

**New Jersey Department of Education
Title III Policy Guidance
April, 2014**

English Language Proficiency Assessment	
Issue 1:	Assessing the English Language Proficiency of Students Whose Parents Have Declined Services
Policy:	Title III subgrantee districts must annually assess the English language proficiency of all LEP children in grades K-12.
Citation:	<i>Elementary and Secondary Education Act</i> Section 3113(b)(3)(D)
Action:	School districts that receive Title III funds must annually assess all ELLs with the ACCESS for ELLS test. This includes ELLs whose parents have declined language assistance program services.
Issue 2:	Assessing the English Language Proficiency of LEP Students by Means of a Valid and Reliable Assessment by Grade Level
Policy:	Title III subgrantee districts are required to annually assess the English language proficiency of all ELLs by grade level using the ACCESS for ELLs test.
Citation :	<i>Elementary and Secondary Education Act</i> Section 3113(b)(3)(D) and 3122(a)(3)(A)(ii)
Action:	School districts that receive Title III funds must ensure that all ELLs are assessed annually with the correct grade or grade cluster ACCESS for ELLs test.
Parental Notification Requirement	
Issue 1 :	Annually informing the parents of ELLs that their child will continue in a language assistance program
Policy:	Title III subgrantee districts are required to annually inform the parents of an ELLs that continues to participate in a language assistance program.
Citation:	<i>Elementary and Secondary Education Act</i> Section 3302(a)
Action:	School districts that receive Title III funds must inform a parent or parents of an ELL of their parental rights not later than 30 days after the beginning of each school year in which the child will be enrolled in a language assistance program. This includes all subsequent years in which a child continues to be enrolled in a language assistance program. For a list of specific elements that must be included in the written parental notification, and sample letters, please visit the following website: http://www.state.nj.us/education/bilingual/title3/accountability/notification/
Definition of Immigrant Children and Youth	
Issue 1:	The definition of “immigrant children and youth” includes students from U.S. territories.
Policy:	“Immigrant children and youth” are defined as individuals who are (a) aged 3 through 21; (b) were not born in any State; and (c) have not been attending one or more schools in any one or more States for more than three full academic years. A “State” is defined as each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico.
Citation:	<i>Elementary and Secondary Education Act</i> Sections 3301(6) and 3301(14)
Action:	When reporting immigrant student data on NJSMART school districts must count all students that meet the federal definition of immigrant students, including those born in U.S. territories.

Issue 2:	Immigrant subgrants are intended to address separate needs from the LEP subgrants
Policy:	School districts receiving immigrant funds must use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth.
Citation:	<i>Elementary and Secondary Education Act</i> Section 3115(e)
Action:	School districts that receive Title III immigrant subgrants must use the funds for purposes that specifically target immigrant children and youth and that are distinct from those purposes for which the LEP grant is used. Authorized activities are listed on the NJDOE's 2014-2015 Title III immigrant application in the Electronic Web-Enabled Grant system (EWEG) and the immigrant program budget must reflect separate program activities.
Supplement not Supplant as it Relates to the Use of Title III Funds for the ACCESS for ELLs Test	
Issue:	The NJDOE has issued guidance to school districts which states that school districts may use Title III funds for the portion of the ACCESS for ELLs test that is above and beyond the cost of State-approved language proficiency tests that would have been used to satisfy State and Title 1 requirements if the school districts were not required to administer the ACCESS for ELLs test. In 2013-14, the guidance stated that LEAs may use up to \$12.00 per student to purchase the test.
Policy:	A State or a school district that is a Title III subgrantee cannot, without violating the non-supplanting requirement of the ESEA, use Title III funds to pay for the costs of administering annual ELP assessments because Title 1 requires States to administer annual ELP assessments to all students if identified as LEP.
Citation:	<i>Elementary and Secondary Education Act</i> Section 3115(g)
Action:	The New Jersey Department of Education is planning to appeal this finding. Please be informed that districts that plan to use Title III funds to partially pay for the cost of the ACCESS for ELLs test in FY2015 will be doing so with the understanding that they will have to credit the funds back to their Title III account if the appeal is not successful.