

MEMORANDUM

TO: District Title III Directors

FROM: Robert Crawford, Assistant Director
Office of Federal Programs

SUBJECT: Foreign Exchange Students and Title III Services

DATE: November 16, 2015

This memorandum supersedes existing state guidance issued by the Office of International Schools and ESL in a memorandum dated October 29, 2005. This updated memorandum reflects the current federal directive on appropriate educational services for foreign exchange students.

In a guidance document dated December 1, 2010, the U.S. Department of Education, in consultation with its Office of the General Counsel and the Office for Civil Rights, advised that under the Elementary and Secondary Education Act (ESEA), an exchange student would not be exempt from any Title I required assessment, specifically, in this case, the annual State English language proficiency assessment. A limited English proficient (LEP) student who happens to be a foreign exchange student would also be included in a local educational agency's (LEA) count of LEP students for purposes of allocating funds under Title III section 3114(a) of the ESEA.

The U.S. Department of Education further advised that foreign exchange students who are LEP and enrolled in public elementary or secondary schools in the United States are covered by the holding in the 1974 U.S. Supreme Court decision, Lau v. Nichols, that school districts must take affirmative steps to help students with LEP overcome language barriers so that they can participate meaningfully in each district's education programs. See 414 U.S. 563 (1974).

When enrolling all foreign exchange students, West Virginia districts should follow the process for identifying limited English proficient (LEP) students set forth in *West Virginia Policy 2417-Programs of Study for Limited English Proficient Students*. Foreign exchange students who meet the state's definition of LEP should be provided with ESL or Title III services consistent with their individual English language proficiency needs. These students would also be required to participate in the annual English language proficiency assessment until meeting the official exit or reclassification criteria.

All foreign exchange students should have an enrollment entry code of "EX" on their WVEIS student information. Foreign exchange students who also meet the state's definition of LEP will have an active ELL screen in WOW.

Should you have questions or need additional information, please feel free to contact the Office of Federal Programs at 304-558-7805.

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