



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE INSPECTOR GENERAL

MAR 29 2006

**FINAL MANAGEMENT INFORMATION REPORT**

**State and Local No. 06-01**

**TO:** Henry L. Johnson  
Assistant Secretary for Elementary and Secondary Education

**FROM:** Helen Lew [REDACTED]  
Assistant Inspector General for Audit Services

**SUBJECT:** Compliance Requirements within Title I, Part A of the No Child  
Left Behind Act  
**Control Number ED-OIG/S06E0027**

The purpose of this Management Information Report is to provide you with the results of our review of the compliance requirements within Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind (NCLB) Act. Our review objective was to provide information to the Department of Education (Department) and Congress to assist in determining whether all compliance requirements are necessary in a reauthorized NCLB Act.

**Background**

The Office of Inspector General (OIG) previously reviewed this issue and issued a report in February 1999 titled, *An OIG Perspective on the Reauthorization of the Elementary and Secondary Education Act* (see attachment). The goal of that report was to improve the effectiveness and efficiency of the Elementary and Secondary Education (ESEA) Act of 1965. The 1999 perspective paper indicates that the number of compliance requirements in the ESEA could be reduced to ease the administrative burden on State Education Agencies (SEAs) and Local Education Agencies (LEAs).

The NCLB Act contains over 500 compliance requirements in Title I, Part A for SEAs and LEAs. When the NCLB Act was passed in 2001, the focus was on greater accountability by schools for the achievement of students. The Department has placed an emphasis on monitoring of States to ensure compliance with the NCLB statute. Also, as part of its monitoring, it has assessed the level of monitoring by SEAs to ensure compliance with the law and regulations. In addition, as part of the Single Audit Act, the Department has revised the Office of Management and Budget (OMB) A-133 Compliance Supplement and directed auditors' attention to certain compliance requirements.

## Review Results

We identified 588 SEA and LEA compliance requirements within Title I, Part A of the NCLB Act--566 requirements in Subpart 1 and 22 requirements in Subpart 2. We considered a statement containing any of the words "must," "shall," or "will" as a requirement. The Department, SEAs, and LEAs conduct annual monitoring to ensure compliance with the requirements in the Act. We reviewed the Department's monitoring guides and three randomly selected SEAs' monitoring guides and determined that many of the compliance requirements were included in the monitoring guides. However, we found that 89 of the 588 (15%) requirements (71 in Subpart 1 and 18 in Subpart 2) were not specifically identified in any of the guides. Examples of the requirements not identified in the monitoring guides ranged from the academic assessment in Subpart 1 to the calculation of funds in Subpart 2.

Our review disclosed that 360 of the 588 (61%) compliance requirements to be completed by the SEAs and LEAs are included in the Department's monitoring guide. The 2003 Office of Management and Budget (OMB) A-133 Compliance Supplement provided audit coverage for 50 requirements, some of which are duplicated in the Department's monitoring guide. However, the three SEA monitoring guides we reviewed only covered a small number of the requirements they were responsible for monitoring, and the guides were not consistent from state to state. For example, the New York monitoring guide covered 66 requirements (19% of the requirements), Mississippi covered 60 requirements (17%), and Maine only covered 38 requirements (11%).

The 1999 perspective paper indicates that the number of compliance requirements in the ESEA could be reduced to ease the administrative burden on SEAs and LEAs. We believe that this condition may exist for NCLB because it appears that States are only monitoring a minimal number of the requirements. We concluded that the requirements not specifically identified for monitoring need to be reviewed and evaluated to determine whether all of the requirements are necessary to fulfill the goals of the NCLB Act (see page 5 of the attached 1999 Perspective Paper for a suggested model). In view of the number of requirements included in the NCLB Act and the corresponding resources necessary to comply with and monitor those requirements, the Department should ensure that all of the requirements are necessary.

During the review, we provided our preliminary results to the Office of Elementary and Secondary Education (OESE). OESE officials stated that monitoring is implied for a majority of the requirements, although not spelled out specifically within the guides. OESE believes that the requirements are being monitored. While some of these requirements may be monitored, as stated by OESE, we suggest that OESE use the information concerning the number of requirements to assess whether each are necessary.

### **Suggestion**

1. We suggest that the Assistant Secretary for Elementary and Secondary Education review the compliance requirements in Title I, Part A of NCLB to determine whether some of the requirements can be eliminated during reauthorization.

### **Objective, Scope, and Methodology**

The objective of our review was to provide information to the Department and Congress to assist in determining whether all compliance requirements are necessary in a reauthorized NCLB Act.

To achieve our objective, we—

- Identified the monitoring requirements within Title I, Part A of the NCLB Act;
- Determined if the requirements are to be completed by the Department, SEAs, or LEAs;
- Reviewed the Monitoring Guides for the Department from the Title I and Title II offices (Title II monitors the Highly Qualified Teacher Section);
- Reviewed the OMB Circular A-133 2003 Compliance Supplement;
- Reviewed the Monitoring Guides for three randomly selected States (New York, Mississippi, and Maine);
- Reviewed the State Enforcement Reports for the 12 States reviewed by the Department in the last year;
- Provided our results to the Office of Elementary and Secondary Education monitoring group;
- Reviewed OESE's response to our results.

Our review covered the NCLB Act since it was first enacted in 2001. We held an entrance conference with OESE on August 26, 2004, and held an exit conference with OESE on October 7, 2005. Our review was performed in accordance with the President's Council on Integrity and Efficiency Inspection Standards.

### **Auditee's Comments**

OESE disagrees with our finding that there are requirements in the Act that are not monitored. OESE stated, “. . . a review of monitoring documents is not an appropriate way to determine the usefulness of individual statutory provisions.” OESE suggested that a more appropriate way to review statutory requirements is to review the findings in State monitoring reviews and determine whether it is a statutory or an implementation issue. OESE also stated, “. . . that it collects information on many NCLB requirements through the review of State Consolidated applications, Annual Consolidated Performance Reports, and the Department's Financial Statement Audit.”

OESE stated they are not clear which of the requirements are not being monitored, and they requested a list of the 89 requirements we identified as not being monitored. They requested an opportunity to review the requirements and provide the OIG with additional information. They also stated that using “must, shall, and will” is an oversimplification of identifying requirements within the Act.

**OIG’s Response**

We have not changed our finding or suggestion. During our review, OESE was provided the results of our review and they did not provide us with any additional information that changed our finding. OESE was aware that we were reviewing monitoring reports and they did not provide any additional information that would help in our review. They were also aware of how we identified the requirements—“must, shall, and will.” On several occasions, they stated that everything is monitored; however, they did not provide sufficient information for the OIG to draw the same conclusions.

OESE stated that they monitor some requirements through the State Consolidated applications, Annual Consolidated Performance Reports, and the Department’s Financial Statement Audit. We reviewed the above documentation that they provided us during our review. Although OESE provided additional information, they stated that it was implied that some requirements were being reviewed. Most of the additional information provided was what an experienced reviewer would know what to look for when reviewing those documents; however, we were unable to conclude that those requirements are being monitored specifically.

Further, during the course of the review we provided an electronic spreadsheet of our results. Therefore, OESE already had the information concerning the 89 requirements that it requested in its response to the draft of this report. The MIR is intended for information purposes. The OIG provided the information to OESE so they could use the information in their preparation to review the Act prior to reauthorization.

If you would like to discuss the information presented in this memorandum or obtain additional information, please contact Sherri Demmel at (216) 661-9530.

Attachment



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MEMORANDUM

FEB 21 2006

TO : Sherri Demmel  
Regional Inspector General for Audit

FROM : Henry Johnson [REDACTED]  
Assistant Secretary

RE : Draft Management Information Report, *Compliance Requirements Within Title I of the No Child Left Behind Act, Control Number ED-OIG/S06E0027*

This is in response to the above-referenced Draft Management Information Report (MIR), *Compliance Requirements Within Title I of the No Child Left Behind Act, Control Number ED-OIG/S06E0027*. Thank you for the opportunity to provide comments.

Your stated objective in conducting this review was to provide information to the Department of Education (Department) and Congress to assist in determining whether all compliance requirements within Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind (NCLB) Act are necessary in a reauthorized Act.

In conducting this review, the Office of the Inspector General (OIG) reviewed a number of documents provided by the Department, including the Department's monitoring guides for Titles I and II, OMB Circular A-133 Compliance Supplement, as well as the monitoring reports for Title I programs that were issued by the Department to States during the 2003-2004 monitoring cycle. The OIG provided OESE with its preliminary results in the fall of 2004, including a list of NCLB requirements for which OIG could not identify a monitoring method or procedure. OESE staff then provided OIG with additional information regarding how the Department monitors or collects information from States on most of the requirements on that list. At that time, OESE informed the OIG that it collects information on many NCLB requirements through the review of State Consolidated applications, Annual Consolidated Performance Reports, and the Department's Financial Statement Audit. OESE staff also indicated that a number of the requirements under Subpart 2 of Title I, Part A apply to the Department and are addressed through the allocations process.

The MIR states that OIG has determined that the Department's monitoring guides and the three randomly selected State monitoring guides do not specifically address 89 of the 588

NCLB requirements. The MIR further suggests that OESE should use the information concerning the number of requirements to assess whether each are necessary. OESE respectfully suggests that a review of monitoring documents is not an appropriate way to determine the usefulness of individual statutory provisions. Decisions regarding reauthorization are made based on a number of factors. Statutory provisions cannot be evaluated in isolation because they are interrelated, and often one provision builds upon another. Therefore, it would be more appropriate to review monitoring findings to identify areas where multiple States are having implementation issues in order to determine if the problem is statutory or based on some other factor(s) that require a different solution, which may or may not require a statutory change.

We are still not clear about the specific statutory provisions that the OIG feels are not being monitored. As we indicated previously, our monitoring indicators are broadly written to address a broad range of statutory provisions. Further, there are a number of statutory provisions that are either applicable solely to the Department, such as allocations, or that apply to other agencies such as those applicable to the Bureau of Indian Affairs. As far as State monitoring of NCLB requirements, we have made a number of compliance findings for lack of adequate monitoring by States. Lack of monitoring by States indicates a compliance problem rather than a reflection of the validity of a statutory provision.

If the OIG continues to move forward with this MIR, we request the OIG's final list of the 89 'missing' requirements. We feel obligated to review them and provide OIG with additional information as to where and how the Department monitors and/or collects data from States in each area. We caution that giving every "must," "shall" or "will" statement in NCLB the same weight with respect to compliance determinations or monitoring responsibilities is an oversimplification of the requirements of NCLB. Furthermore, that approach does not reflect the factors we have noted above when determining compliance with NCLB.

Thank you for the opportunity to respond to the draft MIR. We support your efforts to inform the reauthorization and we are available to discuss our questions and concerns regarding this approach.