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MAY 15 2003

MEMORANDUM

TO : Eugene Hickok
Acting Assistant Secretary for Elementary and Secondary Education

FROM : Sherri L. Demmel *Sherri L. Demmel*
Regional Inspector General for Audit

SUBJECT: FINAL AUDIT REPORT
Kansas Department of Education's Compliance with the Priority for Services Requirements of the Migrant Education Program
Control Number ED-OIG/A06-C0032

Attached is our subject report presenting our findings and recommendations resulting from our audit of the Kansas Department of Education's Migrant Education Program.

In accordance with the Department's Audit Resolution Directive, the Office of Elementary and Secondary Education has been designated as the action office responsible for the resolution of the findings and recommendations in this report.

Please refer to the above audit control number in all correspondence relating to this report. If you have any questions or wish to discuss the contents of this report, please contact me at 214-880-3031.

Attachment

cc: Delores Warner, Audit Liaison Officer, OESE



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MAY 15 2003

Dr. John A. Tompkins
Commissioner of Education
Kansas Department of Education
120 South East Tenth Avenue
Topeka, KS 66612-1182

Dear Dr. Tompkins:

This **Final Audit Report** (Control Number ED-OIG/A06-C0032) presents the results of our audit of the Migrant Education Program at the Kansas Department of Education (Kansas). The objectives of our audit were to determine whether Kansas and its sub-grantees (1) established and implemented appropriate procedures to identify and target services to migratory children who are failing or most at risk of failing to meet state standards and whose education has been interrupted during the regular school year, and (2) established procedures to report to the Department the number of "Priority for Service" migratory children in Kansas. Our audit focused on the period July 1, 2000, through July 31, 2002.

A draft of this report was provided to the Kansas Department of Education. In its response, Kansas concurred with our recommendations. Kansas's comments are summarized in the section that follows the Recommendations. A copy of the complete response is enclosed with this report.

BACKGROUND

The Elementary and Secondary Education Act (ESEA) of 1965, as amended, authorizes federal funding of programs of education for migratory children. In Fiscal Year 2001, over \$371.3 million was authorized for the education of migratory children. Kansas received approximately \$10.9 million in Migrant Education Program funds. A migratory child is a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker or a migratory fisher. The No Child Left Behind Act of 2001 and the Improving America's Schools Act of 1994 further specify that children who are failing, or most at risk of failing, to meet the State's challenging content standards and challenging student performance standards, and whose education has been interrupted during the regular school year shall receive "Priority for Services." Priority for Services means students who meet both criteria will receive Migrant Education Program funded services before services are provided to other migratory children.

Guidance from the Department provides that if “the state does not have assessment data on a particular migrant child (e.g., the child was not present in the district when the assessment was administered), then the state might use other relevant information, like the degree to which the child is subject to multiple risk factors (e.g., being overage or behind grade level, eligible for free/reduced price lunch, limited English proficient) to determine the child’s need for services.” The Department also establishes that “the state, in collaboration with local operating agencies, is free to determine what constitutes ‘educational interruption’ under Section 1304 (d).”

Section 1306 of the ESEA, as added by the Improving America’s Schools Act of 1994, requires each State and local operating agency to identify and address the special educational needs of migratory children in accordance with a comprehensive State needs assessment plan.

Table C-6 of the Consolidated State Performance Report, which is submitted to the Department’s Office of Migrant Education for every award year, requires that States indicate the “count of students served who have a priority for services under Section 1304 (d) of the ESEA (those whose schooling has been interrupted and who are failing or [most] at risk of failing to meet state standards.)”

On November 26, 2002, the Department issued final regulations for No Child Left Behind Act of 2001 governing the Migrant Education Program to, among other changes, require that each State Education Agency determine the effectiveness of its program, particularly for those students who have Priority for Services. These regulations are in response to *The President’s Management Agenda* for Fiscal Year 2002 and the Department of Education’s *Blueprint For Management Excellence* released October 30, 2001. One of the expected long-term results in *The President’s Management Agenda* is better control over resources used and accountability for results by program managers. The Department’s *Blueprint* describes one of the Department’s commitments to management improvement as achieving an “Accountability for Results” culture. Through the *Blueprint*, the recipients of Department funds will be held responsible for their performance in relation to the goals and objectives.

AUDIT RESULTS

Kansas did not comply with Section 1304(d) of the Elementary and Secondary Education Act of 1965, as amended. Specifically, Kansas did not establish and implement appropriate procedures to identify and target Priority for Services to migratory children who are failing, or most at risk of failing, to meet State standards, and whose education was interrupted during the regular school year. As a result, the U.S. Department of Education has no assurance that Kansas used the \$10.9 million in Migrant Education Program funds it received for Fiscal Year 2001 for Priority for Services migratory children before providing services to other migratory children; and Kansas was unable to report the correct number of Priority for Services migratory children served in the Consolidated State Performance Report to the Department’s Office of Migrant Education.

Kansas's migrant education funding allocation procedures to its sub-grantees were not based on identified Priority for Services migratory children to be served. Kansas provided migrant education funds to the sub-grantees by reviewing various funding factors from the annual needs assessment and student information from the State database. Only two of the eight funding factors used by Kansas related to Priority for Services criteria. Those two factors were: 1) a qualifying move in the last year and 2) low-test scores. However, the Kansas Coordinator for State and Federal Programs stated that low-test scores were rarely used as a deciding factor.

Kansas also overstated the number of Priority for Services migratory children served in the Fiscal Year 2001 Consolidated State Performance Report. Kansas reported to the Department that there were 5,130 Priority for Services students. We determined that the number was obtained from the State's MIS2000 system and represented the recently mobile students without identifying which of these students also met the at risk of failing criteria.

We visited three sub-grantees and found that none of the three were properly identifying and targeting migratory children for Priority for Services. Instead of focusing services on migratory children with low test scores and a qualifying move, all three sub-grantees delivered services to children with limited English skills. One sub-grantee delivered services to migratory children who were also English-as-a-Second Language (ESL) students. The second sub-grantee prioritized services to migratory children who were new to the district or had a limited English proficiency. The last sub-grantee considered all ESL students to be at risk of failing regardless of whether the student's education had been interrupted during the regular school year. The three sub-grantees visited received nearly \$2.3 million for migrant education.

We concluded that these conditions occurred because Kansas (1) relied upon its sub-grantees' assurances that they were providing services to Priority for Services children first before other migratory children, and did not perform independent monitoring of the sub-grantees to ensure services were provided; (2) did not provide clear guidance to the sub-grantees as to the definition of "at risk of failing" State standards and "whose education has been interrupted during the regular school year"; and (3) did not require the schools, school districts, or sub-grantees to report the number of Priority for Services migratory students for 2000 and 2001.

RECOMMENDATIONS

We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education require Kansas to:

- 1.1 Monitor sub-grantees to ensure funds are used for Priority for Services migratory children before funds are used for other migratory children.
- 1.2 Provide a clear definition to all sub-grantees of what constitutes "at risk of failing" State standards and "whose education has been interrupted during the regular school year."

- 1.3 Establish procedures to identify and report to the Department the number of Priority for Services migratory children served in Kansas schools.

KANSAS COMMENTS TO THE DRAFT REPORT

Kansas officials indicated that they agreed with our findings and recommendations. They stated that they (1) are revising the Local Consolidated Plan onsite monitoring instrument to include specific review of documentation of appropriate use of migrant funds for the Priority for Services migratory children; (2) have defined what constitutes “at risk of failing” State standards and “whose education has been interrupted during the regular school year”; and (3) are implementing procedures to identify and collect the number of Priority for Service migratory students served in Kansas’s schools.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine whether Kansas and its sub-grantees (1) established and implemented appropriate procedures to identify and target services to migratory children who are failing or most at risk of failing to meet state standards and whose education has been interrupted during the regular school year, and (2) established procedures to report to the Department the number of Priority for Services migratory children in Kansas.

To accomplish our objectives, we:

- Reviewed Kansas’s and its sub-grantees’ policies and procedures for providing services to migratory children.
- Interviewed Kansas and sub-grantee officials regarding their procedures for providing Priority for Services to migratory children.
- Reviewed the Kansas State Single Audit Report for 2001 and other reviews performed.
- Reviewed applicable laws, regulations, and other guidance.
- Reviewed the sub-grantees’ documentation regarding the Priority for Services provided to migratory children.
- Reviewed Kansas’s and the sub-grantees’ decision-making process for allocating migrant education funds.

We obtained computer-processed data from Kansas that we used for background information and to select the two sub-grantees that received the largest migrant funding allocations. Because we did not use the data for projection or to make any determinations, we did not perform reliability assessments on the data.

Our audit of Kansas's Migrant Education Program covered the period July 1, 2000, through July 31, 2002. We performed onsite fieldwork from August 20-22, 2002, at the State offices in Topeka, and at three sub-grantees from August 23-28, 2002. We selected two of the largest sub-grantees in Kansas at the request of the Office of Migrant Education. We also selected one other sub-grantee at our discretion. The sub-grantees visited were Topeka Public Schools, Dodge City Public Schools, and Wichita Public Schools. We discussed our audit results with Kansas officials on August 22, 2002. We held an exit conference with Kansas officials on November 6, 2002. Our work was performed in accordance with generally accepted government auditing standards appropriate to the scope of the audit described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of our review, we assessed the system of management controls, policies, procedures, and practices applicable to Kansas's administration of the Priority for Services portion of the Migrant Education Program. Our assessment was performed to determine whether Kansas had management controls established to ensure Priority for Services migratory children received services before services were provided to other migratory children.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed that Kansas had neither developed and implemented procedures nor established a monitoring system for sub-grantees to identify, target, and count migratory children to be served first through the Migrant Education Program. As a result, we concluded that Kansas did not have sufficient management controls to ensure that sub-grantees complied with the requirements of Section 1304(d) of the Elementary and Secondary Education Act of 1965, as amended. The AUDIT RESULTS section of the report provides details on our finding.

ADMINISTRATIVE MATTERS

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 U.S. Department of Education official, who will consider them before taking final Departmental action on the audit:

Eugene Hickok, Acting Assistant Secretary
U.S. Department of Education
Office of Elementary and Secondary Education
400 Maryland Avenue, SW
Room 3W315, FB6 Building
Washington, D.C. 20202

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, we request receipt of your comments within 30 days.

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

If you have any questions or wish to discuss the contents of this report, please contact me at 214-880-3031. Please refer to the control number in all correspondence related to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherri L. Demmel". The signature is written in a cursive style with a large initial 'S'.

Sherri L. Demmel
Regional Inspector General
for Audit

Attachment



120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

May 1, 2003

Ms. Sherri L. Demmel
Regional Inspector General for Audit
U. S. Department of Education
Office of Inspector General
1999 Bryan Street, Suite 2630
Dallas, Texas 75201-6817

Dear Ms. Demmel:

Attached is the response of the Kansas State Department of Education to the Draft Audit Report (Control Number ED-OIG/A06-C0032). We understand that our response may be included in the final audit report which is submitted to the Assistant Secretary for the Office of Elementary and Secondary Education.

Should you have any questions or concerns, please contact me via phone at 785-296-5081 or email at judi@ksde.org. Thank you for providing us with an opportunity to respond to the draft report.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Judi Miller'.

Judi Miller
Coordinator

encl.

Kansas State Department of Education

Response to Office of Inspector General's
Draft Audit Report (Control Number ED-OIG/A06-C0032)
Regarding Migrant Education Program

Audit Results

The Draft Audit Report of the Office of the Inspector General states that *Kansas did not comply with Section 1304(d) of the Elementary and Secondary Education Act of 1965, as amended. Specifically, Kansas did not establish and implement appropriate procedures to identify and target Priority for Services to migratory children who are failing, or most at risk of failing, to meet State standards, and whose education was interrupted during the regular school year.*

Audit Recommendations

The Audit Report includes three recommendations as the course of action to ensure compliance with the statute. These recommendations are:

- 1.1 Monitor sub-grantees to ensure funds are used for Priority for Services migratory children before funds are used for other migratory children.
- 1.2 Provide a clear definition to all sub-grantees of what constitutes "at risk of failing" State standards and "whose education has been interrupted during the regular school year."
- 1.3 Establish procedures to identify and report to the Department the number of Priority for Services migratory children served in Kansas' schools.

Kansas Response

The Kansas State Department of Education (KSDE) intends to fully comply with the statute and implement the recommendations submitted by the Office of the Inspector General. Following are the specific actions and procedures that address each recommendation:

- 1.1 Monitoring to ensure that sub-grantee funds are used first for Priority of Services migratory children will occur in two ways.

Onsite Monitoring:

- The Kansas State Department of Education is revising the Local Consolidated Plan onsite monitoring instrument to include specific review of documentation of appropriate use of migrant funds for the Priority for Services migratory children.
 - Sub-grantees will provide documentation verifying which students are both at-risk and have an interruption in education.
 - Lists of students receiving migrant services will be compared against the list of Priority Service migratory students to ensure that these students are receiving migrant services. Rationale must be provided for any Priority Service migratory students not receiving services.
- An onsite monitoring report is written within 30 days of the visit. The report will include any findings and recommendations. Sub-grantees have 30 days following receipt of the report to respond. Funds may be held until issues are resolved should a sub-grantee be out of compliance concerning serving Priority for Services migratory children and failing to respond to the report.
- Results from the onsite monitoring visits will be reviewed prior to the Kansas State Department of Education allocating Migrant Education funds in the future.
- Districts with Migrant Education Programs are given priority status when KSDE staff are determining which districts in Kansas to monitor onsite.

Desktop Monitoring:

- Sub-grantees report in the Local Consolidated Plan Annual Report data on participating students. The report is being revised to include the number of migrant students served who are identified as Priority Service migratory students and those who are not Priority Service students.
- Data in the Annual Report is analyzed by the Kansas State Department of Education to ensure that funds are targeting the Priority Services migratory students.
- Data in the Annual Report is also verified by cross checking with the Kansas Migrant Student Network, which is the migrant student record database system and reviewing the Certificates of Eligibility (COE) submitted by the district.
- State assessment results are also reviewed to verify students identified as “at risk.”
- The Kansas Migrant Student Network (KMSN) database is monitored by KSDE to ensure that complete information for each migrant student is entered. Special attention is given to the data elements on “at risk” and “interruption of education.”

1.2

The Kansas State Department of Education convened a committee of sub-grantees whose charge was to assist in defining what constitutes “at risk of failing” State standards and “whose education has been interrupted during the regular school year.”

At-Risk of Failing to Meet State Standards

As a result of the committee’s work, any migrant student who meets any of the following criteria is considered to be “at risk of failing:”

- Student scores in either the basic or unsatisfactory performance levels on any of the State assessments: reading, writing, mathematics, social studies or science.
- Student is classified as either non-English proficient or limited English proficient according to the results of an English Language Proficiency assessment.
- Student is not at grade level based on the 2nd grade diagnostic reading assessment.
- Student is behind in accruing credits toward graduation requirements.
- Student is placed in a class that is not age appropriate (i.e. 1st grade placement, 8 years old).
- Student has repeated a grade level or a course.
- Student is not attending school regularly (according to district policy).
- Student is identified as a student with disabilities.

Education Has Been Interrupted During the Regular School Year:

Any migrant student who meets one of the following is considered to have his or her education interrupted:

- Migrant students who move within the regular school year from one school to another within a district.
- Migrant students who move across district boundaries within the school year. These students would have a new Qualifying Arrival Date (QAD).
- Migrant students who do not officially withdraw from a school but are absent for two or more weeks and then return.
- Migrant students who do officially withdraw, are gone for at least two weeks and then re-enroll.

1.3

The Kansas State Department of Education is implementing the following procedures to identify and collect the number of Priority of Services migratory children served in Kansas' schools:

- Sub-grantees are notified of the requirements for identifying and serving Priority of Services migratory children and new reporting requirements via letter, listserv, Migrant Directors' meetings and ESOL/Migrant Annual Conference.
- The web-based data collection instrument used for the transfer of migrant student records is modified to include all of the "at-risk criteria" and the "education has been interrupted" information.
- Migrant program directors and data collection clerks are notified of changes in the Kansas Migrant Student Network and requirement to report that data on each migrant student.
- Through the needs assessment process, districts will determine numbers of Priority Service migratory students and what services are necessary to meet their needs. The results of the needs assessment are reported to KSDE.
- Sub-grantees report in the Local Consolidated Plan Annual Report data on participating students. The report is being revised to include the number of migrant students served who are identified as Priority Service migratory students and those who are not Priority Service students.

**REPORT DISTRIBUTION LIST
CONTROL NO. ED-OIG/A06-C0032**

Auditee

Dr. John A. Tompkins
Commissioner of Education
Kansas Department of Education
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