UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

JUL 28 2011

Honorable Lillian M. Lowery
Secretary of Education
Delaware Department of Education
John G. Townsend Building
401 Federal Street
Dover, DE 19901

Dear Secretary Lowery:

During the week of May 9-12, 2011, a team from the U. S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office reviewed the Delaware Department of Education's (DEDOE) administration of the Title III program authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Enclosed is a report based upon the review of the Title III program.

The report includes a brief description of the scope of the monitoring review, recommendations and findings, and required corrective actions resulting from the review. The DEDOE has 30 business days from receipt of this report to respond to all findings cited in the report. We will review the State's response to determine if all findings have been addressed sufficiently and request additional information, if necessary. We will allow 30 business days for the State to submit additional information or work with the State to identify a reasonable timeline that allows the State to address and correct all findings. A State that has significant unresolved non-compliance findings or findings that are repeated from one monitoring review to the next may have a condition placed on the grant award.

Please note that the findings cited in the report reflect the status of compliance in DEDOE at the time of the onsite review.

The ED team would like to thank Terry Richard and Ann Campbell for their hard work and assistance before and during the review. We look forward to continuing to work with you and your staff to address the needs of English language learners.

Sincerely,

Patricia A. McKee

Patricia A. McKee
Acting Director
Student Achievement and
School Accountability Programs

Enclosure

Cc: Terry Richard

Delaware Department of Education

May 9 – 12, 2011

Scope of Review: The U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office, Title III State Consolidated Grant Group monitored the Delaware Department of Education (DEDOE) the week of May 9 – 12, 2011. This was a comprehensive review of the DEDOE's administration of Title III, Part A, authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

During the review, the ED team conducted several monitoring activities. The team reviewed evidence of implementation of the State's Title III accountability system, State-level monitoring, technical assistance, and fiscal and administrative oversight with the State educational agency (SEA). During the onsite week, the ED team also visited three local educational agencies (LEAs) – Christina School District (CSD), Colonial School District (COLSD), and Milford School District (MSD) - where they reviewed documentation and interviewed administrative and school staff.

Previous Audit Findings: None

Previous Monitoring Findings: ED last reviewed the Title III, Part A program in the DEDOE during the week of May 15 - 18, 2007. ED identified compliance findings in the following areas:

1. Element 2.2 -Allocations, Reallocations, and Carryover

Finding: The DEDOE did not comply with the requirement in Section 3114(b) to award a subgrant under 3114(a) of at least $10,000. The State designated itself the lead entity for a consortium that included all LEAs that enrolled LEP students, and awarded funds to LEAs that were not eligible to receive a subgrant of at least $10,000. Under Section 3141, the term eligible entity is defined as (1) one or more local educational agencies; or (2) one of more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency. A State educational agency is not an eligible entity under Section 3141.

2. Element 2.5 - Other Fiduciary Items

Finding: The DEDOE did not provide information or documentation related to the amount of Title III funds that are used for the Title III Coordinator's salary. The State also did not provide the percentage of time that the Title III Coordinator devotes to carrying out Title III activities.

3. Element 4.4 - Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth

Finding: The DEDOE did not ensure that LEAs that are awarded funds under Section 3114(d)(1) use the funds for activities that provide enhanced instructional opportunities for immigrant children and youth. Indian River School District was unable to specify how it uses

funds awarded under 3114(d)(1) to enhance instructional opportunities for immigrant children and youth.

4. Element 5.1 - State Review of Local Plans

Finding: The State's LEA Consolidated Application for Federal and State funds does not include enough information about Title III requirements. As a result, LEA applications do not include plans that specify how the LEAs will use Title III LEP and immigrant funds.

Monitoring Indicators for Title III, Part A

State Monitoring of Subgrantees			
Element Number	**Description**	**Status**	**Page**
	State Monitoring of Subgrantees sections 3115, 3116, and 3121; EDGAR 34 CFR 80.40	Finding	2

State Monitoring of Subgrantees

State Monitoring: The State has a process to monitor subgrantees and the evaluation components of the monitoring plan address the requirements under sections 3113, 3115, 3121, 3122 and 3302 of the ESEA.

Finding: The DEDOE has not implemented a process to monitor Title III subgrantees for compliance with all programmatic and fiscal requirements. The DEDOE was unable to provide evidence of a monitoring protocol or evidence that it has monitored Title III subgrantees. Additionally, LEA staff indicated that they had not undergone either a desk or an onsite review of their Title III programs.

Citation: Section 80.40 of the Education Department General Administrative Regulations (EDGAR) requires grantees to monitor grant and subgrant activities to ensure compliance with applicable Federal requirements.

Section 9304(a) of the ESEA requires States to ensure that programs authorized under the ESEA are administered in accordance with all applicable statutes, regulations, program plans, and applications.

Further Action Required: The DEDOE must develop and implement procedures to monitor Title III subgrantees for all programmatic and fiscal requirements. The State must submit to ED evidence that it has developed monitoring procedures, protocols and a schedule for monitoring Title III subgrantees beginning with school year 2011-2012.

Standards, Assessments and Accountability			
Element Number	**Description**	**Status**	**Page**
Element 1.1	**English Language Proficiency (ELP) Standards** section 3113	Finding	3
Element 1.2	**ELP Assessment** sections 3113 and 3116	Finding	3-4
Element 1.3	**Annual Measurable Achievement Objectives (AMAOs)** sections 3122(a)(1)(2)(3) and 1111(b)(2)(B)	Met Requirements	N/A
Element 1.4	**Data Collection and Reporting** sections 3121 and 3123; EDGAR 34 CFR 76.731	Met Requirements	N/A

Monitoring Area 1: Standards, Assessments and Accountability

Element 1.1 - ELP Standards: The State provided evidence of a process that complies with section 3113 of the ESEA.

Finding: The DEDOE has not ensured that Title III subgrantees have implemented the State's English language proficiency (ELP) standards. In general, LEA staff was unable to describe activities conducted to align their curriculum to the ELP standards and how the standards are used to teach LEP students. The State has sponsored training on the standards through the WIDA consortium, but has not provided any additional guidance or other professional development opportunities to ensure LEAs have aligned their curriculum and instruction to the State's ELP standards.

Citation: Section 3113(b)(2) of the ESEA requires States to establish standards and objectives for raising the level of English proficiency that are derived from the four domains of speaking, listening, reading, and writing, and that are aligned with achievement of the State academic content and student academic achievement standards in reading/language arts and math.

Further Action Required: The DEDOE must include in its monitoring procedures and protocols a review of Title III subgrantees' implementation of the State's ELP standards. The State must also provide to ED a description of the steps it will take to provide guidance and other professional development opportunities for Title III subgrantees on implementation of the ELP standards.

Element 1.2 – ELP Assessment: The State provided evidence of a process that complies with section 3113 of the ESEA and evidence that an ELP assessment has been administered to all K-12 limited English proficient (LEP) students in the State.

Finding: The DEDOE has not ensured that its LEAs identify all LEP students and comply with the ESEA requirements to annually assess the English language proficiency of all LEP students.

The CSD is using a locally developed form to ask parents for permission to administer the diagnostic test. During the interview, CSD staff stated that students whose parents do not give permission for their students to be tested are not identified as LEP, provided services or administered the annual ELP assessment.

Citation: Section 3113(b)(3)(D) of the ESEA requires States to ensure that Title III subgrantees annually assess the English language proficiency of all LEP children in grades K-12 served by Title III consistent with section 1116(b)(7) of the ESEA.

Further Action Required: The DEDOE must develop and provide additional written guidance to its Title III subgrantees to ensure compliance with the State's policies and procedures for identification and placement of LEP students and the ESEA requirement to annually assess the English proficiency of all LEP students in grades K-12. The written guidance must clarify that LEAs do not need to request permission from parents to identify LEP students and administer the annual ELP assessment. The DEDOE must submit to ED evidence that this guidance has been developed, disseminated to LEAs and implemented statewide.

Instructional Support			
Element Number	**Description**	**Status**	**Page**
Element 2.1	**State-Level Activities** section 3111 (b)(2)	Finding	4-5
Element 2.2	**State Oversight and Review of Local Plans** sections 3116(a) and 3115(c); EDGAR 34 CFR 76.770	Findings	5-6
Element 2.3	**Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth** sections 3114 and 3115	Finding	6
Element 2.4	**Private School Participation** section 9501	Findings	6-7
Element 2.5	**Parental Notification and Outreach** section 3302	Finding	7-8

Monitoring Area 2: Instructional Support

Element 2.1 - State -Level Activities: Using funds retained at the State level, the State carries out one or more activities noted in section 3111(b)(2) of the ESEA.

Finding: The DEDOE has not ensured that Title III subgrantees use Title III funds to implement high-quality language instruction educational programs (LIEP) that are based on scientifically

based research on teaching limited English proficient students. CSD is using Title III funds to "supplement" its "bilingual" program in one elementary school. During the interview in CSD, school staff indicated that their "bilingual" LIEP does not include an English language development component, which is an essential component of a bilingual instructional model.

Citation: Section 3115(c)(1) of the ESEA requires an eligible entity receiving funds under section 3114(a) to use the funds to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing the English proficiency and student academic achievement in the core academic subjects.

Further Action Required: The DEDOE must develop and submit to ED a technical assistance plan that is designed to assist Title III subgrantees to properly identify and implement LIEPs that are scientifically based and address the needs of their LEP students.

Element 2.2 – State Oversight and Review of Local Plans: The SEA ensures that its LEAs comply with the provision for submitting an application to the SEA (section 3116(a)).

Finding (1): The DEDOE's application and review procedures do not ensure that LEAs eligible for funding under Title III comply with all programmatic and fiscal requirements. The State's LEA Consolidated Application does not require information about how Title III funds will be used to meet the State's AMAOs and implement the activities required by section 3115(c) of the ESEA that is necessary for consideration of the Title III plan, consistent with the requirements of section 9503(d) of the ESEA. Additionally, the DEDOE's 2010-2011 LEA Consolidated Application Manual does not include sufficient programmatic and fiscal guidance related to Title III, and the State's Charter School Success Plan & Grant Approval Checklist, which the State uses to review Title III plans, does not ensure a comprehensive review of LEA plans under Title III.

Citation: Section 3116 of the ESEA requires LEAs to submit a plan to the SEA that, among other things, describes the programs and activities proposed to be developed, implemented, and administered and describes how the LEA will use the subgrant funds to meet annual measurable achievement objectives.

Section 3115(c) of the ESEA requires eligible entities receiving funds under section 3114(a) to use those funds to increase the English language proficiency of LEP students by providing high-quality LIEPs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing English proficiency and student academic achievement in the core academic subjects and provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of LIEPs), principals, and other school or community-based organizational personnel.

Further Action Required: The DEDOE must revise its LEA Consolidated Application, LEA Consolidated Application Manual, and Charter School Success Plan & Grant Approval Checklist to include all Title III programmatic and fiscal requirements, including the requirements in

sections 3115(c) and 3116 of the ESEA. The DEDOE must provide ED with evidence that it has revised these documents and informed its LEAs.

Finding (2): The State has not required LEAs to submit plans for the use of funds awarded under the immigrant program. The DEDOE's LEA Consolidated Application, LEA Consolidated Application Manual, and Charter School Success Plan & Grant Approval Checklist do not address LEA plans under the immigrant children and youth program. See 2.3 and 3.1 below.

Citation: Section 3116 of the ESEA requires each eligible entity applying for funds under section 3114 to submit a plan to the State educational agency.

Further Action Required: The DEDOE must revise its LEA Consolidated Application, LEA Consolidated Application Manual, and Charter School Success Plan & Grant Approval Checklist to include all Title III programmatic and fiscal requirements related to the immigrant program. The DEDOE must provide ED with evidence that it has revised these documents and informed its LEAs.

Element 2.3 - Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth: The subgrantee receiving funds under section 3114(d)(1) of the ESEA shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth.

Finding: The DEDOE has not ensured that LEAs awarded funds under section 3115(e) of the ESEA use the funds to provide enhanced instructional opportunities for immigrant children and youth. One of the LEAs was unaware that it had been awarded funds under section 3115(e) and therefore did not use the funds for the activities specified in section 3115(e). See 2.2 above and 3.1 below.

Citation: Section 3115(e) of the ESEA requires eligible entities that are awarded funds under section 3114(d)(1) to use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth.

Further Action Required: The DEDOE must submit to ED a description of how it will annually ensure, beginning with school year 2011-2012, that LEAs awarded funds under section 3114(d)(1) use the funds to provide enhanced instructional opportunities for immigrant children and youth.

Element 2.4 - Private School Participation: LEAs comply with ESEA requirements regarding participation of LEP students and teachers in private schools in Title III.

Finding (1): The DEDOE has not issued guidance or monitored Title III subgrantees for compliance with the equitable services provisions in section 9501 of the ESEA. Two of the LEAs visited were unable to provide evidence of timely and meaningful consultation with appropriate private school officials.

Citation: Section 9501(a)(1) of the ESEA requires LEAs to provide services under Title III, among other Federal programs, to private school children, their teachers, and other educational personnel.

Further Action Required: The DEDOE must require Title III subgrantees to maintain and provide to the DEDOE each year a written affirmation signed by the officials of each participating private school that the required consultation has occurred. The DEDOE must provide evidence to ED that it has informed its LEAs of this requirement. In addition, the DEDOE must provide ED with written affirmations of consultation for the 2011–2012 school year from CSD, MSD and COLSD.

Finding (2): The DEDOE has not implemented a process to collect from its LEAs the count of LEP students and immigrant children and youth enrolled in non-public schools who are eligible for services under Title III. Therefore, the State has not included these students in calculating LEA allocations.

Citation: Section 9501(a)(1) of the ESEA requires that to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program. In addition, in allocating Title III funds under section 3114(a) of the ESEA, LEP students attending both public and non-public schools within an LEA's boundaries are to be counted.

Further Action Required: The DEDOE must develop a process to collect from its LEAs the count of private school LEP students and immigrant children and youth eligible for services under Title III and provide evidence to ED that it has implemented this process beginning with school year 2011-2012.

Element 2.5 – Parental Notification and Outreach: Parental notification in an understandable format as required under section 3302 for identification and placement and for not meeting the State AMAOs.

Finding: The DEDOE has not ensured that Title III subgrantees provide the information required in section 3302(a) of the ESEA to parents in an understandable format as required by section 3302(c) of the ESEA. The parent notification template provided by the State to its Title III subgrantees is too technical for a target audience that is largely made up of individuals who are not specialists. Additionally, the ED team noted that a document developed by one of the LEAs to inform parents is not translated properly.

Citation: Section 3302(c) of the ESEA requires Title III subgrantees to provide the information in sections 3302(a) and (b) to parents in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

Further Action Required: The DEDOE must review and revise, as necessary, the State parent notification template to ensure Title III subgrantees provide parent notifications that are in plain language, and therefore appropriate for informing parents about programs and services and the options available to meet the needs of their children. The State must submit the revised parent notification template to ED.

The DEDOE must also provide guidance to its LEAs regarding translation of documents for parents to ensure LEAs develop documents that enhance parents' understanding of the programs and services available for their children.

Fiduciary			
Element Number	**Description**	**Status**	**Page**
Element 3.1	**State Allocations, Reallocations and Carryover** section 3111(b); 20 USC 6821(b)(3); sections 3114(a)-(d)	Findings Recommendation	8-10
Element 3.2	**District Allocations, Reallocations and Carryover** section 3115	Finding	10-11
Element 3.3	**Maintenance of Effort** sections 1120A and 9021	Met requirements	N/A
Element 3.4	**Supplement, Not Supplant – General** section 3115(g)	Finding	11
Element 3.4A	**Supplement, Not Supplant – Assessment** sections 1111(b)(7) and 3113(b)(2)	Finding	11-12

Monitoring Area 3: Fiduciary

Element 3.1 – State Allocations, Reallocations and Carryover: The SEA complies with required provisions.

Finding (1): The DEDOE has not allocated funds to LEAs in compliance with section 3114(a) of the ESEA, which requires States to allocate funds to LEAs on the basis of the number of limited English proficient (LEP) students in public and non-public schools. The DEDOE indicated during the visit that it does not have a procedure to collect data on LEP students in non-public schools, which means that Title III subgrantees must serve these students with funds allocated for public school students.

Citation: Section 3114(a) of the ESEA requires SEAs to allocate funds to LEAs on the basis of the total count of LEP children in both public and private schools served by each LEA.

Further Action Required: The DEDOE must develop a process to collect and use the count of LEP students in private schools in determining allocations for Title III subgrantees. The State must submit to ED evidence that it has developed a process to collect these counts and implemented the process for school year 2011-2012.

Finding (2): The DEDOE awarded immigrant subgrants under section 3114(d) of the ESEA to LEAs that met the State's definition of significant increase; however, the DEDOE did not notify LEAs that they had received these funds. As a result, LEAs were unaware of these allocations and did not use the funds to provide enhanced instructional opportunities for immigrant children and youth. See 2.2 and 2.3 above.

Citation: Section 76.702 of the Education Department General Administrative Regulations (EDGAR) requires a state to use fiscal control and fund accounting procedures that ensure proper disbursement and accounting for Federal funds. In addition, section 3115(e) of the ESEA requires that immigrant subgrant funds be used to "enhance instructional opportunities for immigrant children and youth."

Further Action Required: The DEDOE must develop and submit to ED procedures for administering funds under section 3115(e) of the ESEA. These procedures must include how the State will determine the amount of the reservation, define "significant increase", collect data on the number of immigrant children and youth enrolled in both public and private schools, make decisions about whether the State will award these funds on a formula or discretionary basis, and how the State will inform LEAs of their awards. The DEDOE must implement these procedures beginning with school year 2011-2012.

Finding (3): The DEDOE has not ensured that Title III funds are available to LEAs for the full allowable period of time. The grant awards for all Title III subgrantees have different start dates, such as August 30, 2010 and October 22, 2010, but the end date for all awards is December 31, 2011, which does not reflect a funding period of 27 months. The December 31, 2011 ending date is nine months less than the full period of availability, which restricts the period for LEAs to obligate Title III funds.

Citation: Under the "Tydings Amendment," §421(b) of the General Education Provisions Act (20 U.S.C. §1225(b)), any funds not obligated and expended during the period for which they were awarded become carryover funds and may be obligated and expended during the succeeding fiscal year. Any such carryover funds must be obligated and expended in accordance with the Federal statutory and regulatory provisions in effect during the period in which such funds are to be expended. For grants that are forward-funded, grantees can have up to 27 months to obligate appropriated funds beginning as early as July 1 of the Federal fiscal year (EDGAR 76.703(b)(3)(ii)).

Further Action Required: The DEDOE must ensure all Title III grant awards it issues to LEAs reflect a funding period of 27 months. The DEDOE must immediately inform in writing all

LEAs that receive Title III funds that the period of availability for Title III funds is 27 months. The State must provide ED with a copy of the written communication informing its LEAs of the 27-month period of availability for Title III funds. The DEDOE must, beginning with 2011-2012 awards, issue Title III grant awards that reflect a funding period of 27 months.

Recommendation: ED highly recommends that the DEDOE use the authority provided in section 3111 of the ESEA to carry out State activities, including administration, particularly in light of the findings noted in this report. The DEDOE has not reserved the full five percent that is allowed to carry out State activities, including administration. Although the DEDOE may not place more than $175,000 of its Title III State dollars into administration, it does have the authority to reserve up to five percent (including the $175,000) of its Title III allocation to carry out one or more of the following State activities:

- Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

- Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

- Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants, including assistance in —

  1. identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;
  2. helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;
  3. identifying or developing, and implementing, measures of English proficiency; and
  4. promoting parental and community participation in programs that serve limited English proficient children.

Element 3.2 – District Allocations, Reallocations and Carryover: The SEA ensures that its LEAs comply with the provisions related to LEA use of funds under section 3115 of the ESEA.

Finding: The DEDOE has not ensured that Title III subgrantees use Title III funds to implement activities required in section 3115(c)(2) of the ESEA. None of the LEAs visited demonstrated that Title III funds are used to implement professional development activities that meet the requirements in section 3115(c)(2) of the ESEA.

Citation: Section 3115(c) of the ESEA requires Title III subgrantees to use Title III funds to increase the English proficiency of limited English proficient children by providing high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and

other school or community-based organizational personnel that is of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

Further Action Required: The DEDOE must demonstrate through its revised application review and approval procedures and its monitoring activities and protocols that it will ensure that Title III subgrantees use Title III funds to carry out professional development activities that meet the requirements in section 3115(c)(2).

Element 3.4 - Supplement, Not Supplant – General: The SEA ensures that the LEA complies with the provision related to supplement, not supplant under section 3115(g) of the ESEA.

Finding: The DEDOE has not ensured that its LEAs comply with Title III supplement, not supplant requirements. CSD is using Title III funds to pay the salary of an ESL teacher who provides core language instruction to LEP students at the elementary level. The use of Title III funds to provide core language instruction violates the supplement, not supplant provisions, as such services are required to be provided by States and districts regardless of the availability of Title III funds. In addition, CSD is using Title III funds for substitutes, translator services for school fair letters, lunch menus, report card handbooks, choice letters, AYP determination letters, IEP determination letters, and race code forms and letters.

Citation: Section 3115 (g) of the ESEA requires Title III funds to be used to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have 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.

Further Action Required: The DEDOE must develop and disseminate guidance and provide technical assistance related to the supplement, not supplant requirements to Title III subgrantees. The DEDOE must submit evidence that it has provided this guidance to Title III subgrantees. Additionally, the DEDOE must submit to ED a description of how it will incorporate into its LEA application and review procedures checks and balances to ensure the State does not approve LEA budgets that include expenditures that violate Title III supplement, not supplant provisions.

Element 3.4A - Supplement, Not Supplant – Assessment: The SEA has met requirements related to supplement, not supplant and use of Title III funds to develop and administer State ELP assessments under sections 1111(b)(7) and 3113(b)(2) of the ESEA.

Finding: The DEDOE has not ensured that its LEAs comply with the supplement, not supplant requirements related to the use of Title III funds for assessment purposes. CSD and COLSD have used Title III funds for English language proficiency testing materials, substitutes during testing, and contractors to administer the annual ELP assessment.

Citation: Section 3115(g) of the ESEA requires Title III funds to be used to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have 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.

Further Action Required: The DEDOE must develop and disseminate guidance and provide technical assistance related to the supplement, not supplant requirements as they pertain to the use of Title III funds for assessment purposes. The DEDOE must submit evidence that it has provided this guidance to Title III subgrantees. Additionally, the DEDOE must submit to ED a description of how it will incorporate into its LEA application and review procedures checks and balances to ensure the State does not approve LEA budgets that include expenditures that violate Title III supplement, not supplant provisions.