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**The Michigan Department of Education's Compliance with the  
Public School Choice and Supplemental Educational Services  
Provisions of the No Child Left Behind Act of 2001**

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**FINAL AUDIT REPORT**



**ED-OIG/A05F0007  
August 2005**

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August 2, 2005

Dr. Jeremy M. Hughes  
Interim Superintendent  
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Dear Dr. Hughes:

Enclosed is our final report, Control Number ED-OIG/A05F0007, entitled *The Michigan Department of Education's Compliance with the Public School Choice and Supplemental Educational Services Provisions of the No Child Left Behind Act of 2001*. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department officials, who will consider them before taking final Departmental action on the audit:

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It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard J. Dowd', with a large, stylized flourish extending to the left.

Richard J. Dowd  
Regional Inspector General  
for Audit

Enclosure

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**TABLE OF CONTENTS**

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	<u>Page</u>
<b>EXECUTIVE SUMMARY</b> .....	1
<b>BACKGROUND</b> .....	3
<b>AUDIT RESULTS</b>	
Finding No. 1 – MDE Did Not Have an Adequate Process in Place to Review LEAs For Compliance With the Public School Choice and SES Provisions.....	4
Finding No. 2 – MDE Did Not Provide High School AYP Results to LEAs in a Timely Manner.....	9
Finding No. 3 – MDE Did Not Monitor the Quality and Effectiveness of SES Providers ....	10
Finding No. 4 – One LEA Supplanted Non-Federal Funds with Title I Funds.....	11
<b>OBJECTIVES, SCOPE AND METHODOLOGY</b> .....	11
<b>ENCLOSURE</b>	

## EXECUTIVE SUMMARY

The objectives of our audit were to determine if, for the 2004-2005 school year, (1) the Michigan Department of Education (MDE) had an adequate process in place to review local educational agency (LEA) and school compliance with the Adequate Yearly Progress (AYP), Public School Choice, and Supplemental Educational Services (SES) provisions of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (Act), and the implementing regulations; (2) LEAs provided to students attending schools identified for improvement (failed AYP two consecutive years), corrective action, or restructuring the option of attending another public school; and (3) LEAs provided SES to students attending schools that failed to make AYP while identified for improvement, corrective action, or restructuring.<sup>1</sup> To achieve these objectives, we reviewed MDE and six judgmentally selected LEAs: Commonwealth Community Development Academy (CCDA), Battle Creek Public Schools (Battle Creek), Chandler Park Academy (CPA), School District of the City of Detroit (Detroit), Public Schools of the City of Muskegon (Muskegon), and School District of Ypsilanti (Ypsilanti). During our audit, we expanded our scope to include a review of whether LEAs supplanted transportation funds from non-federal sources with Title I funds for the 2003-2004 and 2004-2005 school years.

While implementing the Public School Choice and SES provisions of the Act during the 2004-2005 school year, MDE (1) provided updated guidance to LEAs that included sample parental notification letters and a checklist for schools in each year of improvement; (2) had a clear definition of persistently dangerous schools and a system for identifying persistently dangerous schools; (3) used a SES provider application process that provided adequate assurance that each SES provider met its requirements; and (4) identified, approved, and disseminated a list of SES providers to LEAs in a timely manner.

However, MDE did not have an adequate process in place to determine whether all LEAs actually offered, timely and properly, school choice and SES to all eligible students. Specifically, MDE did not adequately review LEAs to determine whether (1) school choice and SES parental notification letters were sent in a timely manner and included all required information, (2) LEAs offered school choice and SES to all eligible students and not to ineligible students, and (3) LEAs offered all applicable SES providers to parents. In addition, MDE did not provide high school AYP results to LEAs in a timely manner and did not monitor the qualifications and effectiveness of SES providers. Finally, one LEA supplanted non-federal funds with Title I funds.

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<sup>1</sup> To accomplish our objectives, we reviewed compliance with selected provisions of the Act and the implementing regulations. See the **Objectives, Scope, and Methodology** section of this report for more detail.

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement require MDE to:

- Adequately review LEAs for compliance with the Public School Choice and SES provisions of the Act and the revised guidance MDE provided to them after the start of the 2004-2005 school year. Specifically, MDE should implement a process to review LEAs for compliance with the requirements to (1) offer school choice and SES to all eligible students and only to eligible students, (2) provide timely and adequate parental notifications of school choice and SES, and (3) allow parents to choose from all state-approved SES providers in the LEA's geographic area.
- Confirm that MDE provides high school AYP assessment results to LEAs before the beginning of each school year.
- Confirm that MDE develops and implements a system for (1) monitoring SES providers for the 2005-2006 school year and (2) withdrawing approval from SES providers that fail for two consecutive years to contribute to increasing the academic proficiency of students.
- Ensure that (1) Ypsilanti does not supplant non-federal funds with federal funds for the 2004-2005 school year and future school years, and (2) Ypsilanti returns \$18,532 to its Title I program.

In response to the draft of this report, MDE concurred with all of the findings and recommendations. MDE's comments on the draft report are included in their entirety as an ENCLOSURE.

## BACKGROUND

Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (P.L.107-110), significantly increased the choices available to the parents of students attending Title I schools that fail to meet state standards. Beginning with the 2002-2003 school year, the Act provided immediate relief for students in schools that were previously identified for improvement or corrective action under the 1994 reauthorization of the Elementary and Secondary Education Act of 1965. LEAs must offer all students attending schools identified for improvement, corrective action, or restructuring the choice to attend a public school (including public charter schools) within the LEA that is not identified for improvement, corrective action, or restructuring. Schools that fail to make AYP while identified for improvement, corrective action, or restructuring are required to offer SES to low-income students. SES providers must be approved by the state and offer services tailored to help participating students meet state academic standards. To help ensure that LEAs offer meaningful choices, the Act requires a LEA to spend an amount equal to 20 percent of its Title I allocation to provide transportation to the school of choice and SES to eligible students, unless a lesser amount is needed to satisfy all demand. The LEA must spend a minimum of five percent of its Title I allocation on transportation and a minimum of five percent of its allocation on SES, if the amount is needed.

The U.S. Department of Education allocated \$416,586,723 in Title I funds to MDE for the 2004-2005 school year. MDE allocated Title I funds during this period to 693 of its 807 LEAs. For the 2004-2005 school year, 378 schools in 108 Michigan LEAs were identified as needing improvement, corrective action, or restructuring—112 schools in the first year of improvement, 58 in the second year, 67 in the third year, 78 in the fourth year, and 63 in the fifth year. For five of the six LEAs we reviewed as part of our audit,<sup>2</sup> 282 of the 105,265 (less than 1 percent) eligible students at 152 schools exercised school choice. In addition, 10,839 of the 57,825 (19 percent) eligible students at 109 schools enrolled in SES.

MDE administered the Michigan Educational Assessment Program (MEAP) test in January and February 2004 for elementary and middle school students and in May 2004 for high school students. Based on the results of the MEAP test, MDE provided the preliminary and final AYP determinations to the LEAs for elementary and middle schools on June 10, 2004, and August 5, 2004, respectively. MDE provided the preliminary and final high school AYP determinations to the LEAs in the last week of August 2004 and October 8, 2004, respectively.

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<sup>2</sup> Ypsilanti did not track students who transferred under the Act or its intra-district transfer program. Therefore, we cannot conclude how many students transferred under the Public School Choice provision of the Act. For this reason, we did not include Ypsilanti in the calculation of the total number of students exercising school choice.



## AUDIT RESULTS

While implementing the Public School Choice and SES provisions of the Act during the 2004-2005 school year, MDE (1) provided updated guidance to LEAs that included sample parental notification letters and a checklist for schools in each year of improvement; (2) had a clear definition of persistently dangerous schools and a system for identifying persistently dangerous schools; (3) used a SES provider application process that provided adequate assurance that each SES provider met its requirements; and (4) identified, approved, and disseminated a list of SES providers to LEAs timely.

However, MDE did not (1) have an adequate process in place to review LEAs for compliance with the Public School Choice and SES provisions of the Act; (2) provide high school AYP results to LEAs in a timely manner; and (3) have a process to monitor the quality and effectiveness of SES providers. In addition, one of the six LEAs we reviewed supplanted non-federal funds with Title I funds.

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### **Finding No. 1: MDE Did Not Have an Adequate Process in Place to Review LEAs For Compliance With the Public School Choice and SES Provisions**

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For the 2004-2005 school year, MDE did not have an adequate process in place to determine whether each LEA carried out its responsibilities under the Act and the implementing regulations. Specifically, MDE did not adequately review LEAs to determine whether (1) LEAs offered school choice and SES to all eligible students and only to eligible students, (2) school choice and SES parental notification letters were timely and adequate, and (3) LEAs made all state-approved SES providers serving the geographic area available to parents.

Section 1116 (c)(1)(A) of the Act requires a state to annually review the progress of each LEA receiving Title I funds to determine if each LEA is carrying out its responsibilities under Section 1116 of the Act.

#### **MDE Needs to Strengthen Its Compliance Review Procedures**

To monitor LEAs, MDE relied primarily on Technical Assistance Packet responses LEAs returned to its administrative office. These responses should have included completed checklists and samples of parental notification letters of school choice and SES. Before the start of the 2004-2005 school year, MDE provided LEAs with a Technical Assistance Packet that did not include sample parental notification letters. After the start of the 2004-2005 school year, MDE provided LEAs with a new Technical Assistance Packet that included adequate sample notification letters for school choice and SES.

MDE's review process required regional consultants to review the LEAs' completed checklists and parental notification letters. However, budget issues limited regional consultants' visits to MDE's administrative office to review the 2004-2005 school year responses. Of the six LEAs we reviewed, one LEA (CCDA) submitted an incomplete response and five LEAs (Battle Creek, CPA, Detroit, Muskegon, and Ypsilanti) submitted responses that had inadequate parental

notification letters. However, MDE only followed up with two of the six LEAs (CCDA and CPA) regarding the incomplete response or inadequate parental notification letters. Also, MDE limited site visits to LEAs with schools identified for restructuring and did not visit schools identified for improvement or corrective action. A MDE official stated that it was developing a more comprehensive monitoring system, including an electronic system that would allow regional consultants to review LEA responses from remote locations. Had MDE reviewed LEAs as required by the Act, it could have reduced the risk of the following:

**Five of Six LEAs Did Not Offer School Choice to All Eligible Students**

- Three LEAs (CCDA, CPA, and Ypsilanti) did not offer school choice to any eligible students.
- Two LEAs (Detroit and Muskegon) did not offer school choice to some eligible students. Detroit did not offer school choice to pre-kindergarten, kindergarten, or high school students. Muskegon did not offer school choice to middle school students.

All schools in CCDA and Ypsilanti, two of three CPA schools reviewed for school choice, and all Detroit high schools did not offer school choice and did not notify parents that students were eligible for the school choice option.<sup>3</sup> These schools, along with both Muskegon middle schools, did not provide other information also required by Section 1116 (b)(6) of the Act and 34 C.F.R. § 200.37(b).<sup>4</sup> None of these schools identified school choice options, provided information comparing the child's current school to other schools in the LEA or state, or stated that transportation would be provided.

By not offering school choice, these five LEAs did not comply with Section 1116 (b)(1)(E) of the Act, which requires a school identified for improvement, corrective action, or restructuring to provide all students with the option to transfer to another public school not identified for improvement, corrective action, or restructuring. In addition, 34 C.F.R. § 200.44 (h)(1) states that a LEA without eligible schools for transfer must, to the extent practicable, establish a cooperative agreement for a transfer with one or more LEAs in the area. Had LEAs offered school choice or pursued cooperative agreements for transfer with other LEAs, students may have had a better chance to improve their academic achievement by attending a school not identified for school improvement, corrective action, or restructuring.

Officials representing CCDA, CPA, and Muskegon were not aware of the requirement to attempt to establish cooperative agreements with other LEAs for transfer. CCDA and CPA, both charter school LEAs, did not have any eligible school choice options within the LEA for any students. Muskegon did not have any eligible school choice options for middle school students. Detroit did not offer school choice to high school students because the only three high schools that were not identified for improvement had academic admission requirements. Even though it sent school choice parental notification letters for pre-kindergarten and kindergarten students, Detroit believed that pre-kindergarten and kindergarten students were not eligible for school choice.

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<sup>3</sup> A LEA, including one that relies on schools to offer school choice and SES and notify parents of these options, is responsible for ensuring compliance with the Public School Choice and SES provisions.

<sup>4</sup> All regulatory citations are as of July 1, 2004.

Ypsilanti only offered school choice under its intra-district transfer policy and allowed each student to transfer to any school in the LEA, including those identified for improvement, corrective action, or restructuring.

### **All Three LEAs That Offered School Choice Provided Inadequate or Untimely Parental Notification Letters**

- Two LEAs (Detroit, Battle Creek) did not provide timely parental notification of school choice. Detroit, which only offered school choice to students in grades 1 through 8, provided parental notification for these students after the start of the 2004-2005 school year. One of four Battle Creek schools we reviewed that were required to offer school choice provided parental notification after the start of the 2004-2005 school year.
- One LEA (Battle Creek) did not notify parents that their children were eligible for school choice because their school was identified for improvement. Four of five Battle Creek schools we reviewed did not provide this information. One of these four schools was an alternative school that enrolled students with disciplinary problems. Because Battle Creek did not have any other alternative schools, it should have notified parents that this school was identified for improvement and why school choice was not available.
- Three LEAs (Detroit, Battle Creek, Muskegon) did not identify school choice options or include academic information on those schools. Detroit only provided school choice options to parents of students in grades 1 through 8 who responded to the parental notification of school choice. All four Battle Creek schools we reviewed that were required to offer school choice did not provide this information. The only Muskegon school that offered school choice did not provide academic information on the school choice options.
- Two LEAs (Detroit, Muskegon) did not provide information comparing the school to other schools in the LEA or state. The only Muskegon school that offered choice did not provide this information.
- One LEA (Battle Creek) did not state that transportation would be provided. Two of four Battle Creek schools we reviewed that were required to offer school choice did not provide this information.

By not including the required information in parental notification letters, the LEAs did not comply with Section 1116 (b)(6) of the Act and 34 C.F.R. § 200.37(b), which require that a LEA promptly notify the parent or parents of each student enrolled when a school is identified for improvement, corrective action, or restructuring. The notice must explain the option to transfer due to the school's status and the reasons for that status, identify schools to which a child may transfer, include information on the academic achievement of schools to which a child may transfer, explain how the school compares in terms of academic achievement to other schools served by the LEA and state educational agency, and offer to provide or pay for transportation for students exercising school choice. In addition, Section 1116 (b)(1)(E) of the Act states that, for a school identified for improvement, corrective action, or restructuring, the LEA must provide school choice no later than the first day of the school year following such identification.

Because the LEAs did not provide adequate parental notifications of school choice, parents were not fully informed about the status of their children's schools and could not make fully informed decisions to transfer their children from a school identified for improvement, corrective action, or restructuring. Detroit and Battle Creek officials believed it was sufficient to discuss the required information with parents who called the LEA, and Muskegon officials believed it was sufficient to only have the information on the Internet. Had MDE provided sample school choice parental notification letters before the start of the 2004-2005 school year, LEAs might have provided adequate school choice parental notification letters and increased school choice participation.

**All Six LEAs Provided Inadequate SES Notification Letters or Did Not Clearly Offer SES**

- One LEA (Battle Creek) sent parental notification of SES that did not clearly offer SES. Two of three schools we reviewed sent notification letters informing parents that, as parents of children attending a school that had not made AYP, they may request SES. However, the letters also stated that the school had made AYP.
- Two LEAs (CCDA, Battle Creek) provided letters that did not describe the procedures and timelines that parents must follow to select a provider. Two of three Battle Creek schools we reviewed for SES did not provide this information.
- Two LEAs (CCDA, Detroit) did not identify state-approved SES providers within or near the LEA. Detroit sent parental notification letters for approximately 40,200 students. The parents of approximately 10,700 students responded. Instead of identifying the state-approved SES providers in the parental notification letter for all eligible students, Detroit only provided the required information in follow-up letters to the parents of approximately 9,400 students of the 10,700 students whose parents responded to the original notification letter.
- All six LEAs did not provide a description of each provider's qualifications and demonstrated effectiveness and, with the exception of Muskegon, all LEAs did not list the services of each available provider. All three Battle Creek schools we reviewed, all three CPA schools we reviewed, and both Ypsilanti schools we reviewed did not provide this information.

By not including the required information in parental notification letters, the LEAs did not comply with Section 1116 (e)(2)(A) of the Act and 34 C.F.R. § 200.37. LEAs are required to provide, at a minimum, annual notice to parents of (1) the availability of services and how parents can obtain the services for their children; (2) the identity of approved providers within or near the LEA; and (3) a brief description of the services, qualifications, and demonstrated effectiveness of each provider.

Because the LEAs did not provide adequate parental notifications of SES, parents did not have all the information needed to make fully informed decisions regarding SES. CCDA, CPA, and Detroit officials told us they were not aware that they had to provide the required information to all eligible students. Also, Battle Creek, Detroit, Muskegon, and Ypsilanti officials stated that they could not obtain complete SES provider information from MDE. Had MDE provided adequate sample parental notifications of SES and complete SES provider information to LEAs

before the start of the 2004-2005 school year, LEAs might have provided adequate parental notifications of SES and increased SES participation.<sup>5</sup>

### **Three LEAs Denied SES to Eligible Students and One LEA Offered SES to Ineligible Students**

Three LEAs (Detroit, Ypsilanti, and CPA) denied SES to eligible students, and one LEA (CPA) offered SES to ineligible students. Detroit provided parental notification of SES for pre-kindergarten and kindergarten students, but denied SES to students who requested the services. Ypsilanti denied SES to low-income students who were at or above a certain academic achievement level so it would have SES funds available for low-achieving students who applied for SES later in the school year. CPA denied SES to low-income students because schools, including a school not identified for improvement, corrective action, or restructuring, had students with lower academic achievement. CPA provided SES to low-achieving students who were ineligible for SES because they were not low-income or were enrolled at a school that was not identified for improvement, corrective action, or restructuring.

These three LEAs did not comply with Section 1116 (e)(1) of the Act, which requires a LEA serving schools identified for improvement, corrective action, or restructuring to arrange SES for eligible students in the school. Section 1116 (e)(12)(A) of the Act states that low-income students who are attending a school required to provide SES are eligible for those services. Also, the Technical Assistance Packet MDE provided to LEAs after the start of the 2004-2005 school year stated that SES should be offered for low-income students. Detroit denied SES to pre-kindergarten and kindergarten students who requested the services because a Detroit official thought the students were ineligible for SES. Ypsilanti's Executive Director of Educational Services believed the LEA could limit SES to students below a certain achievement level, and CPA officials did not know that only low-income students were eligible for SES. By denying them SES, these three LEAs did not allow eligible students to take advantage of SES, which could have improved their academic achievement.

### **One LEA Did Not Make All SES Providers Available to Parents**

Detroit did not allow parents to choose a SES provider from the list of all state-approved SES providers serving Detroit's geographic area. Detroit obtained a list of 105 state-approved SES providers from MDE's website and then sent letters to the providers to determine which SES providers would provide services to Detroit students. Forty-six providers stated they would serve Detroit students. Detroit assigned these providers, including 12 that did not have off-site locations, to specific schools. Detroit did not allow parents to select from the 12 SES providers assigned to other schools because the providers did not have off-site locations.

Detroit did not comply with Section 1116 (e) of the Act, which requires a LEA to arrange for SES from a provider selected by the parents and notify parents of the availability of services

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<sup>5</sup> MDE did not provide information on the demonstrated effectiveness of each SES provider because it did not have adequate data. See **Finding No. 3** for more information.

from providers that are within or near the LEA. The Department's *Supplemental Educational Services*

*Non-Regulatory Guidance*, dated August 22, 2003, question H-2, states that parents must be able to choose from among all SES providers identified by the state for the area served by the LEA.<sup>6</sup>

Detroit did not allow students to receive SES from providers assigned to other schools if the provider did not have an off-site location because Detroit officials believed there was a safety risk involved with students commuting to other school locations. By not allowing students to receive SES from these providers, parents had fewer SES providers to choose from. Therefore, students might not have received SES that best met their academic needs.

### **Recommendation**

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement:

- 1.1 Require MDE to adequately review LEAs for compliance with the Public School Choice and SES provisions of the Act and the revised guidance MDE provided to them after the start of the 2004-2005 school year. Specifically, MDE should implement a process to review LEAs for compliance with the requirements to (1) offer school choice and SES to all eligible students and only to eligible students, (2) provide timely and adequate parental notifications of school choice and SES, and (3) allow parents to choose from all state-approved SES providers in the LEA's geographic area.

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### **Finding No. 2: MDE Did Not Provide High School AYP Results to LEAs in a Timely Manner**

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For the 2004-2005 school year, MDE did not notify LEAs of their high schools' final AYP status until after the start of the school year. MDE administered the high school MEAP test in May 2004 and used this test to determine each school's AYP status. MDE posted preliminary AYP determinations for high schools on its website during the last week of August 2004, but did not send final AYP determinations or instruct LEAs to implement the requirements of the Act for high schools until October 8, 2004.

Section 1116 (a)(2) of the Act requires that MDE provide state academic assessment results to the LEAs before the start of the school year that follows the school year in which the assessments were administered. Also, Section 1116 (b)(1) of the Act states that, before the start of the school year, LEAs should identify schools that failed to make AYP for improvement.

Michigan state law required MDE to administer high school assessment tests during the last 30 days of the 2003-2004 school year. This constraint did not allow MDE to provide AYP results to LEAs before the beginning of the 2004-2005 school year. Because MDE did not provide final

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<sup>6</sup> The Department issued an updated version of *Supplemental Educational Services Non-Regulatory Guidance*, dated June 13, 2005. Question H-2 remained applicable.

high school AYP results to LEAs until October 8, 2004, LEAs did not know which high schools were identified for improvement, corrective action, or restructuring before the start of the 2004-2005 school year and could not offer school choice or SES or notify parents of these options in a timely manner.

On October 15, 2004, Michigan amended its Revised School Code to allow MDE to administer high school assessment tests during the last 90 days of the school year. MDE officials believe this will allow them to provide AYP results to LEAs before the start of the 2005-2006 school year.

### **Recommendation**

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement:

- 2.1 Confirm that MDE provides high school AYP assessment results to LEAs before the beginning of each school year.

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### **Finding No. 3: MDE Did Not Monitor the Quality and Effectiveness of SES Providers**

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During the 2004-2005 school year, MDE did not, as required by Section 1116 (e)(4)(D) of the Act, develop, implement, or publicly report on standards and techniques for (1) monitoring the quality and effectiveness of services provided by approved SES providers and (2) withdrawing approval from providers that fail for two consecutive years to contribute to increasing the academic proficiency of students. Instead, MDE relied on LEAs to monitor the quality and effectiveness of SES providers.

MDE relied on LEAs to monitor SES providers because it did not have adequate data to determine whether SES providers contributed to the academic proficiency of students. However, MDE provided no guidance to LEAs for monitoring SES providers. Of the six LEAs we visited, one LEA (Ypsilanti) did not monitor SES providers and two LEAs (Battle Creek and CPA) only reported problems with SES providers to MDE if they were unable to resolve them with the SES providers first. Because MDE did not have a process to monitor SES providers, it has no assurance that SES providers provided quality and effective services to students. MDE's lack of monitoring also increases the risk that it will not identify ineffective providers and will allow ineffective providers to continue to provide substandard services.

An MDE official stated that, starting in the 2005-2006 school year, MDE will initiate a process to monitor the effectiveness of each provider's services based on MEAP tests administered in the Fall of 2005. MDE will use these test results to compare the achievement gains of students served by each SES provider with the achievement gains of students in the same schools who did not receive SES.

### **Recommendation**

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement:

- 3.1 Confirm that MDE develops and implements a system for (1) monitoring SES providers for the 2005-2006 school year and (2) withdrawing approval from SES providers that fail for two consecutive years to contribute to increasing the academic proficiency of students.

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### **Finding No. 4: One LEA Supplanted Non-Federal Funds with Title I Funds**

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During the 2003-2004 school year, Ypsilanti used Title I funds to supplant district funds used to pay for intra-district transfer students. Ypsilanti had an intra-district transfer program that included paying for the transportation of students with non-federal funds. Ypsilanti could not determine whether students transferred under this intra-district transfer program or under the Act. However, it used \$18,532 of Title I funds to pay for school choice transportation. Subsequent to our fieldwork, a Ypsilanti official informed us Ypsilanti would return the funds to the Title I program, but has not provided any documentation that Ypsilanti has transferred funds back to the Title I program.

Section 1120A (b)(1) of the Act requires a state educational agency or LEA to use Title I funds received only to supplement the funds that would, in the absence of such federal funds, be made available from non-federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds. Ypsilanti officials were unaware that they could not use Title I funds to pay for school choice transportation when non-federal funds were ordinarily used to pay for transportation for intra-district transfer students. In addition, MDE did not adequately monitor Ypsilanti to ensure that it did not supplant Title I funds. Because Ypsilanti used \$18,532 in Title I funds to supplant non-federal funds, Ypsilanti did not use these funds to benefit Title I students.

### **Recommendation**

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement:

- 4.1 Require MDE to ensure that (1) Ypsilanti does not supplant non-federal funds with federal funds for the 2004-2005 school year and future school years, and (2) Ypsilanti returns \$18,532 to its Title I program.

## **OBJECTIVES, SCOPE AND METHODOLOGY**

The objectives of our audit were to determine if, for the 2004-2005 school year, (1) MDE had an adequate process in place to review LEA and school compliance with AYP, Public School Choice, and SES provisions of the Act and the implementing regulations; (2) LEAs provided to students attending schools identified for improvement (failed AYP two consecutive years),



corrective action, or restructuring the option of attending another public school; and (3) LEAs provided SES to students attending schools that failed to make AYP while identified for improvement, corrective action, or restructuring. Our examination of MDE's process for reviewing LEA and school compliance with the AYP provisions focused solely on the timeliness of providing AYP determinations to LEAs. During our audit, we expanded our scope to include a review of whether LEAs supplanted transportation funds from non-federal sources with Title I funds for the 2003-2004 and 2004-2005 school years.

To achieve our objectives, we reviewed selected provisions of the Act and the implementing regulations. We also interviewed officials from MDE and the six LEAs reviewed. In addition, we reviewed documents provided by MDE, including (1) MDE's organization charts; (2) documents related to compliance with the Act provisions related to AYP, the identification of persistently dangerous schools, school choice, and SES; (3) the *Michigan Consolidated State Application Accountability Workbook for State Grants under Title IX, Part C, Section 9302 of the Elementary and Secondary Education Act (Public Law 107-110), Amended September 7, 2004*; and (4) the Michigan Office of the Auditor General's report titled *Financial Audit Including the Provisions of the Single Audit Act of the Department of Education, October 1, 2001, through September 30, 2003*.

We also reviewed, for compliance with the Public School Choice and SES provisions of the Act and the implementing regulations, 6 judgmentally selected LEAs from a universe of 108 Michigan LEAs that had schools identified for improvement, corrective action, or restructuring for the 2004-2005 school year. We selected the 6 LEAs—1 large (Detroit), 3 medium (Battle Creek, Muskegon, and Ypsilanti), and 2 small (CCDA and CPA)—based on total student enrollment. We defined a large LEA as one with a student enrollment of 10,000 or more, a medium LEA as one with a student enrollment of 1,000 through 9,999, and a small LEA as one with a student enrollment of 999 or less.

For each of the six selected LEAs, we reviewed documentation related to the LEAs' compliance with the Public School Choice and SES provisions of the Act and the implementing regulations. The documentation included (1) school choice and SES parental notification letters sent by the six LEAs;<sup>7</sup> (2) documentation related to the number of students eligible for and participating in school choice and SES; and (3) documentation related to school choice transportation expenditures for the 2003-2004 and 2004-2005 school years. Our review of the school choice and SES parental notification letters focused on selected provisions of the Act and the implementing regulations. For the school choice parental notification letter, we determined

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<sup>7</sup> Because Battle Creek, CPA, Muskegon, and Ypsilanti relied on their schools to develop and provide school choice and SES parental notification letters, we selected a sample of schools in these LEAs to test the parental notification letters for compliance with the requirements. For each LEA, we reviewed sample letters provided by district officials and parental notification letters sent by selected schools. For our review of school choice in Battle Creek, we randomly selected three of the seven schools required to offer school choice and judgmentally selected two additional schools. For our review of SES in Battle Creek, we randomly selected three of the four schools required to offer SES. For CPA, we selected all three schools required to offer school choice and SES. For Muskegon, we selected all three schools required to offer school choice and both schools required to offer SES. For Ypsilanti, we randomly selected three of the six schools required to offer school choice and two of the four schools required to offer SES.

(1) whether parents were notified in a timely manner; and (2) whether the notice, at a minimum, (a) informed parents that their children were eligible to attend another public school due to the identification of the current school as in need of improvement; (b) identified each public school, which could include charter schools, that the parent could select; (c) explained how the school compared in terms of academic achievement to other schools served by the LEA and MDE; (d) included information on the academic achievement of the schools that the parents could select; and (e) clearly stated that the LEA would provide, or pay for, transportation for the student.

For the SES parental notification letter, we determined (1) whether parents were notified of SES and given comprehensive, easy-to-understand information about SES; and (2) whether the notice, at a minimum, (a) identified each approved service provider within the LEA, in its general geographic location, or accessible through technology such as distance learning; (b) described the services, qualifications, and evidence of effectiveness for each provider; (c) described the procedures and timelines that parents must follow in selecting a provider to serve their child; and (d) was easily understandable, in a uniform format, and, to the extent practicable, in a language the parents could understand. If the LEA had insufficient funds to serve all students eligible to receive services, we also determined whether the SES parental notification letter included information on how the LEA would set priorities in order to determine which eligible students would receive services.

As part of our audit, we also gained an understanding of MDE's internal control over LEA compliance with Public School Choice and SES provisions of the Act. Though we did not assess the adequacy of MDE's internal control, our compliance testing at six LEAs disclosed instances of non-compliance that might have been caused, in part, by weaknesses in MDE's system of internal control. These weaknesses are related to monitoring LEAs to determine whether (1) LEAs offered school choice to all eligible students, (2) school choice and SES parental notification letters were timely and included all required information, (3) LEAs offered SES to all eligible students and only to eligible students, (4) LEAs allowed parents to select a SES provider from all state-approved providers serving their respective geographic areas, and (5) LEAs supplanted non-federal funds with Title I funds. These weaknesses and instances of noncompliance are discussed in the AUDIT RESULTS section of this report.

We performed our audit work at MDE's administrative office, the administrative offices of the six LEAs reviewed, and our Chicago office from October 2004 through May 2005. We discussed the results of our audit with MDE officials on May 12, 2005. We performed our audit in accordance with generally accepted government auditing standards appropriate to the scope described above.



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING



JENNIFER M. GRANHOLM  
GOVERNOR

JEREMY M. HUGHES, PH.D.  
INTERIM SUPERINTENDENT  
OF PUBLIC INSTRUCTION

June 28, 2005

Richard J. Dowd  
Regional Inspector General for Audit  
Office of Inspector General  
U.S. Department of Education  
111 North Canal Street, Suite 940  
Chicago, Illinois 60606-7297

Dear Mr. Dowd:

Thank you for the opportunity to respond to the findings and recommendations in the draft audit report, Control Number ED-OIG/A05F0007, titled *The Michigan Department of Education's Compliance with the Public School Choice and Supplemental Educational Services Provisions of the No Child Left Behind Act of 2001*. The Department's responses are as follows:

Finding 1: MDE Did Not Have an Adequate Process in Place to Review LEAs For Compliance With the Public School Choice and SES Provisions

The Department agrees with this finding and recommendation and is strengthening its process to review LEA compliance. The guidance/reporting packet will be updated to address the problems found in the audit, including new sample parental notification letters. The updated packet will be provided to LEAs in August, 2005. The Department's regional consultants will review the completed checklists and parental notification letters submitted by LEAs and follow up with the LEAs to correct any problems. Compliance with the public school choice and requirements will also be reviewed through On Site Reviews conducted in selected LEAs each year. The Department will also conduct regional workshops in September 2005 focusing on the choice and SES requirements.

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Page 2

Finding 2: MDE Did Not Provide High School AYP Results to LEAs in a Timely Manner

The Department agrees with this finding and recommendation and has corrected the problem. Preliminary 2005 AYP results for high schools were provided to LEAs on June 20, 2005. Appeals will be accepted through July 15, 2005, and final AYP results will be released in August.

Finding 3: MDE Did Not Monitor the Quality and Effectiveness of SES Providers

The Department agrees that it did not have a formal process in place to monitor the quality and effectiveness of SES providers and is taking steps to correct the problem. The Department has initiated a contractual services request for a formal 2-year evaluation of SES providers that will examine each provider's service delivery and contribution to the academic achievement of participating students. The evaluation period will begin in the fall of 2005, when the new grade 3 – 8 state assessments will be administered for the first time.

Finding 4. One LEA Supplanted Non-Federal Funds with Title I Funds

The Department agrees with this finding and recommendation and has corrected the problem. Ypsilanti has filed a 2003-04 expenditure report that does not include the \$18,532 in question and has budgeted the funds as carryover for 2004-05. The district's 2004-05 Title I budget does not include any funds for transportation for school choice.

If you have questions or need additional information, please contact Linda Brown of my staff at (517) 373-3668.

Sincerely,

/s/

Jeremy M. Hughes, Ph.D.  
Interim Superintendent