students to education. The OCR does not provide grants or funding for its mandates, but school districts are bound by its requirements nonetheless. Due to the non-supplanting provision, using Title III funds to fulfill OCR mandates is not permissible.

In order to comply with Title VI of the Civil Rights Act of 1964, OCR has stated that, in addition to communications regarding a student's language assistance services, "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." In practice, this is interpreted to mean that school districts have the

responsibility to adequately notify EL parents of school activities which are called to the attention of other parents, and in order to be “adequate” this may require translation or interpretation.

OCR considers four factors when reviewing school districts’ EL programs and services:

1. the number or proportion of ELs eligible to be served or likely to be encountered by the district;
2. the frequency with which ELs/EL parents come in contact with the district;
3. the nature and importance of the program, activity, or service provided by the district to people's lives; and
4. the resources available to the district and costs.

In practice, this is interpreted to mean:

1. The more ELs in a district’s language group, the greater the need for services to be provided in that language;
2. The more frequent the contact with ELs, the more frequent the need for services;
3. The more important the communication, the more critical the communication be high-quality; and
4. Small programs with small budgets are not required to provide the same level and expense of services as large programs with larger budgets.

IDEA Translation/Interpretation Requirements

Services that are provided above and beyond the basic OCR requirements may be allowable expenditures under other Federal programs, however. For example, the Individuals with Disabilities Education Act (IDEA) lists a number of situations in which translation or interpretation might be required in order to communicate with EL parents. In IDEA 34 C.F.R. it states:

- Assessments and other evaluation materials used to assess a child must be provided and administered in the child’s **native language**, unless it is clearly not feasible to do so. [§300.304 (c)(1)(ii)]
- All parents of a child with a disability are to be provided with written notice before the school proposes to initiate or change the identification, evaluation, or educational placement of the child. This written notice must be provided in the **native language** of the parent, unless it is clearly not feasible to do so. If the native language is not a written language, the school must ensure that the notice is translated orally. [§300.503 (c)]
- In general, parents are strongly encouraged to attend IEP team meetings. The school must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including **arranging for an interpreter** if needed. [§300.333 (e)]
- When consent is sought (for accepting special education services, etc.) the parent must be fully informed of all information relevant to the activity for which consent is sought, in his or her **native language**, or other mode of communication. (§300.9)
- The Georgia DOE must inform parents about their right to confidentiality of personally identifiable information. This notice must be given in the **native languages** of the various population groups in the State. (§300.612) (*Note: Provided by state via TransAct services.*)

Title I Translation/Interpretation Requirements

In addition, Title I of the Elementary and Secondary Education Act of 1965 (ESEA) outlines that the following information must be provided “**to the extent practicable, in a language parents can understand**”:

- Information regarding achievement (Sec. 1111)
- Annual state and local educational agency report cards (Sec. 1111)
- Parents’ Right to Know (Sec. 1111)
- Information in the school’s Title I plan (Sec. 1114)
- If the school is identified for “school improvement,” information on what this means, the reasons for the identification, what the school district and state are doing to address the problems identified, how parents can become involved to help, and an explanation of the parents’ right to transfer their child to another school (Sec. 1116)
- Information on the availability of supplemental educational services, identified approved providers, and a brief description of the services. For students receiving supplemental educational services, information on their progress (Sec. 1116)
- Information related to school and parent programs, meetings, and other activities and notification of the district’s parental involvement policy (Sec. 1118)
- Meaningful consultation with parents of Title I participating children on the planning and implementation of parental involvement programs, activities, and procedures (Sec. 1118)
- The reasons a child has been identified as LEP and is in need of a language instruction educational program, the child’s level of English proficiency and academic achievement, information about the various program options (methods of instruction used, how the programs differ, how the programs will help their child learn English, etc.) and information about a parent’s right to decline to enroll their child in such a program. [Sec. 1112(g)]
- Notification of the district’s failure to make progress on AMAOs [Sec. 1112(g)(1)(b)]

(Note: The previous two requirements are also found in Title III Sec. 3302; however, Title III funds may not be expended for services required under other Federal laws – including Title I. If Title I funds are used to support a language instruction educational program, Title III funds may not be used to fulfill these Title I requirements.

Title III-Permissible Translation/Interpretation Services

Title III funds may be used for translation and interpretation services that support the specific activities found in Title III, Sec. 3115 (c),(d), or (e) but not those required by the Office for Civil Rights under Title VI of the Civil Rights Act (Lau) or other Federal programs, including Title I of the ESEA. For example, translation of communications that is provided solely to parents of Title III-served ELs regarding the Title III program is permissible. Also permissible are translation and interpretation services in support of outreach programs and events for the purposes of fulfilling Title III, Sec. 3302 (e). Translators and

interpreters that are funded with Title III monies must indicate on time and effort logs the Title III activities for which their services were required.

Example: Your district's Title III plan includes components allowed under 3115(d)(6)(B), in which family literacy services are provided in order to assist parents in becoming active participants in the education of their EL children. Communication concerning these services, and the services themselves, will be translated or interpreted to the parents of Title III-served students. Payment for these services to such parents is permissible under Title III law, as these are not OCR or other federally-required services.

Example: Your district is planning for parent-teacher conferences, has translated the invitation to EL parents and will provide interpreters at the conferences for parents who require them. Payment for this translation/interpretation is not permissible under Title III law because Title VI of the Civil Rights Act *already requires* that parents who have limited English skills receive information from the school in a language that they can understand. (See <http://www2.ed.gov/about/offices/list/ocr/eeolep/index.html>)

Example: Your district holds an annual meeting for parents of high school juniors to educate them about the college application process. As this meeting is held for all parents, not solely parents of Title III-served students, it would be a violation of non-English speaking parents' rights should interpreters not be provided. Thus, interpretation for this event is an OCR requirement and cannot be supported with Title III funds.

Example: Your schools hold special meetings for EL parents concerning the ACCESS assessment and its results. This meeting is not applicable to all parents in the school, solely those of Title III-served students; therefore, it would be appropriate to provide interpreters and translation services for this event at Title III expense so long as Title I funds do not also provide support for the language instructional program. If, on the other hand, Title I funds *are* used in support of ESOL services, then Title I funds must fund the translation/interpretation services, as Title III may not supplant Title I, and this translating is pursuant to Title I, Sec. 1112(g).