

# New Jersey Performance Review Report FY 2019

**Commendations**  
**0**

**Met Requirements**  
**17**

**Recommendations**  
**7**

**Action Required**  
**13**

April 9, 2020



U.S. Department of Education  
School Support and Accountability  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

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## **GENERAL INFORMATION**

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### **OVERVIEW OF THE PERFORMANCE REVIEW**

The Office of Elementary and Secondary Education (OESE) established the performance review process to conduct oversight of and provide assistance to State educational agencies (SEAs) as they administer K-12 formula grant programs. The goals of the performance review process are to conduct a State-centered, performance-focused review of key programs through a single, streamlined process that results in improved and strengthened partnerships between the Department and States, and encourages States to develop and effectively implement integrated and coherent consolidated State plans. To accomplish these goals, the performance review process is organized by areas, which reflect the programmatic and fiscal requirements.

This Performance Review Report summarizes the findings from the review of the New Jersey Department of Education (NJDOE) that occurred on October 21-25, 2019. The review covered:

- Title I, Part A of the ESEA, Improving Basic Programs Operated by Local Educational Agencies (LEAs)
- Title I, Part B of the ESEA, State Assessment Grants
- Title II, Part A of the ESEA, Teacher Quality State Grants
- Title III, Part A of the ESEA, the State Formula Grant Program for English Language Acquisition and Language Enhancement
- Title V, Part B, Subpart 2 of the ESEA, Rural Low-Income Schools

The report is based on information provided through the review process, and other relevant qualitative and quantitative data. The primary goal of this review was to ensure that implementation of the programs is consistent with the fiscal, administrative, and program requirements contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance: 2 Code of Federal Regulations (CFR) Part 200), the Education Department General Administrative Requirements (EDGAR), and the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA). The review addressed the administration of fiscal and programmatic components of all programs through two domains: (1) Financial Management and Cross-cutting Requirements<sup>1</sup> and (2) Program-specific Requirements.

### **NAVIGATING THE PERFORMANCE REVIEW REPORT**

This report contains five sections. Section I contains a snapshot of information pertinent to the grant activities for the respective State. Section II is a summary of the State's performance on each indicator reviewed for each covered program. For each indicator, the Department assigns one of four ratings. "Met requirements with commendation" represents high-quality implementation where the grantee is exceeding expectations; "met requirements" indicates that work is of an acceptable quality and the

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<sup>1</sup> The Department assessed compliance with Title V, Part B, Subpart 2 requirements under the Financial Management and Cross-cutting Requirements domain. As a result, any Title V, Part B, Subpart 2 program action required items are outlined under related indicators.

grantee is meeting expectations; “met requirements with recommendations” indicates there are quality implementation concerns and some improvements could be made to ensure the grantee continues to meet expectations; and “action required” indicates there are significant compliance or quality concerns that require urgent attention by the SEA and will be revisited until the State has remedied the issue.

Section III identifies those areas where the Department has significant compliance and quality concerns and for which corrective action is required. For those issues, the report outlines the current practice, the nature of noncompliance, and the required action.

Section IV identifies those areas where the Department has quality implementation concerns related to grant administration and fiscal management (*i.e.*, those areas categorized as quality concerns, “met requirements with recommendations”). In these instances, the Department is determining that the State is currently complying with requirements, but that improvements could be made to improve the efficiency or effectiveness of operations. Identified issues are grouped according to relevant area and requirement, with citations provided. For each issue listed, the Department will provide a recommendation for improvement, but is not requiring the State to take any further action.

Section V highlights the areas where the State has exceeded requirements and is commended on the grant administration and fiscal management (*i.e.*, those areas categorized as “met requirements with commendation”). In addition, this section provides an opportunity for the OSS to highlight those areas where the State has implemented an innovative or highly successful system or approach. In these areas, the Department is not recommending or requiring the State to take any further action.

## Overview of Visit



### COVERED GRANT PROGRAMS OF THIS REVIEW

Title I, Part A; Title I, Part B; Title II, Part A; Title III, Part A; Title V, Part B, Subpart 2



### FEDERAL FUNDING <sup>2</sup>

Title I, Part A:	\$366,131,955
Title I, Part B:	\$8,627,843
Title II, Part A:	\$45,226,505
Title III, Part A:	\$19,233,228
Title V, Part B, Subpart 2:	\$34,044

### Dates of Review

October 21-25, 2019

### ED Reviewers

Jasmine Akinsipe  
 Shane Morrissey  
 Robert Salley  
 Collette Roney  
 Jameel Scott  
 Evan Skloot  
 Melissa Siry  
 Elizabeth Witt

### LEAs Participating in the Monitoring Visit

Bloomfield  
Newark

### Current Grant Conditions

Title I, Part A:	New Jersey must demonstrate that its standards and assessment system meets all requirements under section 1111(b)(1) and (2) of the ESEA
Title I, Part B:	None
Title II, Part A:	None
Title III, Part A:	None
Title V, Part B, Subpart 2:	None

<sup>2</sup> FY 2019 funds included above (<https://www2.ed.gov/about/overview/budget/statetables/index.html>) are from OESE administered programs that allocate funds to States using a statutory formula. The totals do not reflect all Department funds that flow to a State. States and other entities may also receive funds from grants that are awarded on a competitive basis.

## SECTION II

# Summary of Fiscal & Program Monitoring Indicators

### STATUS KEY



**Met requirements with commendation**

High quality implementation & compliance.



**Met requirements**

Satisfactory implementation & compliance.



**Met requirements with recommendation**

Satisfactory compliance with quality concerns.



**Action required**

Significant compliance & quality concerns.

### FINANCIAL MANAGEMENT & CROSS CUTTING

Topic	Status
Accounting Systems and Fiscal Controls	●●●○
Period of Availability and Carryover	●●●○
Internal Controls	●●●○
Audit Requirements	●○○○
Records and Information Management	●●●○
Equipment and Supplies Management	●●○○
Personnel	●●●○
Procurement	●●●○
Indirect Costs	●●●○
Charter School Authorization and Oversight	●●●○
Reservations and Consolidation	●●○○
Budgeting and Activities	●●●○
Allocations	●○○○
Risk Assessment (External)	●●○○
Subrecipient Monitoring	●●●○
Local Educational Agency (LEA) Support and Guidance	●●●○
Supplement, Not Supplant (SNS)	●○○○
Maintenance of Effort (MOE)	●●●○
Comparability	●●○○
Equitable Services	●○○○

**TITLE I, PART A**

<b>Topic</b> <sup>3</sup>	<b>Status</b>
Long-Term Goals and Measurements of Interim Progress	● ● ● ○
Indicators and Annual Meaningful Differentiation	● ○ ○ ○
Identification of Schools	● ● ● ○
Support for School and LEA Improvement	● ○ ○ ○
1003 School Improvement	● ○ ○ ○
Data Quality	● ● ● ○
State and Local Report Cards	● ○ ○ ○
Schoolwide Programs	● ● ● ○
Educational Stability for Students in Foster Care	● ○ ○ ○
Parent and Family Engagement	● ● ● ○
Consolidated and Program LEA Plans/Applications, Assurances, and Stakeholder Engagement	● ● ● ○
Other Title I Requirements	● ○ ○ ○

**TITLE I, PART B**

<b>Topic</b>	<b>Status</b>
Grants for State Assessments	● ○ ○ ○

**TITLE II, PART A**

<b>Topic</b>	<b>Status</b>
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders	● ○ ○ ○

**TITLE III, PART A**

<b>Topic</b>	<b>Status</b>
Language Instruction for English Learners and Immigrant Students	● ○ ○ ○

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<sup>3</sup> The Department also monitors for “Optional Public School Transfer” and “Direct Student Services,” but these topics are not applicable in New Jersey.

## Action Required

### Financial Management & Cross Cutting

#### AUDIT REQUIREMENTS

#### REQUIREMENT SUMMARY

An SEA is responsible for both resolving the audit findings of subrecipients and for conducting audit follow-up activities and corrective actions for findings from the SEA's yearly Single Audit. An SEA is also required to ensure that subrecipients who meet the audit threshold are audited and the audits are reported according to established timelines.

Uniform Guidance 2 C.F.R. §200.331(d)(2), §200.331(d)(3), §200.331(f), §200.511(a), §200.512, and §200.521(c)

#### ISSUE

During the review, NJDOE stated that a formal management decision is not issued for subrecipient audit findings. Review of a subrecipient's corrective actions and determinations regarding the sufficiency of those corrective actions is addressed informally via email rather than through the issuance of a formal management decision letter.

2 C.F.R. 200.521(c) states that SEAs must be responsible for issuing management decisions for audit findings that relate to Federal awards it makes to subrecipients. Additionally, 2 C.F.R. 200.521(a) states that this management decision must include the following information:

1. Whether or not the audit finding is sustained and the reasons for the decision;
2. The expected auditee action to repay any disallowed costs, make financial adjustments, or other action;
3. A timetable for follow-up should be given if the auditee has not completed corrective action; and
4. A description of any appeal process available to the auditee.

Because NJDOE does not issue management decisions that include the information listed above, it is not in compliance with this requirement.

#### REQUIRED ACTION

Within 60 business days of receiving this report, NJDOE must provide the Department with a template for a formal management decision letter it will issue for subrecipient audit findings. This template should include placeholders for the information required by 2 C.F.R. 200.521.

## ALLOCATIONS

## REQUIREMENT SUMMARY

SEAs shall ensure that, when subawarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for subawarding funds and the amounts to be subawarded to individual subrecipients).

ESEA §1112, §1113, §1124, §1124A, §1125, §1125A, §1126(b), §2101, §2102, §3111, §3114, §3115, §8305

Title I Regulations 34 C.F.R §200.72-200.75 and §200.100

EDGAR 34 C.F.R. §76.50-51, §76.300, and §76.789

Uniform Guidance 2 C.F.R. §200.331(a)

## ISSUE

Under Uniform Guidance 2 C.F.R. 200.331(a), an SEA is required to ensure that every sub-award grant award notification (GAN) includes the following information at the time of the issuance of the sub-award:

- (i) Subrecipient name;
- (ii) Subrecipient's unique entity identifier;
- (iii) Federal award identification number (FAIN);
- (iv) Federal award date (date award received by the SEA from the Federal agency);
- (v) Subaward period of performance start and end date;
- (vi) Amount of Federal funds obligated through the award notice;
- (vii) Total amount of Federal funds obligated to the subrecipient by the SEA;
- (viii) Total amount of the Federal award committed to the subrecipient;
- (ix) Federal award project description;
- (x) Notice that the award originated from the Department;
- (xi) Contact information for the awarding official;
- (xii) CFDA number and name; and
- (xiii) Indirect cost rate for the award.

NJDOE provided samples of its subrecipient grant award notices (GANs). Although the sample GANs included much of the information required under the Uniform Guidance, several required items (Federal award project description, notice that the award originated for the Department, CFDA number and name, indirect cost rate) are missing from the GAN.

Additionally, ESEA section 3114(b) prohibits an SEA from awarding Title III, Part A subgrants to eligible entities, including consortia, if the amount of the subgrant would be less than \$10,000. While NJDOE's online consolidated application system (EWEG) correctly addresses the prohibition in ESEA section 3114(b), its document detailing procedures for the allocation of Title III, Part A funds (*New Jersey Department of Education Procedures for the Allocation of Elementary and Secondary Education*

*Act (ESEA), Title III, Part A Funds to Local Education Agencies (LEAs)*) does not address the prohibition on subgrants of less than \$10,000.

**REQUIRED ACTION**

Within 60 business days of receipt of this report, NJDOE must provide to the Department an updated template for its GAN that includes all required information for each grant program.

**RECOMMENDATION**

The Department recommends that NJDOE revise its procedure document for Title III suballocations to accurately reflect its current practice in carrying out the requirements in ESEA section 3114(b).

## SUPPLEMENT NOT SUPPLANT

## REQUIREMENT SUMMARY

The State and its subgrantees must ensure that funds from the Title I, Part A, Title II, Part A and Title III, Part A programs are used to supplement not supplant State and local funds (as well as other Federal funds for the Title III, Part A program).

ESEA §1114(a)(2)(B), §1118(b), §2301, and §3115(g)

## ISSUE

ESEA section 1118(b) requires a local educational agency (LEA) to demonstrate that its methodology to allocate State and local funds to schools results in each Title I school receiving all of the State and local funds it would otherwise receive if it were not receiving Title I, Part A funds. In September 2019, NJDOE issued comprehensive supplement, not supplant guidance to its LEAs describing the requirements under the ESEA, as amended by the Every Student Succeeds Act (ESSA). However, the NJDOE subrecipient monitoring protocol includes a specific question for schoolwide schools but does not include reference to targeted assistance schools. In addition, although the guidance indicates that NJDOE will collect LEA methodologies for supplement, not supplant through the consolidated local application, the 2018-2019 school year application only included a general assurance regarding supplement, not supplant. As a result, it is unclear how NJDOE is ensuring LEA compliance with the supplement not supplant provisions in the ESEA.

ESEA section 2301 requires Title II, Part A expenditures to be supplemental to non-Federal funds. ESEA section 3115(g) requires that Title III, Part A funds be used to supplement the “level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for English learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.” NJDOE provided guidance regarding the supplement, not supplant requirements for Title II, Part A and Title III, Part A. However, the subrecipient monitoring protocols for both programs were not consistent with statutory requirements. Specifically, for Title II, Part A, the subrecipient monitoring protocol references Federal and State funds, rather than State and local funds. For Title III, Part A, the subrecipient monitoring protocol references State and local funds, but excludes Federal funds.

## REQUIRED ACTION

Within 60 business days of receiving this report, the State must submit to the Department updated subrecipient monitoring protocols for Title I, Part A; Title II, Part A; and Title III, Part A that are consistent with ESEA sections 1118(b), 2301, and 3115(g), respectively. For Title I, Part A, this may also be addressed through collection of LEA methodologies in the consolidated local application.

## EQUITABLE SERVICES

## REQUIREMENT SUMMARY

An SEA shall ensure that LEAs use Federal funds to provide benefits to eligible children enrolled in private schools and to ensure that teachers and families of participating private school children participate on an equitable basis. Where applicable, the SEA shall ensure that it uses Federal funds for State-level activities to provide benefits to eligible students and educators.

ESEA §1117, §8501

Regulations 34 C.F.R. §200.62-67, §299.6, and §299.9

EDGAR 34 C.F.R. §76.661

## ISSUE

ESEA section 8501 requires a State to provide equitable Title II, Part A services to ensure that teachers, principals and other school leaders in participating private schools participate on an equitable basis. This requirement applies not only to Title II, Part A funds that are allocated to LEAs, but also to the program funds that the SEA retains at the State level to carry out activities under ESEA section 2101(c)(4). NJDOE is not carrying out all requirements regarding the provision of equitable services to eligible nonpublic school educators using State-level activity funds. While NJDOE invites private school educators to participate in activities it provides to public school educators with State-level Title II, Part A funds, it does not enter into formal consultation with representatives of eligible private schools about how State-level Title II, Part A funds should be used to meet the needs of private school educators.

## REQUIRED ACTION

Within 60 business days, NJDOE must submit to the Department a plan and a timeline detailing how it will ensure full compliance with all requirements, including consultation, for the provision of services for eligible nonpublic school educators using State-level Title II, Part A funds.

## Title I, Part A

### INDICATORS AND ANNUAL MEANINGFUL DIFFERENTIATION

### REQUIREMENT SUMMARY

An SEA must measure, on an annual basis, all required indicators for all students and each subgroup of students. A State must establish a system of annual, meaningful differentiation of all public schools in the State based on all indicators in the State's accountability system for all students and for each subgroup of students. Each academic indicator must receive substantial weight individually. Additionally, each academic indicator must receive much greater weight than the school quality or student success indicator(s), in the aggregate.

ESEA §1111(c)(4)(B), §1111(c)(4)(E), §1111(c)(4)(F), and §1111(c)(4)(C)

### ISSUES

The Department identified several issues with respect to NJDOE's implementation of its State accountability system.

1. **Academic Achievement indicator.** As described more fully under "Grants for State Assessments" on page 24, NJDOE does not require that all public school students take the same assessment statewide in mathematics, as required under ESEA section 1111(b)(2)(B). Rather, the State administers multiple high school mathematics assessments and includes in its Academic Achievement indicator a student's result for whatever mathematics assessment the student took (for students in grades 9 and 10). NJDOE does not ensure that all students take a single mathematics assessment, nor does it ensure that for the assessment results it includes, all students take the assessment. Because ESEA section 1111(c)(4)(B)(i) requires that the Academic Achievement indicator measure student proficiency on the statewide reading/language arts and mathematics assessments that meet the requirements in ESEA section 1111(b)(2)(B), NJDOE is not correctly calculating the Academic Achievement indicator because it is not including all students in the indicator and does not require that all students take each of the assessments that it includes in the indicator.
2. **Calculating the 4-year adjusted cohort graduation rate (ACGR).** In calculating the four-year adjusted cohort graduation rate (ACGR) that NJDOE included students who received what NJDOE calls a "regular high school diploma" on the basis of achieving their Individualized Education Program (IEP) goals. In particular, IEP teams in New Jersey can exempt students from graduation requirements and make determinations for alternate proficiencies that students need to meet in order to graduate. For the purpose of calculating the ACGR, however, ESEA section 8101(43) defines a "regular high school diploma" as the standard high school diploma awarded to the preponderance of students in a State that is fully aligned with the State's standards and does not include a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential. Under 34 C.F.R. § 300.320(a)(2), each child's IEP must

include a statement of measurable annual goals, including academic and functional goals, designed to: (1) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and (2) meet each of the child's other educational needs that result from the child's disability. A diploma based on meeting a student's IEP goals will not provide a sufficient basis for determining that the student has met a State's standards for a regular high school diploma. Therefore, the ESEA does not permit NJDOE to include a student who attains his or her IEP goals as a graduate in the calculation of the ACGR, unless the State determines that the student met the State's standards for a regular high school diploma.

3. **Progress in Achieving English Language Proficiency indicator.** NJDOE calculates its Progress in Achieving English Language Proficiency indicator based in part on each EL's English language proficiency level at the time of the first administration of NJDOE's English language proficiency assessment. However, NJDOE's *Every Student Succeeds Act (ESSA) Accountability Profiles Companion Guide*, updated October 2019 (p. 17), and NJDOE's consolidated State plan (table heading, p. 53), both refer to considering the number of years an EL has been enrolled in the current New Jersey LEA as opposed to the number of years a student has been identified as an EL when considering the number of years for an EL to achieve English language proficiency.
4. **Inclusion of all public schools in annual meaningful differentiation.** ESEA section 1111(c)(4)(C) requires that a State establish a system of annual meaningful differentiation for all public schools in the State. New Jersey's system of annual meaningful differentiation does not include public schools in the State with fewer than three academic indicators (i.e., the State has determined that it must have data to calculate three or more of the Academic Achievement, Other Academic, Graduation Rate, and Progress in Achieving English Language Proficiency indicators in order to assign a school a "status" under its system) nor does NJDOE have an alternative methodology for those schools with data for fewer than three indicators. NJDOE documented that, as of the 2019-2020 school year, 277 schools had not been assigned a status in its system of annual meaningful differentiation because results for at least three indicators were not available for those schools.
5. **Consistency with NJDOE's approved consolidated State plan.** In certain instances, NJDOE's approved consolidated State plan and its policies and procedures as reflected in information provided by NJDOE for the performance review are inconsistent. Specifically:
  - New Jersey's approved consolidated State plan (p. 59) defines Asian and Native Hawaiian/Other Pacific Islander subgroups separately. However, NJDOE confirmed during the performance review that its practice is to consider Asian and Native Hawaiian/Other Pacific Islander students together as one subgroup.
  - New Jersey's approved consolidated State plan indicates that the State's system of annual meaningful differentiation will result in summative ratings at the elementary/middle and high school levels. However, NJDOE confirmed during the performance review that its practice is to establish summative ratings using three levels (elementary/middle, high, and mixed configuration schools).

## REQUIRED ACTIONS

Within 60 business days of receiving this report, NJDOE must:

- 1. Academic Achievement indicator.** Due to the extraordinary circumstances created by the COVID-19 pandemic and resulting school closures during the 2019-2020 school year, on March 27, 2020, the Department approved NJDOE's request for a waiver, for the 2019-2020 school year, of the assessment requirements in section 1111(b)(2) of the ESEA and the accountability and school identification requirements in sections 1111(c)(4) and 1111(d)(2)(C)-(D) (available at: <https://oese.ed.gov/files/2020/04/NJ-Covid19-WaiverResponse.pdf>). NJDOE must resolve the required action under "Grants for State Assessments" on page 24, which requires NJDOE to begin administering the same statewide assessment(s) in mathematics in high school during the 2020-2021 school year. NJDOE also must submit to the Department updated business rules for using the results from its statewide high school mathematics assessment (or assessments) to calculate its Academic Achievement indicator consistent with ESEA requirements for the 2020-2021 and future school years. For a State administering an end-of-course high school assessment, such as NJDOE, the indicator must include all students once while the student is enrolled in grades 9-12, even though students may take the statewide assessment for mathematics in high school in any grade. Note that New Jersey is exercising the "exception for advanced mathematics in middle school" under ESEA section 1111(b)(2)(C) and has a waiver to permit students who take Algebra I prior to high school to take a more-advanced mathematics assessment in high school from which results are used in the State's accountability system in place of results from the statewide summative mathematics assessment for those students.
- 2. Calculating the 4-year adjusted cohort graduation rate (ACGR).** Provide updated procedures for calculating the 4-year ACGR consistent with the statutory requirements beginning with data from the 2019-2020 school year.
- 3. Progress in Achieving English Language Proficiency indicator.** Submit to the Department an updated Companion Guide that describes that, for purposes of its Progress in Achieving English Language Proficiency indicator, NJDOE considers an EL's English language proficiency level at the time of the first administration of NJDOE's English language proficiency assessment to determine the student-level target for achieving English proficiency rather than the number of years an EL has been enrolled in the LEA in which the student is currently enrolled, and (2) a request to amend its ESEA consolidated State plan to clarify that, for purposes of describing its Progress in Achieving English Language Proficiency indicator, NJDOE considers the State-determined timeline for English learners to achieve English language proficiency and not the number of years an EL has been enrolled in the New Jersey LEA in which the student is currently enrolled.
- 4. Inclusion of all schools in Statewide systems of annual meaningful differentiation.** Submit a draft request to amend its consolidated State plan that describes an alternate methodology for including in its statewide system of annual meaningful differentiation schools for which results for at least three indicators are not available, no later than for accountability determinations made in the beginning of the 2021-2022 school year based on 2020-2021 data.

5. **Consistency with NJDOE's approved consolidated State plan.** In order to ensure consistency between NJDOE's approved consolidated State plan and policies and practices in the State described by NJDOE for this review, NJDOE must submit to the Department a draft request amend its approved consolidated State plan to reflect its policy and practices confirmed during the performance review and listed in this finding.

## SUPPORT FOR SCHOOL IMPROVEMENT

### REQUIREMENT SUMMARY

Upon receiving notification from the State, an LEA shall, for each school identified by the State and in partnership with stakeholders, develop and implement a comprehensive support and improvement plan. The SEA shall notify an LEA of any school served by the LEA that is identified for targeted support and improvement, and the LEA shall notify such identified schools.

An SEA must establish statewide exit criteria for schools identified for comprehensive support and improvement and additional targeted support and improvement. Periodically, an SEA must review resource allocation to support school improvement in each LEA serving a significant number or a significant percentage of schools identified for Comprehensive or Targeted support and improvement and must provide technical assistance to each LEA serving a significant number of schools identified for Comprehensive or Targeted support and improvement.

ESEA §1111 (d) (1) - (2)

### ISSUE

The ESEA requires that schools identified for CSI and ATSI identify resource inequities as part of their school improvement plans. This may include a review of LEA and school-level budgeting (ESEA section 1111(d)(1)(B)(iv) and 1111(d)(2)(C)). NJDOE's statewide Annual School Plan (ASP) template, which it requires any school identified for CSI or ATSI to complete, does not include identification of resource inequities.

### REQUIRED ACTIONS

Within 60 days of receiving this report, NJDOE must submit to the Department evidence that it has incorporated resource inequities into its ASP template for schools identified for CSI or ATSI or has developed another method to ensure that each school improvement plan to be implemented beginning with the 2020-2021 school year.

## 1003 SCHOOL IMPROVEMENT

## REQUIREMENT SUMMARY

An SEA shall allocate and oversee the administration of 1003(a) school improvement subgrants so that LEAs and schools can effectively develop and implement comprehensive support and improvement and targeted support and improvement plans. The SEA must also conduct a rigorous review of 1003(a) subgrant applications to ensure that LEAs include all required elements.

ESEA §1003(a)-(f), §1111(d)(1)-(2)

## ISSUE

Under ESEA section 1003(e), an LEA must submit an application to the SEA that describes how the LEA will:

1. Develop comprehensive support and improvement plans under section 1111(d)(1) for schools receiving funds;
2. Support schools developing or implementing targeted support and improvement plans under section 1111(d)(2), if applicable;
3. Monitor schools receiving funds;
4. Use a rigorous review process to recruit, screen, select, and evaluate any external partners with whom the LEA will partner;
5. Align other Federal, State, and local resources to carry out the activities supported with funds; and
6. As appropriate, modify practices and policies to provide operational flexibility that enables full and effective implementation of the plans.

The application must also include an assurance that each school the LEA proposes to serve will receive all of the State and local funds it would have received in the absence of ESEA section 1003 funds.

NJDOE's LEA application did not include a description of how the LEA will use a rigorous review process to recruit, screen, select, and evaluate any external partners with which the LEA will partner in carrying out activities supported with school improvement funds or an assurance that each school the LEA proposes to serve will receive all of the State and local funds it would have received in the absence of school improvement funds. During the performance review, NJDOE noted that although the application did not require a description for how the LEA will use a rigorous review process for external partners, this information could be implied by general assurances. However, an assurance is not sufficient to meet the ESEA requirements that the LEA describe its rigorous review process.

NJDOE also noted that although there was no specific assurance that each school would receive all the State and local funds it would otherwise receive in the absence of section 1003 funds, it was part of a more general supplement, not supplant assurance that all LEAs must adhere to in the consolidated grant application. ESEA section 1003(e) requires that an LEA submit an application specifically for the purposes of receiving section 1003 funds. Therefore, for both missing elements, a general assurance outside of the section 1003 application is not sufficient to meet statutory requirements.

In addition, ESEA section 1003(b)(2)(B) requires that the SEA monitor and evaluate the use of funds by all LEAs that receive ESEA section 1003 funds. During the performance review, the Department found that NJDOE does not include use of these funds in its subrecipient monitoring protocol. NJDOE noted that it plans to add this to its monitoring tool in the future.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, NJDOE must submit to the Department:

1. An updated ESEA section 1003 application that includes a description of the LEA will use a rigorous review process to recruit, screen, select, and evaluate any external partners with which the LEA will partner in carrying out activities supported with school improvement funds, and an assurance that each school the LEA proposes to serve will receive all of the State and local funds it would have received in the absence of school improvement funds.
2. Evidence that it has added to its subrecipient monitoring protocol questions on the use of ESEA section 1003 funds.

## STATE AND LOCAL REPORT CARDS

## REQUIREMENT SUMMARY

An SEA and its LEAs are required to prepare and annually disseminate report cards that include all required elements to the public in a timely manner.

ESEA §1003(f); §1111(h)(1-2); §1111(g)(2)(N)

34 C.F.R. §200.11, §200.19(b)

## ISSUE

ESEA sections §1003(f) and 1111(h) require that an SEA and its LEAs prepare and disseminate annual report cards in a timely manner that include all required elements. The Department reviewed both the SEA and LEA report cards and found that the report cards reviewed did not contain all of the required information.

Specifically, the SEA report card for the 2017-2018 school was missing the following items:

1. Progress toward State-designed long-term goals, including measurements of interim progress;
2. Information on school improvement funds under ESEA section 1003 by LEA and school, including the names of LEAs and schools receiving school improvement funds, amount of funds received by each school, and the types of strategies implemented in each school;
3. Exit criteria established by the State for schools identified for comprehensive support and improvement and schools identified for additional targeted support and improvement;
4. Data from the Civil Rights Data Collection; and
5. Educator qualifications for teachers that are not teaching in subject/field of certification/licensure.

In addition, the State is required to provide information cross-tabulated on student achievement on State assessments, the other academic indicator, graduation rate indicator, and the percentage of students assessed and not assessed (ESEA section 1111(g)(2)(N)). This data must be cross-tabulated by each major racial and ethnic student subgroup, gender, English proficiency status, and children with and without disabilities. This may be accomplished by providing this information on SEA report cards

The LEA report cards for the 2017-2018 school that the Department reviewed were missing the following items:

1. Exit criteria established by the State for schools identified for comprehensive support and improvement and schools identified for additional targeted support and improvement; and
2. Educator qualifications for teachers not teaching in subject/field of certification/licensure

## REQUIRED ACTION

Within 60 business days of receiving this report, provide a plan and timeline for updating its report cards to include all required elements. For the 2018-2019 school year report cards, NJDOE must demonstrate that its SEA and LEA report cards for the 2018-2019 school year include all required elements (e.g., providing links to published report cards, screenshots, etc.).

## EDUCATIONAL STABILITY FOR STUDENTS IN FOSTER CARE

### REQUIREMENT SUMMARY

An SEA must collaborate with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care and ensure LEAs receiving a Title I, Part A subgrant collaborates with the State or local child welfare agency to develop and implement procedures governing transportation for children in foster care.

ESEA §1111 (g) (1) (E) and §1112 (c) (5) (A) - (B)

### ISSUES

The Department identified two issues with respect to NJDOE's implementation of the foster care provisions in the ESEA.

1. **Collaboration with State child welfare agency.** ESEA section 1111(g)(1)(E) requires a State to collaborate with its State child welfare agency to ensure the educational stability of children in foster care. While NJDOE provided evidence of collaboration through interagency guidance last revised in October 2013, there is no evidence of recent collaboration. NJDOE previously engaged in quarterly meetings but those meetings are no longer occurring and NJDOE has not provided any evidence of other collaboration that would meet this statutory requirement.
2. **Written transportation procedures.** ESEA section 1112(c)(5)(B) requires each LEA receiving a Title I, Part A subgrant to provide an assurance that it will, in collaboration with the relevant local child welfare agency, develop and implement written transportation procedures describing how it will provide, arrange, and fund transportation for students in foster care.

Under the Uniform Guidance, the SEA is responsible for monitoring subrecipient activities as necessary to ensure that the subaward is used in compliance with Federal statutes and regulations. (See 2 C.F.R. § 200.331(d)). While NJDOE provided LEAs guidance about the new requirement, the NJDOE monitoring tool does not include specific reference to the requirement and one LEA that met with the Department during monitoring activities had no evidence of established written transportation procedures.

### REQUIRED ACTION

Within 60 business days of receiving this report, NJDOE must submit to the Department a plan and a timeline detailing how it will ensure full compliance with all requirements, including collaboration with the State child welfare agency and how it will monitor LEAs to ensure that LEAs receiving Title I, Part A subgrants have written transportation procedures to govern how transportation will be provided, arranged, and funded for students in foster care.

## **OTHER TITLE I REQUIREMENTS: EDUCATOR EQUITY**

### **REQUIREMENT SUMMARY**

An SEA must describe how low-income and minority children are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers and must evaluate and publicly report the progress of the SEA with regard to such description. An SEA must ensure that LEAs identify and address any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers.

ESEA §1111(g)(1)(B) and §1112(b)(2)

### **ISSUE**

ESEA section 1111(g)(1)(B) requires an SEA to evaluate and publicly report the progress of the SEA in ensuring that low-income and minority children in Title I, Part A schools are not served at disproportionate rates by ineffective, inexperienced, and out-of-field teachers. Prior to the on-site review, NJDOE provided information regarding its progress related to its certification and licensure systems and provided documentation illustrating its Education Preparation Provider Performance Reports. During the on-site review, NJDOE provided information demonstrating that it provides information to LEAs that includes teacher characteristics. The New Jersey Quality Single Accountability Continuum Process verifies that the evaluation processes for all educators results in complete evaluation data and ensures that each LEA is utilizing educator evaluation data when determining if the LEA's professional development needs are being addressed, but does not look specifically at the disproportionate rates of access to ineffective, inexperienced, or out-of-field teachers for low-income and minority children enrolled in Title I, Part A schools. NJDOE also runs a matrix report which examines all teachers in NJDOE schools compared with the State certification system and provides that report to LEAs. If an LEA has teachers that are out-of-field, the county offices work with the individual LEA to determine how the school and LEA will address the issue. Finally, NJDOE provides each LEA with a data card that includes information regarding the effectiveness of all teachers. Although NJDOE provides LEAs with multiple sources of related data, NJDOE is not currently evaluating or publicly reporting its progress in ensuring that low-income and minority children in Title I, Part A schools are not served at disproportionate rates by ineffective, inexperienced, and out-of-field teachers.

In its approved consolidated State plan, NJDOE indicated that it would report such progress on its educator equity website, at [www.state.nj.us/education/rpr/equity/](http://www.state.nj.us/education/rpr/equity/). However, as of October 2019, the website did not include any updated information regarding the SEA's progress in addressing its educator equity gaps.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, the State must submit a timeline and a plan to the Department for evaluating and publicly reporting the progress of the SEA in ensuring that low-income and minority children in Title I, Part A schools are not served at disproportionate rates by ineffective, inexperienced, and out-of-field teachers.

**RECOMMENDATION**

The Department recommends that NJDOE incorporate the requirement in ESEA section 1112(b)(2) in the State's subrecipient monitoring protocol to ensure that LEAs are meeting the statutory requirements to ensure that low-income and minority children in Title I, Part A schools are not served at disproportionate rates by ineffective, inexperienced, and out-of-field teachers.

## Title I, Part B

### GRANTS FOR STATE ASSESSMENTS

### REQUIREMENT SUMMARY

An SEA must administer required statewide assessments and report on participation and achievement for those assessments. An SEA must also use State Assessment Grant funds only for allowable uses of funds consistent with sections 1201(a)(1) and (a)(2). An SEA may also use assessment flexibilities permitted under the statute.

ESEA §1201(a) and §1111(b)(2)(B)

34 C.F.R. §200.1-200.10

### ISSUE

ESEA section 1111(b)(2)(B) requires a State, for each subject and grade or grade span for which academic assessments are required, to administer the same academic assessments to all public elementary and secondary school students in the State, with certain exceptions allowed for students with the most significant cognitive disabilities. Previously, NJDOE indicated to the Department that, even though it administers multiple high school assessments, Algebra I is the mathematics assessment administered to all students to satisfy ESEA section 1111(b)(2)(B)(i) and (v). However, NJDOE did not provide evidence that all students take Algebra I in high school (except those students who take the State's alternate assessment based on alternate academic achievement standards or those students who take Algebra I prior to high school, per the flexibility in ESEA section 1111(b)(2)(C) and the waiver granted to the State by the Department on December 21, 2017).

### REQUIRED ACTION

Within 60 business days of receiving this report, NJDOE must provide evidence that it will begin administering a single statewide assessment in mathematics in high school, consistent with ESEA section 1111(b)(2)(B), during the 2020-2021 school year (e.g., provide evidence of a notice to LEAs in the State). If NJDOE continues to administer an end-of-course assessment, the plan and timeline must describe how NJDOE will ensure that the assessment is administered to all students, consistent with ESEA section 1111(b)(2)(B).

## Title II, Part A

### PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS

#### REQUIREMENT SUMMARY

SEAs and LEAs may use Title II, Part A funds for a variety of allowable activities, including evidence-based professional development, recruitment and retention, and class size reduction. Activities must meet the purpose of Title II, Part A, which is to enhance instruction in order to improve student achievement. In carrying out activities, SEAs and LEAs must use data and engage in ongoing consultation with key stakeholders to continually improve the implementation of funded activities. LEAs must also prioritize Title II, Part A funds to schools that are implementing comprehensive support and improvement activities and targeted support and improvement activities and that have the highest percentage of children in poverty and children who are neglected or delinquent.

ESEA §2101(c)(4)(B), §2101(d)(2)(D), §2101(d)(2)(K), §2102(b)(2)(C), §2102(b)(2)(D), §2102(b)(3), §2103(b)(3), §2103(b)(3)(D), §8101(42)

#### ISSUE

ESEA section 2103(b)(3)(D) permits an LEA to use its Title II, Part A funds to reduce class size by recruiting and hiring effective teachers. This requirement presumes that LEAs will not use Title II, Part A funds to hire or pay teachers for the purpose of class size reduction unless the LEA has previously determined that the class size reduction teachers are effective. NJDOE provided no evidence that it ensures that teachers recruited or paid with Title II, Part A funds for purposes of class size reduction have been determined to be effective by the LEA before Title II, Part A funds are used. As a result, LEAs in New Jersey are at risk of using program funds to pay ineffective class size reduction teachers, which would be an unallowable Title II, Part A expenditure.

#### REQUIRED ACTION

Within 60 business days of receiving this report, NJDOE must submit to the Department a plan and a timeline for how the State will ensure that LEAs do not use Title II, Part A funds to hire or pay teachers for the purpose of class size reduction unless the LEA has previously determined that the class size reduction teachers are effective, as required by ESEA section 2103(b)(3)(D).

#### RECOMMENDATION

NJDOE could address this requirement by including as part of the LEA application for funds an assurance that any teachers that an LEA proposes to hire or pay for purposes of class size reduction have previously been determined to be effective. NJDOE could then include a follow-up check on such an assurance as part of its subgrantee monitoring procedures.

## Title III, Part A

### LANGUAGE INSTRUCTION FOR ENGLISH LEARNERS AND IMMIGRANT STUDENTS

### REQUIREMENT SUMMARY

In carrying out activities with Title III funds, the eligible entity must carry out three required activities as described in ESEA section 3115(c): (1) provide an effective language instruction educational program (LIEP), which must be supplemental; (2) provide effective professional development; and (3) provide and implement other effective activities and strategies that enhance or supplement LIEPs, which must include parent, family, and community engagement activities. After timely and meaningful consultation with LEAs representing the geographic diversity of the State, an SEA must establish and implement standardized statewide entrance and exit procedures for ELs.

ESEA §1112(e)(3), §3113(b)(2), §3114(d), and 3115(c)-(e)

### ISSUE

ESEA section 3113(b)(2) requires a State to establish and implement standardized statewide entrance and exit procedures for English learners. NJDOE's approved State plan describes its three-step standardized process for entrance (a standardized home-language survey; a standardized identification screening process; and standardized use of multiple indicators, including a screener) and its standardized exit process (achievement of an established cut score on the State's ELP or alternate ELP assessment, in addition to a determination on a standardized English language observation form that the student is ready to exit).

However, NJDOE permits the use of additional, non-standardized entrance procedures. Specifically, when a school team determines the State's standardized screener is not appropriate to assess students for entrance (e.g., students with significant cognitive abilities), NJDOE allows students to be evaluated by a team of educators. However, each LEA or charter school is permitted to develop its own process for how these teams will make entrance determinations, meaning that this alternate identification procedure is not standardized.

In addition, when determining whether to exit a student, NJDOE permits the ELP assessment score for exit to be replaced with a proficient score on the State's reading/language arts and mathematics assessments. During the onsite interviews the State noted these assessments do not measure English language proficiency; therefore, these assessments may not be used for ELP purposes.

The variations noted above in NJDOE's methods for identifying students and exiting students for EL status do not demonstrate that entrance and exit requirements are applied consistently statewide, as required by the ESEA. Subsequent to the on-site review, NJDOE stated that it will develop uniform entrance and exit procedures that address the issues noted above.

**ACTION REQUIRED**

Within 60 business days of receiving this report, NJDOE must provide the Department with evidence (such as a revised version of its *English Language Learner Entry and Exit* guidance document) that it has established and is implementing standardized entrance and exit procedures. In addition, NJDOE must provide a timeline indicating when these revised procedures will be in place.

## Met Requirements with Recommendation

### Financial Management & Cross Cutting

#### RISK ASSESSMENT

#### REQUIREMENT SUMMARY

In order to determine the appropriate method and level of subrecipient monitoring, an SEA shall evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward.

Uniform Guidance 2 C.F.R. §200.331(b)

#### ISSUE

Under Uniform Guidance 2 C.F.R. §200.331(b), a SEA must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purpose of determining the subrecipient monitoring to be performed by the agency.

As part of its subrecipient monitoring planning process and according to its *Collaborative Monitoring of Federal Programs Procedures Manual*, NJDOE uses various indicators to assess and identify LEA risk level. Annually, the SEA reviews various risk indicators and LEAs are categorized into one of three tiers: intensive, targeted or universal. The tier given to the LEA determines the manner of monitoring and the technical assistance the LEA will receive from NJDOE. NJDOE provided the Department with a copy of its risk assessment tool and based on a review of the documentation provided NJDOE is fulfilling its base requirement to perform a risk assessment of subrecipients. However, we encourage the SEA to improve its risk assessment by implementing the following recommendations.

#### RECOMMENDATIONS

1. While it may not be an explicit requirement under the Uniform Guidance, it is highly recommended that audit findings are used as an indicator when determining subrecipient risk. The failure to use audit findings as an indicator could increase the risk that subrecipients are not being given an appropriate risk designation and aren't being given suitable priority for subrecipient monitoring.
2. NJDOE does not provide each LEA with its individual risk assessment score to ensure LEAs are aware of their risk status or the criteria for determining the risk level. The Department recommends that NJDOE provide LEAs with information regarding its risk assessment criteria and assessment tools. Providing this information will help ensure LEAs are better prepared to fulfill their requirements as subgrantees and be informed about how to reduce their risk levels.
3. Although NJDOE was able to provide a clear description during the review regarding the three risk tiers for LEAs (i.e., intensive, targeted and universal), it was unclear from the written

materials how an LEA would receive support as a result of being placed in those categories. The Department recommends that NJDOE produce written materials that indicate the support an LEA would receive as a result of being placed into a risk tier, as well as the consequences for being designated in a risk tier. For example, this could include the rationale for what type of monitoring will be conducted (e.g., on-site, desk, etc.) and how often that monitoring would take place based on the tier.

## EQUIPMENT AND SUPPLIES MANAGEMENT

### REQUIREMENT SUMMARY

An SEA shall use, manage and dispose of equipment and supplies purchased using Federal funds in accordance with all relevant State laws and procedures. SEAs shall also ensure that equipment and supplies are used only for authorized purposes of the project during the period of performance (or until no longer needed).

Uniform Guidance 2 C.F.R. §200.313-314

GAO Green Book Principle 10.03

### ISSUE

When NJDOE purchases equipment using Federal funds, items received are added to the statewide accounting system's asset inventory system. This system maintains records of each item's assigned asset identification number, acquisition date, funding source, and physical location. Under the New Jersey Statewide Information Security Manual, NJDOE is required to review logs of all system components periodically based on the sensitivity and criticality of the system components. Therefore, NJDOE is required to conduct and document a physical inventory of all items within the SEA's purview, including items purchased with Federal funds.

Based on a review of documentation provided by NJDOE, and from what was stated during the on-sight monitoring visit, NJDOE's inventory processes provide reasonable assurance that the SEA maintains a baseline level of control for all items. However, NJDOE did acknowledge that the documentation of its equipment management processes is lacking. The State of New Jersey's "Statewide Information Security Manual" includes requirements for what agencies must do, however, it does not detail how NJDOE fulfills those requirements. Additionally, NJDOE does not maintain its own written procedures detailing the actions it takes when items purchased with federal funds have been damaged, lost, or stolen. When asked about these procedures during the review, it was clear that NJDOE has a process in place, but that process is not documented.

### RECOMMENDATION

While a written process is not mandated under Federal requirements, the failure to maintain documentation increases the risk of waste, fraud or abuse related to equipment purchased with Federal funds. Therefore, the Department recommends that NJDOE produce its own written procedures related to its equipment and supplies management.

## RESERVATIONS AND CONSOLIDATION

## REQUIREMENT SUMMARY

The SEA shall ensure that the amount of program funds reserved for administration and other State activities does not exceed statutory limits for each program. SEAs are permitted to consolidate the administrative set-asides from several ESEA programs (Title I, Title IIA, Migrant Education Program, Negligent and Delinquent Youth Program, Rural and Low-Income Schools Program, and the 21st Century Community Learning Centers Program) in order to administer them collectively.

ESEA §1003(a), §1003(g)(8), §1004(a)(1), §2113(c), §2113(d), §3111(b)(3), and §9201(a)

EDGAR 34 C.F.R. §299.4

## ISSUE

In order to reserve funds for school improvement under section 1003 of the ESEA, as amended by ESSA (ESEA), ESEA section 1003(a) requires the SEA, consistent with the special rule in ESEA section 1003(g), to reserve the greater of two figures: (1) seven percent of the SEA's Title I award; or (2) the sum of the total amount that the SEA reserved for school improvement under section 1003(a) of the ESEA, as amended by NCLB, from its FY 2016 Title I award, and the amount of the SEA's FY 2016 School Improvement Grants allocation under section 1003(g) of the ESEA, as amended by NCLB.

For FY 2017 through FY 2019, the ESEA has required NJDOE to reserve seven percent of its Title I award because this amount was the greater of the two figures described in the previous paragraph. NJDOE has correctly done so. The Department notes, however, that NJDOE's document detailing procedures for the allocation of Title I funds (*New Jersey Department of Education Procedures for the Allocation of Elementary and Secondary Education Act (ESEA), Title I, Part A Funds to Local Education Agencies (LEAs)*) mentions only the seven percent reservation.

## RECOMENDATION

The Department recommends that NJDOE update its procedure document for Title I sub-allocations to indicate that the reservation is the greater of the two amounts described in the Issue section above and to describe the special rule in section 1003(g). In doing so, NJDOE may wish to use the information on pages 8-9 in the Department's nonregulatory guidance on this topic: <https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf>.

## COMPARABILITY

## REQUIREMENT SUMMARY

The SEA may only provide Title I, Part A funds to an LEA if State and local funds will be used in schools served by Federal programs to provide services that, on the whole, are at least comparable to services in schools that are not receiving Title I funds.

ESEA §1120A(c)

## ISSUE

Based on a review of documentation provided by NJDOE, and from what was stated during the on-site monitoring visit, NJDOE met the requirements for comparability. The State adequately demonstrated that there are processes in place to ensure LEAs are meeting the requirements and within an acceptable timeframe. Further, NJDOE provides thorough information to its LEAs about the requirements and provides ample technical assistance. Although NJDOE met the requirements for comparability, NJDOE has not codified its process of ensuring comparability in written documents, guidelines, or standard operating procedures and is reliant on one staff member to review LEAs for comparability requirements. Based on a review of documentation provided by NJDOE, and from what was stated during the on-site monitoring visit, NJDOE met the requirements for comparability. The State adequately demonstrated that there are processes in place to ensure LEAs are meeting the requirements and within an acceptable timeframe. Further, NJDOE provides thorough information to its LEAs about the requirements and provides ample technical assistance. Although NJDOE met the requirements for comparability, NJDOE has not codified its process of ensuring comparability in written documents, guidelines, or standard operating procedures and is reliant on one staff member to review LEAs for comparability requirements.

## RECOMMENDATION

While a written process is not mandated under Federal requirements, the failure to codify the process increases the risk of non-compliance due to changes in staff. Therefore, it is recommended that the State ensure there are written documents regarding comparability.