

Supplemental New Fiscal Year 2015 Awards for Immigrant Children and Youth Questions and Answers

Purpose and Availability of Funds

1. What is the purpose of these funds?

Congress provided an additional \$14,000,000 under Title III, Part A, in the Consolidated and Further Continuing Appropriations Act, 2015 (2015 Appropriations Act) to provide additional funding to local educational agencies (LEAs) to assist them in meeting the needs of immigrant children and youth.

2. May an LEA use the funds for programs specifically designed or targeted to serve unaccompanied children and youth?

Yes. An LEA may use these funds for programs specifically designed or targeted to serve unaccompanied children and youth.

3. When will these funds be available and what is the period of availability of these funds?

The U. S. Department of Education (ED) will make the additional \$14 million available to eligible State educational agencies (SEAs) in March 2015. These funds will remain available to LEAs through September 30, 2017.

State Allocations

4. Which SEAs are eligible to receive these funds?

Under the requirements of the 2015 Appropriations Act, an SEA is eligible to receive these funds if it is in a State with at least one county where, during calendar year 2014, a minimum of 50 unaccompanied children¹ were placed by the U.S. Department of Health and Human Services' Office of Refugee Resettlement (ORR) with an appropriate sponsor (parent, family member, or other appropriate adult) while their immigration cases are resolved.

Under these requirements, SEAs in the following States are eligible for the new funds:

AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, UT, VA, and WA.

¹ For more information on unaccompanied children, see the U.S. Department of Education Fact Sheet, available at: <http://www2.ed.gov/policy/rights/guid/unaccompanied-children.pdf>

5. How will ED determine an SEA's allocation of these new funds?

ED will allocate funds to each eligible SEA based on its State's share of unaccompanied children placed with sponsors, as reported by ORR for calendar year 2014 (January 1, 2014 – December 31, 2014).

6. What must an eligible SEA do to receive these funds?

Each eligible SEA is receiving a letter from ED notifying it of the availability of these funds. An eligible SEA will automatically receive these grant funds unless the SEA notifies ED by April 3, 2015, that it wishes to decline these funds. As a condition of receipt of these funds, an SEA must develop a method for allocating subgrants to eligible SEAs (see questions 7 and 8), and must agree to ED's standard assurances for Title III grant awards, as well as agree to prepare and submit the required report described in question 9 below.

7. How should an SEA allocate these new funds?

Each SEA that receives a grant must award a subgrant to each LEA that has experienced a significant increase (as defined by the SEA) in the number or percentage of immigrant children and youth enrolled in their schools during the 2014–2015 school year compared to the average of the two preceding years. The method by which an SEA determines the amount of each LEA's subgrant is left to the SEA's discretion. An SEA may award these subgrants immediately using a separate allocation process, or by combining these funds with subgrants made under section 3114(d) of Title III of the Elementary and Secondary Education Act of 1965, as amended (Title III) for immigrant children and youth for the 2015–2016 school year (Title III immigrant subgrants). Any SEA that has not yet made Title III immigrant subgrants for the 2014–2015 school year would be permitted to combine these supplemental funds with the regular Title III 2014–2015 immigrant subgrants if the LEA has experienced a significant increase in the number or percentage of immigrant children and youth enrolled during the 2014–2015 school year.

8. In making subgrants with this supplemental allocation, is an SEA required to use the same definition of "significant increase" as it uses under the Title III immigrant grant program?

No. In determining a "significant increase in the number or percentage of immigrant children and youth," for the purpose of making subgrants with the supplemental allocation, an SEA may choose to use the same definition, but is not required to do so.

In creating its definition of "significant increase," an SEA can also select whether to rely on the number or percentage of immigrant children and youth. In doing so, an SEA may wish to consider how the use of a number or percentage in that definition will affect LEAs of different sizes and other qualities in the State, and which method of calculation will enable the SEA to best meet the needs of different LEAs in that State through its allocations. In awarding subgrants a State may also wish to consider how the SEA's definition of "significant increase" will affect those LEAs that serve students in counties where fifty or more unaccompanied children were placed by ORR with an appropriate sponsor.

9. What are the responsibilities of an SEA that receives these funds?

In addition to administering the subgrants, the 2015 Appropriations Act requires that each SEA receiving these funds must prepare and submit a report to the Secretary of Education no later than one year after receipt of the award. This report must at a minimum identify: (1) the LEA or LEAs that received subgrants, and (2) the SEA's definition of "significant increase" used to determine eligibility for the subgrants. We do not plan to include additional reporting requirements beyond what the 2015 Appropriations Act stipulates.

10. May an SEA reserve a portion of these grant funds for State-level activities or grant administration?

No. The 2015 Appropriations Act does not include State-level uses of the funds; all of these funds must be awarded to LEAs. Consequently, an SEA may not recalculate its set-aside for Title III State-level activities under sections 3111(b)(2) and 3111(b)(3) of Title III. ED anticipates that the administrative burden required to award these subgrants will be minimal and, therefore, can be incorporated into the SEA's existing activities for administering Title III.

LEA Allocations & Use of Funds

11. Which students are eligible for services under this program?

Students eligible for services under this program are those eligible for services under the Title III immigrant children and youth program. These students must meet the definition of "immigrant children and youth" in section 3301(6) of Title III, which defines "immigrant children and youth" as individuals who: (A) are aged 3 through 21; (B) were not born in any State (defined as each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico); and (C) have not been attending one or more schools in any one or more States for more than three full academic years.

Because the Title III definition of "State" includes Puerto Rico, students born in Puerto Rico are not "immigrant children and youth" for purposes of either receiving services or for calculating immigrant subgrant allocations. As the Title III definition of "State" does not include the Outlying Areas, as defined in section 9101(30) of the ESEA, students born in the Outlying Areas may be considered "immigrant children and youth" for purposes of receiving services and calculating immigrant subgrant allocations.

12. How are these supplemental subgrants different than those provided under the Title III immigrant children and youth program?

For the supplemental subgrants, an SEA must use current-year (school year 2014–2015) data, rather than the prior year data used for the immigrant subgrants authorized under section 3114(d) of Title III. However, the purpose of the subgrants is the same. Broadly speaking, an LEA should use these subgrants for supplemental academic and nonacademic services and supports to immigrant children and youth.

13. Can an LEA receive a supplemental subgrant based on a significant increase in immigrant students during the 2014–2015 school year if it has already received an immigrant subgrant under section 3114(d) of Title III based on a significant increase in immigrant students during the 2013–2014 school year?

Yes. An LEA that meets the eligibility criteria for each subgrant can receive both of the immigrant subgrants.

14. Must an LEA that is eligible to receive these new funds submit an application to its SEA in order to receive a subgrant?

Each SEA must determine its own procedures for making subgrants. An LEA must comply with those SEA procedures, including any application requirements. An SEA may choose to use the procedures already in place for making immigrant subgrants under section 3114(d) of Title III.

15. What types of activities should an LEA carry out using these funds?

An LEA must use this subgrant for supplemental academic and nonacademic services and supports to immigrant children and youth. Examples of the types of allowable services are those listed in section 3115(e) of Title III for the Title III immigrant subgrants:

- Family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
- Support for personnel, including teacher aides who have been specifically trained or are being trained, to provide services to immigrant children and youth;
- Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;
- Identification and acquisition of curricular materials, educational software, and technologies to be used in the program;
- Basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;
- Other instruction services that are designed to assist immigrant children and youth to achieve in elementary and secondary schools in the U.S., such as programs of introduction to the educational system and civics education; and
- Activities coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

Federal Requirements

16. What Federal fiscal requirements apply to these new funds?

Although the overall permissible use of these funds is broad (i.e., supplemental academic and nonacademic services and supports to immigrant children and youth), expenditure of these new funds must be reasonable and necessary for the intended purpose, and must comply with all other requirements of the Federal cost principles in 2 Code of Federal Regulations part 200. Like all Federal grant funds, these funds are subject to audits and review by ED. Each SEA is responsible for ensuring that each LEA receiving a supplemental subgrant abides by these requirements.

17. Do SEAs and LEAs have an obligation to educate unaccompanied children and youth?

Yes. Under Federal law, SEAs and LEAs are obligated to provide all children – regardless of their or their parents’ actual or perceived national origin, citizenship, or immigration status – with equal access to public education at the elementary and secondary level. This includes recently arrived unaccompanied children who are residing in local communities with a parent, family member, or other appropriate adult sponsor while in immigration proceedings. ED and the U.S. Department of Justice published a joint guidance letter and fact sheet on this topic that are available at the links below.

Guidance letter: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>

Fact sheet: <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201405.pdf>.

Additionally, all children with disabilities have rights under the Individuals with Disabilities Education Act, and LEAs have the responsibility to provide a free appropriate public education to all such students.

18. Must SEAs and/or LEAs implement procedures to identify the number of unaccompanied children and youth enrolled in schools?

No. Neither SEAs nor LEAs need to identify unaccompanied youth to receive these new funds. Generally, in order to enroll a student, a school only needs documentation necessary to establish the residency and age of a child, unless the child is eligible to enroll immediately in school without such documentation under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. (See Fact Sheet II, Additional Questions and Answers Enrolling New Immigrant Students, for information regarding enrollment practices for identifying immigrant children and youth, available at: <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201405.pdf>.)

Resources

19. Whom should I contact regarding additional questions?

You may contact Supreet Anand of the Office of State Support, Office of Elementary and Secondary Education, by email at Supreet.Anand@ed.gov or by telephone at 202-401-9795.

Resources:

U.S. Department of Education – Fact Sheet: Educational Services for Immigrant Children and Those Recently Arrived to the United States:

<http://www.ed.gov/unaccompaniedchildren>

U.S. Department of Education – Fact Sheet II, Additional Questions and Answers Enrolling New Immigrant Students, for information regarding enrollment practices for identifying immigrant children and youth:

<http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201405.pdf>

U.S. Department of Education - Title III, Part A, Non-Regulatory Guidance, part one – for information on the Title III immigrant children and youth grant program:

<http://www2.ed.gov/programs/sfgp/nrgcomp.html>

U.S. Departments of Education and Justice – Information on the Rights of All Children to Enroll in School:

Guidance letter: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>

Fact sheet: <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201405.pdf>