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March 24, 2005

Control Number
ED-OIG/A09-E0025

Jack O'Connell
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, California 95814-5901

Dear Superintendent O'Connell:

This Final Audit Report, entitled *California Department of Education's Compliance with the Unsafe School Choice Option Provision*, presents the results of our audit. The purpose of the audit was to determine whether (1) California's Unsafe School Choice Option (USCO) policy complied with Title IX, Part E, Subpart 2, Section 9532 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, (ESEA) and applicable U.S. Department of Education (Department) guidance and (2) the California Department of Education (CDE) adequately implemented the policy at the State and local education agency (LEA) levels. Our review covered school years 2002-2003 and 2003-2004.

BACKGROUND

The USCO in the ESEA § 9532 requires that states receiving funds under this Act establish and implement a statewide policy requiring that students attending a persistently dangerous public school, or students who become victims of a violent criminal offense while on the grounds of a public school they attend, be allowed to attend a safe public school. The Department issued *Unsafe School Choice Option Non-Regulatory Guidance* in May 2004. (This guidance was issued in draft form in July 2002.)

Under California's USCO policy, a public elementary or secondary school is considered to be "persistently dangerous" if, in each of three consecutive fiscal years, **both** of the following conditions are met:

The school has a federal or state gun-free schools violation or a violent criminal offense has been committed by a student or a non-student on school property **and**

The number of expulsions for violent criminal offenses for students enrolled in the school exceeds one of the following rates: three expulsions for a school of fewer than 300 students, or one expulsion for every 100 students or fraction thereof for a larger school.

The violent criminal offenses delineated in the policy by the pertinent California Education Codes (CECs) are: 1) causing serious physical injury to another, except in self-defense; 2) robbery or extortion; 3) assault or battery upon any school employee; 4) possessing, selling, or otherwise furnishing a firearm; 5) brandishing a knife at another person; 6) unlawfully selling a controlled substance; 7) committing or attempting to commit a sexual assault or committing a sexual battery; 8) possession of an explosive; and 9) an act of hate violence.

CDE determined that none of California's schools met the State's definition of "persistently dangerous" in school years 2002-2003 or 2003-2004. CDE considers schools "at risk" of being designated "persistently dangerous" if the school's expulsions for violent criminal offenses for a school year exceed the specified level. CDE identified nine schools "at risk" for school year 2002-2003 and six schools "at risk" for school year 2003-2004. No school was identified "at risk" for both school years.

AUDIT RESULTS

We concluded that California's USCO policy complied with the ESEA § 9532 and Department guidance. We also concluded that CDE adequately implemented the policy at the State level. CDE developed the State's definition of "persistently dangerous" in consultation with representatives from 20 LEAs. The definition used objective criteria¹ (governing board ordered expulsions and CECs) and rates of violent offenses (one expulsion for every 100 students or fraction thereof). CDE implemented a form to collect data on each school through its electronic Consolidated Application (ConApp) process² and procedures to analyze the data to identify schools that were "at risk" of being designated "persistently dangerous." In April 2003, CDE distributed a letter notifying LEAs and charter schools of the USCO policy and provided guidance on the data reporting requirements, the actions required of CDE and LEAs for schools designated as "persistently dangerous," and the actions required of LEAs for the transfer of student victims. CDE also communicated the information to LEAs using a web cast presentation. The April 2003 letter and its attachments are maintained on its website.

We concluded that the policy was not adequately implemented at the four LEAs reviewed in our audit and that CDE could take steps to enhance the implementation of the USCO policy at the local level. Our review at four California LEAs found that the LEAs did not report all USCO incidents to CDE, the LEAs interpreted "serious physical injury" differently when evaluating incidents, one LEA's policies did not address the USCO transfer option, and LEAs did not have documentation to demonstrate compliance with the transfer option.

¹ Department's *Unsafe School Choice Option Non-Regulatory Guidance* states "'[o]bjective' generally means not influenced by emotion, surmise, or personal bias."

² The ConApp is used by county offices, school districts, and charter schools to apply for funds from various State and Federal categorical programs and to provide assurances that they will comply with the legal requirements of each program.

In the OTHER MATTERS section of the report, we discuss the difficulties that CDE had in obtaining USCO incident information from charter schools that were not part of an LEA. We also discuss the suggestions presented in the Department's guidance that we encourage CDE to consider in future reviews of California's USCO policy.

In its response to the draft report, CDE indicated its plans for implementing our recommendations. CDE's comments are summarized at the end of each finding and the full text of the comments is included as Attachment 1.

FINDING NO. 1 – LEAs Did Not Report All USCO Incidents to CDE

CDE instructed LEAs to report the number of expulsions for the school year that related to each of the CEC sections cited as violent criminal offenses in California's USCO policy. Our review of selected schools' expulsion files for school years 2002-2003 and 2003-2004 found that the four LEAs reviewed did not accurately report USCO incidents that occurred at the schools. At each LEA, we reviewed student expulsion files for three schools. We found that—

- Fairfield-Suisun Unified School District (USD). Fairfield-Suisun USD reported nine USCO incidents at Armijo High School for school year 2003-2004, but failed to include another USCO incident at the school involving a student who was expelled for brandishing a knife.

Schools in the district completed a form titled "Notice of Suspension" to notify parents and the district when a student is suspended and/or recommended for expulsion. The preparer marks at least one of the CEC violations listed on the form as the reason for the action. The CEC section, along with other information on the form, is entered into a district database, which is used to provide the number of incidents reported to CDE. The reporting error occurred because multiple CEC violations were marked on the form, the district database would only accept one violation, and the school staff did not enter the most serious CEC violation in the database. In its instruction for the ConApp, CDE advised districts to report expulsions with multiple CEC violations under the code section for the most serious offense committed by the student.

- San Bernardino City Unified School District (USD). San Bernardino City USD reported one USCO incident at Dr. Martin Luther King Jr. Middle School for school year 2003-2004, but failed to include another USCO incident involving a student who was expelled for selling a controlled substance. San Bernardino City USD reported 42 incidents at Arroyo Valley High School for school year 2002-2003. After submitting the ConApp, district staff determined that only 17 USCO incidents should have been reported for the school. We identified an additional two incidents involving students who were expelled for selling a controlled substance. Thus, the Arroyo Valley High School had a total of 19 USCO incidents for school year 2002-2003. San Bernardino City USD also over-reported USCO incidents in school year 2002-2003 for the other two schools reviewed in our audit: Arrowview Middle School and Dr. Martin Luther King Jr. Middle School. District staff determined that only two incidents should have been reported for each school rather than the 6 and 10, respectively, originally reported to CDE.

Schools in the San Bernardino City USD used a process similar to Fairfield-Suisun USD, except its “Notice of Suspension” form and database only included the CEC 48900 sections covering acts where the district superintendent or school principal may suspend a student from school or recommend the student for expulsion. Except for the act of hate violence, the form and database did not include the specific CEC 48915 sections designated by the State as violent criminal offenses.

CEC 48915 listed offenses are similar to those in CEC 48900, but the sections under CEC 48915 generally focused on the more serious or violent aspects of the offense. The district used a computer program containing a conversion table linking the CEC 48900 sections to the CEC 48915 sections to identify the number of USCO incidents to be reported to CDE for the school year. The district did not report the incidents involving students who were expelled for selling a controlled substance because the conversion table included only one of the two sections under CEC 48900 that related to the selling of controlled substances.³ The district reported non-USCO incidents for school year 2002-2003 because the report generated using the conversion table included “unprovoked attacks that did not result in serious physical injury” in the number of incidents reported for CEC 48915(a)(1).⁴ After the district became aware of this error, district staff reviewed the student discipline file for each incident to identify the USCO incidents to be reported to CDE.

- Stockton Unified School District (USD). Stockton USD reported five USCO incidents at Edison High School for school year 2002-2003, but failed to include one incident involving a student that was expelled for selling a controlled substance.

Schools in the district completed a form titled “School Request for Expulsion” to notify the district when a student is recommended for expulsion and the CEC violation cited for the action. District staff entered information from the form into a database, which was used to identify the number of incidents to be reported to CDE. The school had correctly reported the incident as a violation of a CEC section listed in the USCO policy, but district staff overlooked the incident during a district-level review.

- Vallejo City Unified School District (USD). Vallejo City USD failed to report two USCO incidents for school year 2003-2004: one incident at Franklin Middle School involved a student who was expelled for brandishing a knife, and one incident at Vallejo Middle School involved a student who was expelled for assault or battery upon a school employee. It is likely that district staff also made improper determinations for the schools not reviewed in our audit, given that the district did not report any USCO incidents for all schools for school year 2003-2004.

³ The conversion table included CEC 48900(d) – Offered, arranged, or negotiated to sell any controlled substance, alcohol, intoxicant or representation of items thereof, but did not include CEC 48900(c) – Possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance, alcohol or intoxicant.

⁴ The conversion table used CEC 48900(a)(2) – Willfully used force or violence upon the person of another, except in self-defense, to identify USCO incidents for CEC 48915(a)(1) – Causing serious physical injury to another person. We also noted that the conversion table did not include CEC 48900(a)(1) – Caused, attempted to cause, or threatened to cause physical injury to another person, which is another CEC 48900 section that could also include USCO incidents to be reported to CDE under CEC 48915(a)(1).

Similar to San Bernardino City USD, schools in the Vallejo City USD used a form titled “Suspension Notice” that, except for acts of hate violence, did not include the CEC sections cited in the State’s USCO policy. Thus, district staff reviewed each expelled student’s discipline file to identify USCO incidents to report to CDE. The Vallejo City USD staff that performed the determination for school year 2003-2004 was unable to explain the reason for the improper determinations.

We were unable to review district staff determinations on individual incidents for school year 2002-2003 because the district did not maintain a record of the individual determinations and the staff person who made the determinations was no longer at the district. However, our review of the discipline files for expelled students identified one more USCO incident than the number of incidents that the district reported for Bethel High School and Franklin Middle School.

The inclusion of the above expulsions in the reported USCO incidents did not result in any of the schools reviewed being identified as “persistently dangerous.” However, if schools and districts do not have adequate procedures and documentation, CDE does not have the assurance that districts are providing reliable data for making “persistently dangerous” determinations.

Fairfield-Suisun USD implemented additional procedures at the end of school year 2003-2004 to ensure that information in its database is correct. The other three LEAs advised us that they planned to take corrective action.

CDE advised us that it planned to monitor LEA compliance with the State’s USCO policy through its coordinated compliance review (CCR) process. CDE officials estimated that the review steps covering the USCO policy would be incorporated in CCRs conducted in the 2005-2006 school year.

Recommendations

We recommend that the Deputy Under Secretary for Safe and Drug-Free Schools require CDE to—

- 1.1 Confirm that San Bernardino City USD, Stockton USD, and Vallejo City USD have taken appropriate corrective actions to ensure that USCO incidents are accurately reported to CDE.
- 1.2 Confirm that its CCR process includes appropriate review steps for evaluating LEA and school procedures for collecting and reporting USCO incidents and steps for verifying the accuracy of the reported data.

CDE Comments

CDE stated it would work with the three school districts to ensure that accurate USCO data collection processes are in place before the beginning of the 2005-2006 school year. CDE stated that, by December 31, 2005, the CCR process would be revised to include an evaluation of LEA and school procedures for collecting and reporting USCO incidents. CDE noted that the revised CCR process will include verification of the accuracy of reported data.

FINDING NO. 2 – LEAs Interpreted “Serious Physical Injury” Differently When Evaluating Incidents

California’s USCO policy cites the following CEC section as one of the violent criminal offenses to be reported as an USCO incident: CEC 48915(a)(1) – Causing serious physical injury to another person, except in self-defense. We found that the four districts we reviewed used different factors to assess whether an incident should be identified as “causing serious physical injury.” None of the four districts had written guidance for assessing the seriousness of a physical injury.

- Fairfield-Suisun USD and Vallejo City USD considered a physical injury to be serious if medical attention beyond first aid was required.
- San Bernardino City USD considered whether the student had willfully used force, such as an unprovoked attack that resulted in serious injury or no injury at all, to classify an incident as causing serious physical injury to another person.
- Stockton USD used factors such as physical observations, statements regarding the extent of the injuries, information contained in the school’s health office reports, and whether the victim required medical transportation or missed school days.

CDE officials advised us that CDE began efforts in March 2004 to provide districts with a definition of “serious physical injury.” CDE officials provided a copy of the proposed CEC section and advised us that the definition had been subjected to the public comment process and approved by the California State Board of Education. The CEC section is awaiting final approval and implementation.

Recommendation

- 2.1 We recommend that the Deputy Under Secretary for Safe and Drug-Free Schools require CDE to confirm that the CEC section defining “serious physical injury” was implemented and that the definition was distributed to California LEAs.

CDE Comments

CDE stated that, after the California Office of Administrative Law completes the routine administrative actions regarding regulation adoption, CDE would distribute an advisory containing the new regulation and definition to the LEAs. CDE projected that the distribution would occur by July 1, 2005.

FINDING NO. 3 – LEAs Have Not Adequately Implemented the USCO Transfer Option

One LEA's policies did not address the USCO transfer option and LEAs did not have documentation to demonstrate compliance with the transfer option. To comply with the ESEA § 9532, each State must establish a policy requiring that students attending a persistently dangerous school or students who are victims of a violent criminal offense, while in or on the grounds of a public school that they attend, be allowed to attend a safe public school. In its April 2003 letter, CDE notified LEAs that each LEA must ensure that it has a policy adopted by its governing board allowing students who are victims of violent crimes while in or on school grounds to attend a safe school.⁵ The notice stated that "[p]olicies that allow the victim transfer option must be in effect no later than the start of the 2003-2004 school year." The notice also stated that "[e]ach LEA should maintain appropriate records for at least three years for audit purposes to demonstrate compliance with this federal requirement, i.e., policy statements, procedures, and school transfer records of student victims."

Fairfield-Suisun USD Did Not Address the USCO Transfer Option in Its Written Policies

Fairfield-Suisun USD officials stated that the district has a longstanding policy of placing students in a safe school environment if the student is a victim of a violent crime, but we found no mention of the USCO transfer option in the district's open enrollment or other written policies. We concluded that the other three LEAs had adequate written policies, however, San Bernardino City USD could enhance its written policies by making specific reference to the USCO transfer option. The current policy states that a parent may petition for transfer when the school "has conditions which are adverse to the health and/or safety of the student."

Fairfield-Suisun USD officials stated that, when the USCO policy became effective, the district determined that an amendment to its existing policies was not necessary. Fairfield-Suisun USD's open enrollment policy allows students wishing to attend a school not in their attendance area to apply for enrollment at that school provided that 1) no student currently residing within a school's attendance area is displaced by another student and 2) appropriate racial and ethnic balance is maintained among district schools.

When the USCO policy transfer option is not included in an LEA's written policies, there is the risk that school administrators and parents may be unaware that the transfer option is available and not subject to the conditions stated in the district's open enrollment policy.

⁵ The letter also notified the LEAs that they are required to (1) notify the parents of each student attending a school identified as persistently dangerous of the option to transfer to a safe school, (2) offer students the opportunity to transfer to a safe school within the LEA, and (3) complete the transfer for those student who accept the offer, generally within 30 school days.

LEAs Did Not Have Documentation to Demonstrate Their Compliance with the USCO Transfer Option

The four LEAs reviewed had USCO incidents in school year 2003-2004 for CEC violations where there may have been an identified student victim. Fairfield-Suisun USD, San Bernardino City USD, and Vallejo City USD had five, seven, and one such USCO incidents, respectively. The districts provided us with a written explanation of the parents' or students' requests (i.e., reassurance that perpetrator would not return to the school, preference to have child remain at the school, etc.), but the LEAs did not have documentation to show that victims' parents were notified of the USCO transfer option. According to the districts' written explanations, none of the parents or students requested a transfer to another school. Stockton USD, which had six such USCO incidents, was unable to provide explanations or documentation that victims' parents were notified of the USCO transfer option or whether a transfer was requested and completed. All four LEAs reviewed stated that they always honored parents' requests for transfer to another school when students were victims of a violent crime. Without appropriate documentation, LEAs may not be able to demonstrate that parents were offered the USCO transfer option and that the LEA complied with parents' requests for transfers to safe schools.

As we mentioned in FINDING NO. 1, CDE plans to include review steps to monitor LEA compliance with the State's USCO policy in CCR reviews conducted during the 2005-2006 school year.

Recommendations

We recommend that the Deputy Under Secretary for Safe and Drug-Free Schools require CDE to—

- 3.1 Confirm that Fairfield-Suisun USD has appropriately revised its written policies to include the USCO transfer option.
- 3.2 Ensure that Fairfield-Suisun USD, San Bernardino City USD, Stockton USD, and Vallejo City USD implement procedures to document that parents of student victims were notified of the USCO transfer option and whether a transfer was requested and completed.
- 3.3 Remind all LEAs of the requirement to include the transfer option in their written policies and retain documentation showing that victims' parents were notified of the USCO transfer option and whether a transfer was requested and completed.
- 3.4 Include steps in its CCR process to review LEAs' transfer policies for compliance with the State's USCO policy and confirm that students who were victims of a violent crime were provided the option to transfer to a safe school and that documentation was retained showing that victims' parents were notified of the USCO transfer option and whether a transfer was requested and completed.

CDE Comments

CDE stated that, by July 1, 2005, it will confirm that Fairfield-Suisun USD revised its written policies to include the USCO transfer option and will have all LEAs include the transfer option in their written policies. CDE proposed that, instead of just notifying the parents of student victims, the LEAs notify all parents of the USCO transfer option at the beginning of the school year. CDE believed this approach to be more effective and would result in the entire school community being aware of the USCO transfer option. CDE stated it will require that LEAs maintain a record of all transfer option requests and the outcome and will work with LEAs to ensure that the procedures are in place by the beginning of the 2005-2006 school year. CDE stated that the revised CCR process will include steps to confirm that LEAs' transfer policies comply with the State's USCO policy, all parents were notified of the USCO transfer option at the beginning of the school year, and records are maintained of all USCO transfer option requests and outcome.

OIG Response

CDE's proposal to "notify all parents of the USCO transfer option at the beginning of the school year" would increase community awareness of the USCO transfer option, but may not be sufficient notice for parents of identified student victims. At the time of the incident, parents may not recall that the USCO transfer option is available. For parents of student victims, the LEA should maintain documentation that it provided the parent with notice of the USCO transfer option at the time the LEA became aware of the incident. The CCR process should confirm that LEAs have documentation that parents received the notice.

OTHER MATTERS

CDE Was Unable To Make "At Risk" Determinations for 21 Charter Schools. In its USCO certification to the Department dated October 21, 2003, CDE disclosed that 84 charter schools did not submit 2003-2004 ConApps, Part I and thus, did not report the required USCO incident data to the State for the school year 2002-2003. CDE had notified county and district superintendents and charter school administrators that the electronic 2003-2004 ConApp would be the mechanism for reporting USCO incidents for school year 2002-2003. CDE advised us that, as an alternative method, its Charter School Funding Survey is used to collect USCO incident data for charter schools that are not included in an LEA's ConApp. However, there is no incentive for the charter schools to submit the data as, in many cases, the charter schools do not apply for Federal or State categorical funds.

Subsequent to its certification, CDE collected USCO incident data from 63 of the 84 charter schools and determined that the 63 schools did not meet the definition of "persistently dangerous." Due to the lack of data, CDE has not yet been able to make determinations for the remaining 21 charter schools. CDE stated that it is continuing to follow up with the 21 charter schools in an effort to collect the data. We encourage CDE to continue its data collection efforts to ensure that all of its over 9,000 schools comply with the State's USCO policy.

Suggestions for Consideration in Future Reviews of the California USCO Policy. While California’s USCO policy complied with the ESEA § 9532 and the requirements in the Department’s guidance, the policy may not have met the intent of the Act, which was to provide parents with the knowledge and options to ensure that their children are attending a safe public elementary or secondary school. None of California’s over 9,000 schools have met the State’s definition of “persistently dangerous.”

The Department’s guidance provided States with several suggestions for consideration when establishing their definitions of “persistently dangerous.” The Department suggested—

- Inclusion of parents and community members in the process of developing the definition.
- Use of objective criteria that encompass areas that students and parents would consider in determining a school’s level of safety.
- Defining “persistently dangerous” based on the number of incidents over a shorter period (i.e., one year rather than three consecutive years).⁶
- Use of data that relate to incidents even when an offender is not apprehended and subsequently disciplined (i.e., suspended or expelled).

California’s USCO policy did incorporate the Department’s suggestion to include rates of violent offenses, but it may have set the level too high for identifying schools that are “persistently dangerous.” For example, one California school had an enrollment of 2,560 students and reported 12 USCO incidents for school year 2003-2004. To be considered “at risk,” the school would need to have reported 27 USCO incidents for the year (i.e., exceeds one USCO incident per 100 students and fraction thereof).

We encourage CDE to consider the Department’s suggestions in any reviews that it may conduct in the future of the State’s USCO policy to ensure that California’s parents are provided with both the knowledge and option to keep their children safe.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether (1) California’s USCO policy complied with the ESEA § 9532 and Department guidance and (2) CDE adequately implemented the policy at the State and LEA level. Our review covered school years 2002-2003 and 2003-2004.

To accomplish our objectives, we interviewed CDE staff responsible for the development and implementation of California’s USCO policy and reviewed related documents. At four selected LEAs, we interviewed district administrative staff to determine how the State’s USCO policy

⁶ Small year-to-year fluctuations in student enrollments and reported USCO incidents could impact whether a school is identified as “persistently dangerous.” For example, one California school reported USCO incidents totaling 8, 16, and 16 for school years 2001-2002, 2002-2003, and 2003-2004, respectively. The school was not identified as “persistently dangerous” because the reported numbers only exceed the specified limit in 2003-2004. For that year, the school had a student enrollment of 1,448, thus the limit was 15 USCO incidents (i.e., 1 incident for every 100 students or fraction thereof). Even though the school reported the same number of USCO incidents for 2002-2003, the school was not identified as “at risk” because the school’s enrollment was higher in that year. For school year 2002-2003, the student enrollment was 1,541 and, thus, the limit was 16 USCO incidents.

was implemented at the local level. We visited three public schools within each LEA and interviewed school administrators, on-campus security staff, health care staff, and school resource officers (local police officers assigned to the schools) to determine if the schools complied with the USCO policy. At the LEAs and schools, we also reviewed student expulsion documents to determine whether incidents were correctly reported to CDE. We also confirmed that LEAs' written policies addressed the USCO transfer option and that students who were the victims of a violent crime were offered transfers to safe public schools.

For our review of the implementation of the State's USCO policy, we relied on a database provided to us by CDE that summarized persistently dangerous school data reported by the districts on the ConApp. For the four districts that we reviewed, we compared the USCO incidents on CDE's database with the district's reported USCO incidents for each of the selected schools and confirmed that the "at risk" determination shown on the database for the selected schools was correct based on the State's definition of a persistently dangerous school. Based on these tests, we concluded that the data was sufficiently reliable to be used in meeting the audit objectives.

We selected four unified school districts using statewide juvenile crime data and U.S. Census data for persons under 19 years of age (juvenile population). From California's 58 counties, we identified five counties with juvenile populations over 100,000 that had the highest juvenile crime rates (number of juvenile crimes divided by juvenile population). We selected one northern county (Solano County), one central county (San Joaquin County), and one southern county (San Bernardino County). For these three counties, we selected the LEA that had the highest school enrollments in their respective county: Fairfield-Suisun USD, Stockton USD, and San Bernardino City USD. We also selected Vallejo City USD, located in Solano County, because the district reported no USCO incidents for all schools in reports to CDE for school year 2003-2004.

For each LEA, we selected one high school and two middle schools using free and reduced meal rates from CDE's website to identify those schools located in high poverty areas. We randomly selected one high school and two middle schools for Stockton USD since the rates appeared consistent across their high schools and middle schools. For Vallejo City USD, we randomly selected one high school from the district's three high schools and randomly selected two middle schools from the three middle schools with the highest rates. For San Bernardino City USD, we randomly selected one high school from the three high schools with the highest rates and randomly selected two middle schools from the district's seven middle schools. For Fairfield-Suisun, we selected the high school and two middle schools with the highest rates. (The differences in rates for middle schools in San Bernardino City USD and Fairfield-Suisun USD were not significant.) The following table shows the schools reviewed for each LEA and the reported USCO incidents for each school.

Schools Reviewed and Their Number of Reported USCO Incidents			
Fairfield-Suisun USD	San Bernardino City USD (See Note)	Stockton USD	Vallejo City USD
Armijo High School 2002-2003 – 1 2003-2004 – 9	Arroyo Valley High School 2002-2003 – 42 2003-2004 – 8	Edison High School 2002-2003 – 5 2003-2004 – 13	Bethel High School 2002-2003 – 10 2003-2004 – None
Grange Middle School 2002-2003 – None 2003-2004 – 1	Arrowview Middle School 2002-2003 – 6 2003-2004 – 1	Marshall Middle School 2002-2003 – 1 2003-2004 – 2	Franklin Middle School 2002-2003 – 2 2003-2004 – None
Sullivan Middle School 2002-2003 – 1 2003-2004 – 2	Dr. Martin Luther King Jr. Middle School 2002-2003 – 10 2003-2004 – 1	Webster Middle School 2002-2003 – 7 2003-2004 – 2	Vallejo Middle School 2002-2003 – 13 2003-2004 – None
Note: San Bernardino City USD included non-USCO incidents in its reported numbers for school year 2002-2003. After submitting the reported numbers to CDE, district staff determined that only 17, 2, and 2 of the reported incidents met the State’s USCO policy. The reporting of non-USCO incidents and the related cause is discussed in FINDING NO. 1.			

We performed our fieldwork at CDE’s offices in Sacramento, California during July 2004 and at the selected LEAs and schools during the months of September and October 2004. We held an exit conference with CDE officials on January 14, 2005. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

STATEMENT ON INTERNAL CONTROLS

As part of our review, we assessed the system of internal controls applicable to CDE’s and the selected LEAs’ implementation of California’s USCO policy. Our assessment was performed to determine the nature and extent of our substantive tests to accomplish the audit objectives.

For the purpose of this report, we categorized significant controls into the following categories:

- CDE and LEA data collection and reporting.
- CDE certification of compliance with the ESEA § 9532.
- LEA implementation of the USCO transfer option.

Because of inherent limitations, a study and evaluation made for the limited purpose above would not necessarily disclose all material weaknesses in the internal controls. However, our assessment disclosed significant internal control weaknesses, which could adversely affect the administration of the USCO policy at the local level. These weaknesses included inadequate LEA procedures and/or documentation for the identification and reporting of USCO incidents, lack of consistent criteria for determining the seriousness of physical injuries, lack of a written policy on the USCO transfer option at one LEA, and lack of documentation of compliance with the USCO transfer option at all four LEAs. These weaknesses and their impacts are discussed in the AUDIT RESULTS section of this report.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvement, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective actions to be taken will be made by the appropriate Department officials.

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 this audit —

Deborah A. Price
Assistant Deputy Secretary
Office of Safe and Drug Free Schools
U.S. Department of Education
Federal Building No. 6, Room 1E110
400 Maryland Avenue, SW
Washington, D.C. 20202

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 greatly 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,
/s/

Gloria Pilotti
Regional Inspector General for Audit

Attachment

Attachment 1

**CALIFORNIA DEPARTMENT OF EDUCATION
COMMENTS ON THE DRAFT REPORT**



CALIFORNIA
DEPARTMENT OF
EDUCATION

1430 N STREET
SACRAMENTO, CA
95814-5901

JACK O'CONNELL

State Superintendent of
Public Instruction

PHONE: (916) 319-0800

March 4, 2005

Gloria Pilotti, Regional Inspector General for Audit
United States Department of Education
Office of Inspector General
501 I Street, Suite 9-200
Sacramento, CA 95814-2559

Dear Ms. Pilotti:

This is the California Department of Education's (CDE) response to the United States Department of Education Office of Inspector General's (OIG) draft report entitled, "*California Department of Education's Compliance with the Unsafe School Choice Option Provision.*" State Superintendent of Public Instruction Jack O'Connell has asked me to respond on his behalf.

General Comment

Although the audit found that the Unsafe School Choice Option (USCO) provision had not been adequately implemented at four local education agencies (LEAs), the audit was conducted within the first two years of the new federal law implementation. The CDE fully expects all California LEAs to achieve full compliance with the USCO provision.

Finding No. 1 – LEAs Did Not Report All USCO Incidents to CDE

Recommendation No. 1.1

Confirm that San Bernardino City Unified School District, Stockton Unified School District, and Vallejo City Unified School District have taken appropriate corrective actions to ensure that USCO incidents are accurately reported to CDE.

CDE's Planned Corrective Action

The CDE will work with the three school districts to ensure that accurate USCO data collection processes are in place before the beginning of the 2005-06 school year.

Recommendation No. 1.2

Confirm that the CDE's coordinated compliance review (CCR) process includes appropriate review steps for evaluating LEA and school procedures for collecting and reporting USCO incidents and steps for verifying the accuracy of the reported data.

CDE's Planned Corrective Action

By December 31, 2005, the CDE will revise the CCR process to include an evaluation of LEA and school procedures for collecting and reporting USCO incidents, and a verification of the accuracy of the reported data.

Finding No. 2 – LEAs Interpreted “Serious Physical Injury” Differently When Evaluating Incidents

Recommendation No. 2.1

Confirm that the California Education Code (CEC) section defining “serious physical injury” was implemented and that the definition was distributed to California LEAs.

CDE's Planned Corrective Action

After the California Office of Administrative Law completes the routine administrative actions regarding regulations adoption, an advisory containing the new regulation and definition will be distributed to all California LEAs; this will occur by July 1, 2005.

Finding No. 3 – LEAs Have Not Adequately Implemented the USCO Transfer Option

Recommendation No. 3.1

Confirm that Fairfield-Suisun Unified School District has appropriately revised its written policies to include the USCO transfer option.

CDE's Planned Correction Action

By July 1, 2005, the CDE will confirm that the Fairfield-Suisun Unified School District revised its written policies to include the USCO transfer option.

Recommendation No. 3.2

Ensure that Fairfield-Suisun Unified School District, San Bernardino Unified School District, Stockton Unified School District, and Vallejo City Unified School District implement procedures to document that parents of student victims were notified of the USCO transfer option and whether a transfer was requested and completed.

CDE's Planned Corrective Action

Instead of just notifying the parents of student victims, the CDE proposes to have the LEAs notify all parents of the USCO transfer option at the beginning of the school year. This will result in the entire school community being aware of their USCO rights and the transfer option. Additionally, the LEAs would be required to maintain a record of all USCO transfer option requests and the outcome. The CDE views this process as being more effective than notifying each individual victim's parent, in the event that the school administration is unaware of an incident where a student is a victim of a violent offense. By the beginning of the 2005-06 school year, the CDE will work with the districts to ensure that new procedures are in place.

Recommendation No. 3.3

Remind all LEAs of the requirement to include the transfer option in their written policies and retain documentation showing that victims' parents were notified of the USCO transfer option and whether a transfer was requested and completed.

CDE's Planned Corrective Action

By July 1, 2005, the CDE will have all LEAs include the transfer option in their written policies. Then as stated in the prior recommendation no. 3.2, the CDE proposes that the LEAs notify all parents of the USCO transfer option at the beginning of the school year, and maintain records of all USCO transfer option requests and the outcome.

Recommendation No. 3.4

Include steps in the CCR process to review LEAs' transfer policies for compliance with the State's USCO policy and confirm that students who were victims of a violent crime were provided the option to transfer to a safe school and that documentation was retained showing that victims' parents were notified of the USCO transfer option and whether a transfer was requested and completed.

CDE's Planned Corrective Action

By December 31, 2005, the CDE will revise the CCR process to include a review of the LEAs' transfer policies for compliance with the State's USCO policy, confirmation that all parents were notified of the USCO transfer option at the beginning of the school year, and assurance that records are maintained of all USCO transfer option requests and outcome.

Gloria Pilotti, Regional Inspector General for Audit

March 4, 2005

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We appreciate the opportunity to comment on your report. If you have any questions, please contact Kim Sakata, Audit Response Coordinator, Audits and Investigations Division, at (916) 323-2560.

Sincerely,

/s/ Gavin Payne

GAVIN PAYNE

Chief Deputy Superintendent of Public Instruction

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