

New York Performance Review Report FY 2017

6 7 2018

Commendations

0

Met Requirements

14

Recommendations

7

Action Required

2*

*One action required area addressed by the State prior to final report



U.S. Department of Education
Office of State Support
Office of Elementary and Secondary Education
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Washington, DC 20202

Office of State Support Performance Review Process

The Office of State Support (OSS) provides coordinated policy development, performance management, technical assistance, and data analysis services through a State support team structure that deepens partnerships with States and more effectively support their implementation of key reforms that will lead to improved outcomes for all students. OSS administers programs of financial assistance to State educational agencies (SEAs), local educational agencies (LEAs) and to colleges and universities. Under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), OSS administers several Title I programs of supplementary instruction and other services. This includes the School Improvement Grants program authorized in section 1003(g) of Title I, Part A, of the ESEA, as amended by the No Child Left Behind Act of 2001 and the Improving Basic Programs Operated by Local Educational Agencies (LEAs) under Title I of the ESEA, as amended by ESSA. Under Title II, Part A of the ESEA, OSS administers the Improving Teacher Quality State Grants. Under Title III of the ESEA, OSS administers the State Formula Grant Program for English Language Acquisition and Language Enhancement. OSS also administers the State Assessment Grant, Innovative Assessment and Accountability Demonstration Authority, and Flexibility for Equitable Per-Pupil Funding programs authorized in sections 1201, 1204, and 1501 of the ESEA.

OSS is organized specifically to provide high-quality performance management and support to SEAs in administering and leveraging the grant programs above, focusing on the SEAs' quality of implementation while continually reducing the burden of the Department's necessary stewardship and compliance role. Quarterly progress checks, Desk Reviews, and On-Site Reviews help ensure that SEAs are making progress toward increasing student achievement and improving the quality of instruction for all students through regular conversations about the quality of SEA implementation of OSS administered programs.

The goals of the OSS performance review process are to conduct a State-centered, performance-focused review of all OSS programs (Title I, Part A; Title II, Part A; Title III, Part A; and School Improvement Grants (§1003(g) of the ESEA, as amended by the NCLB) through a single, streamlined process that results in improved and strengthened partnerships between the United States Department of Education (the Department) and States and encourages States to develop and effectively implement integrated and coherent consolidated State plans. To accomplish these goals, the OSS performance review process is organized by areas, which reflect the programmatic and fiscal requirements and priorities of OSS programs.

Performance Review Report

The Performance Review Report summarizes the results of the August 7 – August 11, 2017, OSS review of the New York State Education Department's (NYSED's) grant administration and fiscal management processes. The report is based on information provided through the review process, and other relevant qualitative and quantitative data. The primary goal of this review is to ensure that implementation of the four programs listed above is consistent with the fiscal, administrative, and select program requirements contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance: 2 Code of Federal Regulations (CFR) Part 200), the Education Department General

Administrative Requirements (EDGAR), and the ESEA, as amended by the NCLB, and where applicable, the ESSA. In addition, the review covers State internal controls related to data quality and reporting and encompasses those fiscal and data reporting requirements applicable to the covered programs under both NCLB and the ESSA.¹

¹ On December 10, 2015, the ESEA of 1965 (the most recent prior version of which was NCLB) was reauthorized. In order to ensure that the OSS performance review process did not interfere with an SEA's orderly transition to the new ESSA requirements, the OSS has chosen to focus only on those fiscal and select program requirements applicable to covered programs under both NCLB and ESSA, as well as the uniform administrative requirements and general management systems of SEAs. In future fiscal years, the performance review process will cover all requirements included in ESSA. Because this report summarizes the results of a non-comprehensive set of NCLB and ESSA compliance requirements, the issuance of this report does not preclude other Department program offices, or independent auditors, from identifying areas of noncompliance that are not outlined in this report.

Section I: State Overview

As part of this document, the OSS includes relevant State background information as a way of providing context for the review conversation. All data presented in Section I are reported by grantees to either the National Center for Education Statistics (NCES), Common Core of Data (CCD), or through standard oversight activities.

Section II: Grant Administration and Fiscal Management Performance Evaluation

The information provided in Section II is intended to help a State quickly assess whether there are sufficient capacities, infrastructure and resources allocated to State activities by area, in a manner that enables the State to achieve its strategic goals for the reviewed Federal programs. The section provides the State and the OSS' rating of performance on grant administration of applicable Title I, Part A; Title II, Part A; Title III, Part A; and School Improvement Grant programs in fiscal year 2017. Each area rating is a reflection of how a State is addressing fiscal and cross program requirements. The State rating column is populated based on the self-assessment completed by the State prior to the review. OSS' analysis for each area is primarily based on evidence submitted by the State in the form of answers to the self-assessment questions, documents submitted by the State prior to the review, and the responses provided to questions during the review.

OSS' rating is also informed by evidence collected through public sources and other components of the performance review process. In some cases area ratings may overlap (e.g., Risk Assessment and Procurement) and feedback is provided in the cross-cutting subsection that appears at the end of Section II.

Ratings are based on a four-point scale, for which “met requirements with commendation” represents high quality implementation where the grantee is exceeding expectations; “met requirements” indicates that work is of an acceptable quality and the grantee is meeting expectations; “met requirements with recommendations” indicates there are quality implementation concerns and some improvements could be made to ensure the grantee continues to meet expectations; and “action required” indicates there are significant compliance or quality concerns that require urgent attention by the SEA and will be revisited until the State has remedied the issue.

Section III: Met Requirements with Commendation



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

Section IV: Met Requirements



This section identifies those areas where the OSS has determined that the State has met basic requirements of grant administration and fiscal management and is implementing those requirements in a satisfactory manner as identified in Section II of this report (*i.e.*, those areas categorized as satisfactory quality, “met requirements”). The description of satisfactory implementation by relevant area and requirement is an indication of an acceptable implementation quality level. In these areas, the OSS is not recommending or requiring the State to take any further action.

Section V: Met Requirements with Recommendations



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

Section VI: Action Required



This section identifies those areas where the OSS has “significant compliance and quality concerns” (corresponds to “action required” in Section II). For those issues the OSS will outline the current practice, the nature of noncompliance, and the required action. Documentation of required action must be provided to the OSS within thirty (30) business days of the receipt of the final Performance Review Report.

SECTION I

State Overview²



COVERED GRANT PROGRAMS

TITLE I, PART A; TITLE II, PART A (TITLE II); TITLE III, PART A (TITLE III), SCHOOL IMPROVEMENT GRANTS (SIG)



STUDENT CHARACTERISTICS

Enrolled:	2,711,626	Limited-English Proficiency: ³	8%
In Title I Schools: ⁴	65%	Eligible for Free & Reduced Lunch:	49%



RACIAL/ETHNIC BACKGROUND (%)

White:	44.7	Asian or Pacific Islander:	9.1
Hispanic:	25.9	American Indian/Alaskan Native:	0.6
Black:	17.7	Native Hawaiian/Other Pacific Islander:	n/a



SCHOOL & LOCAL EDUCATIONAL AGENCY (LEA) CHARACTERISTICS

School Districts:	1,011	FTE Teachers:	206,086
Schools:	4,866	Per-Pupil Expenditures: ⁵	\$20,744
Charter Schools:	256		



FEDERAL FUNDING⁶

Total:	\$228,436,429	Title III, Part A:	\$62,211,864
Title I, Part A:	\$1,137,873,510	SIG:	\$33,814,724
Title II, Part A:	\$186,025,730		

² Data Source: The Department, CCD, 2015-2016 school year, unless otherwise noted (see <http://eddataexpress.ed.gov/> and <http://nces.ed.gov/ccd/elsi/> for additional information).

³ Data from 2014-2015.

⁴ Schools eligible for Title I, Part A schoolwide programs are also included in the count of all Title I, Part A eligible schools. A Title I, Part A eligible school is one in which the percentage of children from low-income families is at least as high as the percentages of children from low-income families served by the LEA as a whole or because 35 percent or more of the children in the school are from low-income families. A schoolwide Title I, Part A eligible school has a percentage of low-income students that is at least 40 percent. Data is from 2014-2015.

⁵ Data Source: The Department, NCES, CCD, "National Public Education Financial Survey (State Fiscal)", 2013-2014 (Fiscal Year 2014), v.1a. (see <http://nces.ed.gov/ccd/elsi/> for additional information).

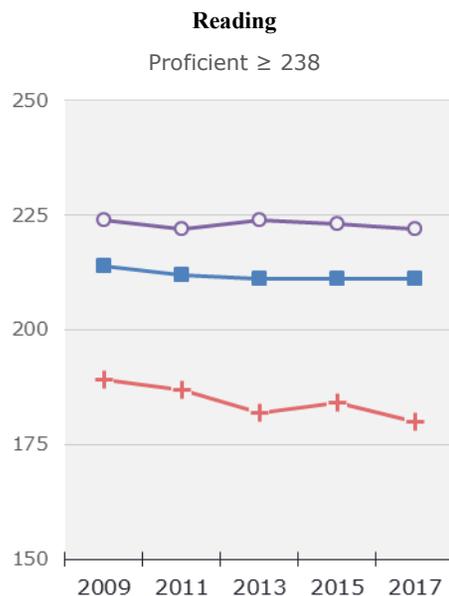
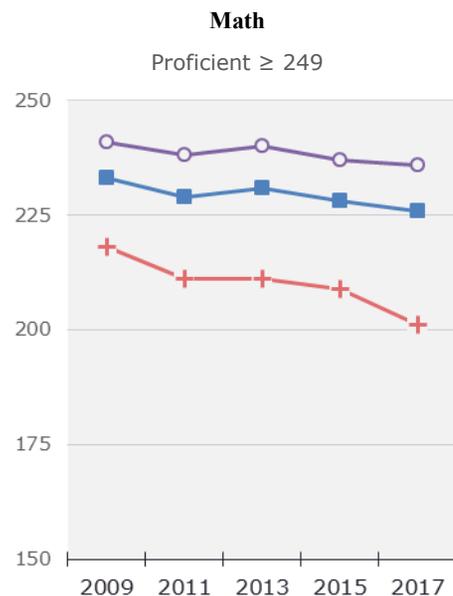
⁶ FY 2015 funds included above are from OSS administered programs that allocate funds to States using a statutory formula. The totals do not reflect all Department funds that flow to a State. States and other entities may also receive funds from grants that are awarded on a competitive basis.

NAEP Average Scale Scores by Grade & Year

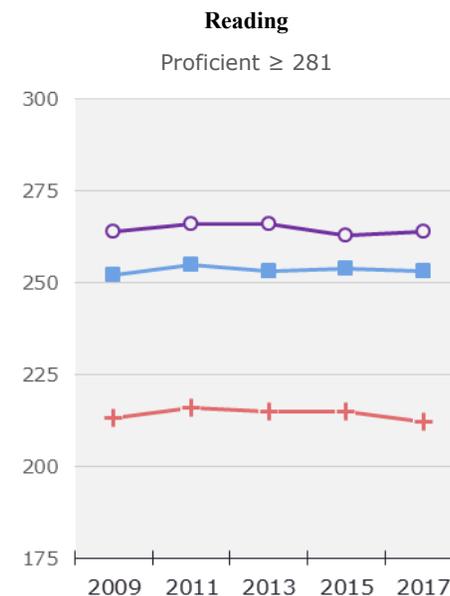
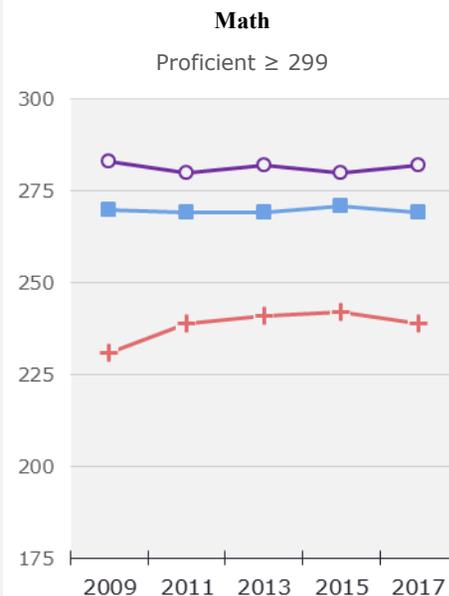
The National Assessment of Educational Progress (NAEP) is the largest nationally representative and continuing assessment of what America's students know. The NAEP mathematics and reading scales range from 0–500.

- All
- Low-income students
- + EL students

Grade 4



Grade 8



	All	Low-Income	EL
2009	241	233	218
2011	238	229	211
2013	240	231	211
2015	237	228	209
2017	236	226	201

	All	Low-Income	EL
2009	224	214	189
2011	222	212	187
2013	224	211	182
2015	223	211	184
2017	222	211	180

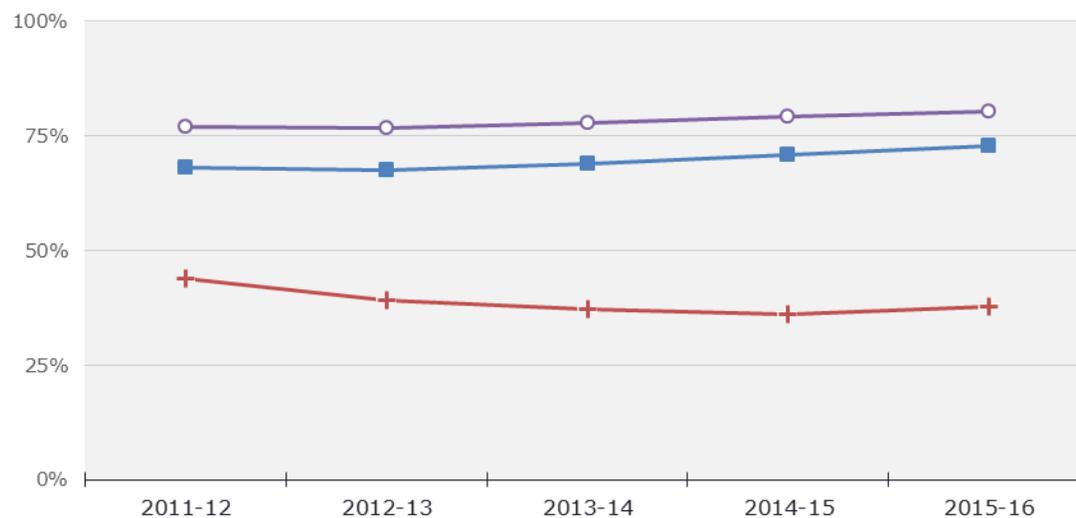
	All	Low-Income	EL
2009	283	270	231
2011	280	269	239
2013	282	269	241
2015	280	271	242
2017	282	269	239

	All	Low-Income	EL
2009	264	252	213
2011	266	255	216
2013	266	253	215
2015	263	254	215
2017	264	253	212

ADJUSTED COHORT GRADUATION RATE (ACGR) BY SCHOOL YEAR

The four-year adjusted cohort graduation rate is the number of students who graduate in four years with a regular high school diploma divided by the number of students who form the adjusted cohort for the graduating class. From the beginning of 9th grade (or the earliest high school grade), students who are entering that grade for the first time form a cohort that is “adjusted” by adding any students who subsequently transfer into the cohort and subtracting any students who subsequently transfer out, emigrate to another country, or die. There are some differences in State implementation of the ACGR requirements, leading to the potential for differences across in how rates are calculated. See <http://www2.ed.gov/admins/lead/account/consolidated/index.html> for additional information on interpreting this data)

- All
- Low-income students
- + EL students



	All	Low Income	EL
2011-12	77.0%	68.0%	44.0%
2012-13	76.8%	67.5%	39.1%
2013-14	77.8%	68.8%	37.1%
2014-15	79.2%	71.0%	36.0%
2015-16	80.4%	72.8%	37.8%

SECTION II

Grant Administration and Fiscal Management Evaluation

Dates of Review	August 7 – August 11, 2017
Reviewers	Denise M. Joseph (Office of State Support) Jeanette Horner-Smith (Office of State Support) Ashlee Schmidt (Office of State Support) John Keefer (Management Support Unit) Shane Morrisey (Management Support Unit)
LEA Participants	New York City Public Schools (New York, NY) Sachem Central School District (Lake Ronkonkoma, NY) Troy City School District (Troy, NY)
Current Grant Conditions	Title I, Part A: None Title II, Part A: None Title III, Part A: None SIG: None
Outstanding Findings	Title I, Part A: None Title II, Part A: None Title III, Part A: None SIG: None
High Risk Status	Not Applicable

Assessment Criteria Key



Met requirements with commendation

High quality implementation & compliance.



Met requirements

Satisfactory implementation & compliance.



Met requirements with recommendation

Satisfactory compliance with quality concerns.



Action required

Significant compliance & quality concerns.

		SEA	OSS
Accounting Systems and Fiscal Controls	A	● ● ● ○	● ● ● ○
Period of Availability and Carryover	B	● ● ● ○	● ● ● ○
Audit Requirements	C	● ● ● ●	● ○ ○ ○
Internal Controls (Control Environment and Control Activities)	D	● ● ● ○	● ● ● ○
Risk Assessment	E	● ● ● ○	● ● ● ○
Records and Information Management	F	● ● ● ○	● ● ● ○
Equipment Management	G	● ● ● ○	● ● ● ○
Personnel	H	● ● ● ○	● ● ● ○
Procurement	I	● ● ● ○	● ● ● ○
Indirect Costs	J	● ● ● ○	● ● ● ○
Transparency Act Reporting	K	● ● ● ○	● ● ● ○
Charter School Authorization and Oversight	L	● ● ● ○	● ● ● ○
Reservations and Consolidation	M	● ● ● ○	● ● ● ○
Budgeting and Activities	N	● ● ● ○	● ● ● ○
Allocations	O	● ● ● ○	● ● ● ○
Maintenance of Effort (MOE)	P	● ● ● ○	● ● ● ○
Comparability	Q	● ● ● ○	● ● ● ○
Subrecipient Monitoring	R	● ● ● ○	● ● ● ○
Supplement Not Supplant	S	● ● ● ○	● ○ ○ ○
Equitable Services	T	● ● ● ○	● ● ● ○
LEA Support and Guidance	U	● ● ● ○	● ● ● ○
Transparency and Data Reporting	V	● ● ● ○	● ● ● ○
Data Quality	W	● ● ● ○	● ● ● ○

SECTION III

Met Requirements with Commendation

No areas reviewed were identified for commendation.

SECTION IV

Met Requirements

B.

PERIOD OF AVAILABILITY AND CARRYOVER



REQUIREMENT SUMMARY

The SEA may only charge a grant program for allowable costs incurred during the period of availability and any pre-award costs that have been authorized by the Department. Unless the Department authorizes an extension, the SEA shall liquidate all obligation incurred under the award not later than 90 calendar days after the end date of the performance period. If the SEA fails to obligate all funds by the end of the award year, it can "carryover" the remaining funds for a period of one additional fiscal year. Any funds not obligated by the end of the carryover period shall be returned by the SEA to the Federal government as an unobligated balance.

Uniform Guidance 2 C.F.R. 200.309 and 200.343(b)

EDGAR 34 C.F.R. 76.707 and 76.709



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED utilizes automated controls to ensure compliance with period of availability requirements for both State and subrecipient spending. Once NYSED receives an award, the award is added to the SEA's Chart of Accounts within the State Financial System (SFS), which includes the dates of the period of availability for each award and allows for monitoring the date of SEA obligations during the award period. To ensure that subrecipients comply with requirements, NYSED's grants management system, CAFÉ, includes the period of availability for every subaward and has automated controls to prevent subrecipients from obligating funds beyond the period of availability.

During the final months of an award's period of availability and the liquidation period, NYSED's offices of Budget Coordination, Administrative Support, and Grants Finance meet regularly to review financial records and evaluate SEA and LEA progress in liquidating outstanding obligations. The Office of Budget Coordination creates reports showing balances and the period of availability to help facilitate the review of potentially lapsing funds. Where subrecipients have available balances that are in danger of lapsing, program staff regularly communicates with subrecipients to discuss the balances and encourage timely drawdown of funds. During the fiscal review, LEA staff provided confirmation of NYSED's process.

D.

INTERNAL CONTROLS



REQUIREMENT SUMMARY

The SEA shall establish and maintain a system of effective internal controls over Federal awards that provides reasonable assurance that the SEA is managing Federal awards in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards. These internal controls should be in accordance with guidance stated in the "Standards of Internal Control in the Federal Government" (GAO Green Book) or the "Internal Controls Integrated Framework" (Treadway Commission).

Uniform Guidance 2 C.F.R. 200.303



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED provided the Department with several documents evidencing the SEA's commitment to effective internal controls. NYSED provided a sample of its Commissioner's Annual Internal Control Statement, which emphasizes the importance of internal controls, highlights the role of managers in designing and implementing internal controls for their unit, and makes clear the responsibility of all staff in ensuring that the agency's internal controls are operating effectively. NYSED also provided copies of internal controls guidelines for staff that establish the internal control responsibilities of every NYSED employee, including proper completion of job duties, adherence to established internal control procedures, reporting of any potential issues to supervisors, maintaining familiarity with NYSED procedures and standards, and exercising responsibility in the use of NYSED resources and assets. To reinforce these guidelines, NYSED requires all staff to complete annual internal controls training as evidenced by training materials provided to the Department prior to the review.

E.

RISK ASSESSMENT



REQUIREMENT SUMMARY

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

Uniform Guidance 2 C.F.R. 200.331(b)



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED utilizes risk assessments for each of the covered programs to determine the order and ranking of subrecipients for its performance management system (programmatic and fiscal monitoring). Under NYSED's approach to risk assessment, each individual program annually completes its own risk assessment for all program subrecipients during the SEA's Consolidated Application review process. While NYSED independently conducts program risk assessments for each program, common risk indicators include allocation amounts, State accountability system status, recent monitoring or audit findings, and length of time since the subrecipient's most recent monitoring review. During the review, NYSED provided samples of the risk assessment tools and evidence that the risk assessment was utilized to guide the SEA's monitoring process during school year 2016-2017.

G.

EQUIPMENT MANAGEMENT



REQUIREMENT SUMMARY

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

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

GAO Green Book Principle 10.03



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED utilizes two inventory processes as part of the SEA's equipment management process. For technology items, NYSED conducts an agency-wide process to periodically review IT equipment records and verify that all items are in the correct location and in acceptable condition. For all other equipment, including furniture and other items, NYSED requires each program office to maintain current inventory listings, to conduct their own inventory reviews, and to update agency records based on the results of such reviews. To facilitate the inventory processes, items costing \$5,000 or more and items susceptible to theft must have tags affixed with individual serial numbers that can then be verified during inventory reviews; all other items must have tags that show they are the property of NYSED.

H.

PERSONNEL**REQUIREMENT SUMMARY**

An SEA shall ensure that charges to Federal awards for salaries are based on records that accurately reflect the work performed. These records must be supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable, and properly allocated.

Uniform Guidance 2 C.F.R. 200.430

**DESCRIPTION OF SATISFACTORY IMPLEMENTATION**

To ensure that personnel expenditures charged to Federal programs reflect the actual time and effort worked on that program, NYSED requires all employees to record their effort within the agency's time and effort system every two weeks, with specific information required for the time spent working on each Federal program and cost activity. Before any timesheets can be submitted and used to allocate funding for personnel expenditures, each staff member's time records must be reviewed and approved by their direct supervisor to verify the accuracy of the work claimed for each program and activity. NYSED also performs reconciliations on a quarterly basis to ensure the overall accuracy of personnel records and charges. These reconciliations require an analysis of cumulative documented time and effort by program compared to cumulative personnel expenditures to make certain that each program is not charged for costs beyond the documented level of effort.

I.

PROCUREMENT**REQUIREMENT SUMMARY**

An SEA shall ensure that all relevant State procurement procedures are followed when procuring goods and services using Federal funds. An SEA must also maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specification of their contracts.

Uniform Guidance 2 C.F.R. 200.317, 200.322, and 200.326

**DESCRIPTION OF SATISFACTORY IMPLEMENTATION**

NYSED provided the Department with several documents outlining the agency's procurement process, including a comprehensive procurement manual and a sample of its request for proposals template. These materials included timelines for procurement transactions and tools for staff to utilize during the various stages of a procurement transaction to ensure that all requirements are being met. To ensure that conflicts of interest are not present in any transactions, NYSED's Contract Administration Unit works with program staff to document the absence of conflicts and the impartiality of evaluations and purchases.

To ensure that subrecipients are complying with applicable procurement requirements, NYSED reviews LEA procurement policies and procedures during subrecipient monitoring activities. NYSED requires subrecipients to provide documented procurement procedures and sample procurement documentation for randomly selected transactions, which are then used to test the implementation of the LEA's policies and procedures. NYSED also provides LEAs with online resources that highlight, among other topics, procurement requirements, and provides technical assistance to LEAs to help ensure that they are meeting procurement requirements, including providing sample procurement policies to LEAs that request such templates.

J.

INDIRECT COSTS



REQUIREMENT SUMMARY

An SEA shall ensure that indirect costs are only charged at the correct indirect cost rate. An indirect cost is a cost that is incurred for the benefit of the entire organization.

Uniform Guidance 2 C.F.R. 200.414

EDGAR 34 C.F.R. 76.560-569



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED provided a copy of its approved indirect cost rate agreement. NYSED utilizes the rates established under the agreement within its Chart of Accounts in the SFS, which then calculates indirect costs based on actual program expenditures recorded in the system during the program period.

To ensure subrecipients are correctly charging indirect costs to Federal programs, NYSED includes individual LEA indirect cost rates within the SEA's CAFÉ electronic grants management system. NYSED provided samples of LEA indirect cost rate agreements approved by the SEA, as well as copies of guidance materials provided to LEAs regarding requirements for charging indirect costs.

K.

TRANSPARENCY ACT REPORTING



REQUIREMENT SUMMARY

An SEA is required to report information identifying subrecipients (name, address, DUNS number) and subawards (CFDA number, award number, title) if, at any point during the award period, the SEA subawards more than \$25,000 in program funds (cumulatively) to any single subrecipient.

Reporting Subaward and Executive Compensation Information (2 C.F.R. Part 170) 170.220(a), 170 Appendix A

Universal Identifier and System for Award Management (2 C.F.R. Part 25) Appendix A

Uniform Guidance 2 C.F.R. 200.300(b)



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

To ensure timely Federal Funding Accountability and Transparency Act (FFATA) reporting, NYSED maintains written procedures for compiling and submitting required subaward reports. Under these procedures, NYSED Grants Finance staff are required to perform regular checks of the subaward data to identify what subaward reports are required to be submitted in any given month. Grants Finance staff members are then responsible for compiling the information needed for each report, including DUNS numbers, and submitting reports through the FFATA Subaward Reporting System (FSRS).

To facilitate timely FFATA reporting, NYSED collects DUNS numbers as part of the subaward application process. The DUNS numbers are then maintained on a statewide database and periodically reviewed to ensure that the numbers remain active. If a subrecipient fails to provide an active DUNS number during the subaward application process, NYSED program offices are unable to approve subaward applications until the subrecipient has a verified DUNS number on the statewide DUNS number database.

M.

RESERVATIONS AND CONSOLIDATION



REQUIREMENT SUMMARY

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

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

ESEA Regulations 34 C.F.R. 299.4



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED uses formulated spreadsheets to calculate the administrative and State activities reservations for each covered program, samples of which were provided to the Department prior to the review. These spreadsheets automatically calculate the allowable reservation amounts based on the initial State allocations for each program. Once initial calculations are completed, additional NYSED staff complete a secondary review of the calculations to verify that amounts are accurate. After the calculations are approved, NYSED budget staff establishes fund amounts for each reservation within the SFS, which then automatically limits spending to the maximum allowed amount for each reservation during the course of the award period. Reservation balances are monitored on a continual basis to ensure timely spending and to allow for adjustments to spending plans, if needed.

N.

BUDGETING AND ACTIVITIES



REQUIREMENT SUMMARY

An SEA and its subrecipients can only use program funds for allowable costs, as defined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements (2 C.F.R. 200), which include, among other things, the requirement that costs be reasonable and necessary for the accomplishment of program objectives.

Uniform Guidance 2 C.F.R. 200.403-408 and 200.420-475

EDGAR 34 C.F.R. 76.530



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

During its consolidated application review process, NYSED reviews proposed program budgets for each of the covered programs, examining activities and expenditures for their allowability based on program requirements. As part of the budget evaluation, NYSED staff examines both LEA- and school-level expenditures for allowability. If the budget review identifies a questionable expenditure, NYSED requires the LEA to provide justification for the expenditure. If the LEA cannot justify the expenditure as a reasonable and necessary expenditure under the program in question, or if the expenditure is prohibited under applicable requirements, the LEA must remove the item before the budget (and application as a whole) can be approved.

To ensure that LEAs understand expectations and requirements for the uses of program funds, NYSED provides continual feedback and technical assistance for LEAs during the budget review process. NYSED provides guidance and targeted technical assistance to LEAs around cost allowability and works with LEAs to ensure that all information in the LEA budget is aligned to program objectives and approvable in accordance with program requirements.

R.

SUBRECIPIENT MONITORING



REQUIREMENT SUMMARY

An SEA shall monitor local educational agencies (LEAs) and any other entities, including external providers, receiving Federal funds from programs covered in the Consolidated State Plan to ensure that performance goals are achieved and that subawards are used for authorized purposes and in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

Uniform Guidance 2 C.F.R. 200.331(d)



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED utilizes multiple methods of subrecipient monitoring during the award period to ensure that subrecipients are complying with all applicable requirements and to determine whether program objectives are being achieved. Specifically, NYSED utilizes three types of monitoring reviews:

1. **Desk Audit Monitoring.** Entities for desk monitoring are selected based on a number of factors including staff recommendations, accountability status, and Title I allocation size; these LEAs are generally lower-risk than the LEAs selected for targeted or coordinated monitoring. During desk monitoring, NYSED staff review documentation in accordance with NYSED's established monitoring protocol for the Title I, Part A and Title II, Part A programs.
2. **Targeted Monitoring.** Targeted monitoring is used if an LEA meets a set of criteria determined by the SEA. The targeted monitoring process includes a review of expenditures directly aligned to the mandated School Improvement and Parent Education reservations required for Focus Districts. The review includes any other entities, including external providers, receiving Federal funds from programs covered in the Consolidated State Plan to ensure that performance goals are achieved and that subawards are used for authorized purposes and in compliance with Federal statutes, regulations. Targeted monitoring reviews only cover the Title I, Part A and Title II, Part A programs.
3. **Coordinated Monitoring.** During coordinated monitoring reviews, NYSED staff conduct on-site interviews and evaluations with LEA staff of expenditures directly aligned to the mandated School Improvement and Parent Education reserves required for Focus Districts and covers the reviews of the Title I, Part A, Title II, Part A and Title III, Part A programs, as well as other programs. Coordinated monitoring reviews are conducted for LEAs that are identified as being in accountability status.

In addition to the LEAs monitored for Title III, Part A during coordinated monitoring reviews, the NYSED Office of Bilingual Education and World Languages also conducts independent monitoring on-site and desk monitoring reviews of additional LEAs utilizing the same Title III protocol used during coordinated reviews. For the SIG program, the NYSED Office of Innovation and School reform conducts reviews of quarterly performance reports for all SIG schools and completes one or two on-site monitoring visits for the majority of SIG schools each year that include interviews with school personnel and classroom observations.

Regardless of the type of review conducted, NYSED staff verbally share information about findings with LEA staff immediately following each review. NYSED staff noted that, during targeted and coordinated monitoring reviews, program monitors often attempt to work collaboratively with subrecipients before leaving the monitoring site to immediately address identified issues. Following the conclusion of the review and internal evaluation among NYSED staff, NYSED sends a follow-up report to the LEA which includes a full description of the results of the review. If a monitoring report contains a finding, NYSED requires LEAs to provide a written response to the monitoring report and corrective action plan for how it will address and correct the findings within 30 days. NYSED staff must review and approve completion of the submitted corrective action plans before a monitoring finding is considered closed.

T.

EQUITABLE SERVICES



REQUIREMENT SUMMARY

An SEA shall ensure that LEAs use Federal funds to provide benefits to eligible children enrolled in private schools and to ensure that teachers and families of participating private school children participate on an equitable basis.

ESEA §9501

EDGAR 34 C.F.R. 76.661

Title I Regulations 34 C.F.R. 200.62-67

ESEA Regulations 34 C.F.R. 299.6 and 299.9



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED has a thorough process for ensuring that LEAs provide equitable services to eligible students attending private schools. The SEA evaluates compliance with equitable services requirements both during the review of LEA subaward applications and during post-award monitoring. As part of the consolidated subaward application process, NYSED requires LEAs to complete a Private School Participation Form that identifies each private school that will receive equitable services during the upcoming school year. During post-award monitoring, NYSED conducts on-site reviews at private schools, which include discussions with private school leadership regarding the provision of equitable services and physical inventories of any equipment or supplies purchased by the LEA for the purpose of providing equitable services. As evidence of these activities, NYSED provided the Department with copies of its monitoring protocols, which included inquiries about equitable services, as well as copies of its Private School Participation Form.

In order to ensure that LEAs understand equitable services requirements, NYSED provides technical assistance and guidance to its LEAs through training sessions, webinars, work groups, and numerous other activities. NYSED also frequently solicits feedback from the New York private school community through a private school Community of Practice, as well as through workgroups with non-public school communities conducted through the NYSED Commissioner's Advisory Committee. In addition to the above mentioned activities, to assist LEAs in understanding equitable services provisions in ESSA, NYSED has also updated the SEA's website to include specific training and guidance content around changes and updates to equitable services requirements under the new statute.

U.

LEA SUPPORT AND GUIDANCE



REQUIREMENT SUMMARY

An SEA shall have procedures for providing technical assistance and evaluating how project funds were spent, if they were spent in compliance with statutes and regulations, and if expected outcomes were achieved as a result of spending.

EDGAR 34 CFR 76.770

DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED utilizes multiple mechanisms for providing guidance and technical assistance to LEAs in an effort to ensure that Federal programs are operating as intended and that performance goals are being achieved. The Office of Accountability has a technical assistance plan which is structured around NYSED's monitoring initiatives, including webinars, District Institutes and "Office Hours" where LEA staff can get training and compliance information. NYSED also provides written guidance to LEAs about important changes regarding policies, procedures and transitions, as well as through field memos, e-blasts, and online presentations designed to facilitate program compliance, implementation of quality educational programs, and capacity building at the LEA and school levels. As an example of its technical assistance activities, NYSED highlighted the development of its "NYSED Application Business Portal," which is a dashboard that provides LEAs with data and documents needed to complete the SEA's consolidated subaward application, streamlining NYSED's technical assistance for the application process.

W.

DATA QUALITY



REQUIREMENT SUMMARY

An SEA is required to have appropriate procedures in place to ensure that the data reported to the public and the Department are high quality (i.e., timely, complete, accurate, valid, and reliable).

ESEA §1111(h) (4)

Government Accountability Office's "Standards for Internal Control in the Federal Government" (GAO Green Book)

Uniform Guidance 2 CFR 200.303 and 2 CFR 200.328(b)

OMB Circular A-133 Compliance Supplement: Department of Education Cross-cutting Section

Final Audit Report: ED-OIG/A0600001



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NYSED has a detailed data quality review process for ensuring that data collected by the SEA and its LEAs are of high quality. The review process includes business rules within its Student Information Repository System (SIRS) to identify problems or errors in the data, numerous meetings between the SEA, LEAs, and schools to discuss the underlying quality of data elements, the use of project managers as subject matter experts to identify and address data quality problems, and a final two-person data review process for checking data accuracy prior to reporting and publication.

To assist LEAs in collecting and reporting high-quality data, NYSED provides technical assistance around data quality issues through feedback from data quality checks, yearly conferences, and training opportunities. NYSED also uses data quality score cards and clearly published reporting timelines to promote early data reporting. Where LEAs submit poor quality or incomplete data, NYSED typically discusses issues with LEAs as the first step in addressing the issue, while repeat data quality issues can result in additional consequences including the potential withholding of Federal funds. NYSED noted during the review that, collectively, these measures have resulted in higher data accuracy in final data reports than seen previously.

SECTION V

Met Requirements with Recommendation

A.

ACCOUNTING SYSTEMS AND FISCAL CONTROLS



REQUIREMENT SUMMARY

An SEA shall expend and account for Federal funds in accordance with State laws and procedures for expending and accounting for State funds. State accounting systems must satisfy Federal requirements regarding the ability to track the use of funds and permit the disclosure of financial results. SEAs must have written procedures for determining cost allowability and must maintain effective control over all funds.

Uniform Guidance 2 C.F.R. 200.302

EDGAR 34 C.F.R. 76.702



ISSUE

In order to identify and track Federal funds within its accounting system, NYSED maintains individual fund account identifiers for each Federal award on the SEA's Chart of Accounts. After program allocations are received and added to the Chart of Accounts, the SEA provides the New York Division of Budget and Office of the State Comptroller with the award information to allow the establishment of fund accounts within the SFS. Once funds are established within the system, the SEA is able to utilize funds using unique account codes that correspond to categories of expenditures such as personal services, fringe benefits, and subawards. The SFS's reporting functions allow NYSED staff to track budgeted levels, expenditure amounts, current obligations, and available balances for each category of expenditure and award throughout the award period. NYSED is also able to actively monitor subrecipient spending and award balances through its CAFÉ electronic grants management system, which allows program staff to track spending by expenditure categories and monitor spending totals for alignment with approved budgets and overall award amounts. NYSED also monitors subrecipient spending by examining proposed expenditures during the application review process and actual subrecipient expenditures during the subrecipient monitoring process.

While these steps are important mechanisms for ensuring the allowable uses of funds, NYSED's oversight and monitoring activities do not include verification as to whether subrecipients have written procedures related to cost allowability as required for LEAs under the Uniform Guidance §200.302(b)(7) (2 C.F.R. 200.302(b)(7)). Without documented procedures to protect against unallowable uses of funds, there is potential for increased risk that LEAs could make unallowable expenditures.

**RECOMMENDATION**

The Department recommends that NYSED revise its monitoring protocols to include a review of an LEA's written procedures for determining the allowability of costs. By ensuring that such procedures are in place, NYSED could help minimize the potential for LEAs to make unallowable expenditures, help ensure that spending is targeted to program needs, and reduce the need for the SEA to address such issues during the application review, monitoring, or audit resolution processes.

F.

RECORDS AND INFORMATION MANAGEMENT



REQUIREMENT SUMMARY

An SEA shall keep records that fully show the amount of funds under a grant award or subgrant, how the SEA used the funds, the total costs of Federally supported projects, the share of costs provided from other sources, records to show compliance with program requirements, and any other records needed to facilitate an effective audit. An SEA shall also take reasonable measures to safeguard and protect personally identifiable information (PII). PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual

Uniform Guidance 2 C.F.R. 200.79, 200.303(e), 200.333, 200.336(a)

EDGAR 34 C.F.R. 76.730-731



ISSUE

NYSED maintains an Information Security policy which applies to all NYSED information systems and communication networks. This policy outlines the responsibilities of all users of NYSED information systems to maintain the security of the systems and to safeguard the confidentiality of NYSED information. Access to any confidential information stored within NYSED information systems is limited to those employees who need such information to carry out their duties.

While NYSED's Information Security policy provided details regarding the broader approach to access controls and ensuring network security and integrity, NYSED's policies did not contain details related to the tools and strategies the SEA uses to protect collected personally identifiable information (PII), or other policies pertaining to student privacy or the requirements of the Family Educational Rights and Privacy Act (FERPA). While NYSED stated that trainings taken by employees do include content related to FERPA, the SEA was unable to provide policies or procedures that would capture ongoing processes to safeguard PII and ensure student privacy. Without such documented policies and procedures, there is a risk that controls and procedures in place could fail to operate correctly and that the PII of SEA personnel, students, and teachers could be compromised.



RECOMMENDATION

The Department recommends that NYSED develop written policies and procedures describing the tools and strategies used to ensure the protection of any PII collected and maintained by the SEA. These policies should detail how NYSED protects and safeguards PII and cover PII from all sources – students,

teachers, SEA personnel, etc. The development of policies that demonstrate how NYSED complies with FERPA and protects student privacy should help to mitigate the possibility and consequences of an information breach.

L.

CHARTER SCHOOL AUTHORIZATION AND OVERSIGHT



REQUIREMENT SUMMARY

The SEA provides information on OSS programs (i.e., allocations; applications; and requirements, including requirements for proper disposition of equipment and property) to all charter schools and LEAs and Charter Management Organizations (CMOs) or Education Management Organizations (EMOs) that oversee charter schools, has established internal controls related to the charter schools' relationships with their CMOs/EMOs, and has clear procedures that are systematically monitored for orderly closure, where applicable.

EDGAR 34 C.F.R. 76.785-799

Uniform Guidance 2 C.F.R. 200.318(c), 200.343-344

Final Audit Report: ED-OIG/A02M0012



ISSUE

In order to ensure full and complete program allocations, NYSED requests projected enrollment and eligibility data for the upcoming year from all charter LEAs (including newly opened charter LEAs) in the spring of each school year to determine which charter LEAs have experienced significantly expanded enrollments. Once the school year starts, charter LEAs are required to provide actual enrollment and poverty data for the purposes of determining final allocations. Because charter LEAs self-report eligibility and poverty data for both preliminary and final program allocations, NYSED annually compares the anticipated and actual enrollment data, as well as previous enrollment data, to validate the data and identify any anomalies.

While NYSED was able to describe the above process during the review, NYSED was unable to provide documented procedures capturing the various steps in the charter LEA allocation process, including the process for validating self-reported program eligibility and enrollment data, either as part of its general allocations process or from a charter-specific perspective. Such documented procedures could help ensure successful validation of self-reported enrollment and eligibility data, and subsequently full and correct allocation amounts for charter LEAs.



RECOMMENDATION

The Department recommends that NYSED develop written policies and procedures for:

1. Identifying which charter LEAs have seen significant expansion in their charter school enrollment for the purposes of ensuring full and complete program allocations.
2. Obtaining or determining eligibility data for students attending charter

LEAs for the purposes of calculating allocations for Federal formula programs.

3. Verifying any data obtained directly from a charter LEAs.

Such procedures should help ensure that charter LEA allocations are correctly determined and that each charter LEA, including those that have significantly expanded, receives complete and accurate program allocations.

O.

ALLOCATIONS



REQUIREMENT SUMMARY

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

ESEA §1124, §1124A, §1125, §1126(b), §2121, §2122(a), §2132, §3111(b) (1), §3114, §3116(a), §1003(g) (5), and §1003(g) (7)

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



ISSUE

During the review, NYSED described its process for calculating program allocations and subawarding funds to LEAs. At the initiation of the consolidated application process for the Title I, Part A, Title II, Part A and Title III, Part A programs, NYSED notifies its LEAs regarding the application process and timeline via a variety of methods including through emails to LEA leadership and by posting information on the SEA's website. For the SIG program, NYSED makes subrecipients aware of funding opportunities via specially developed requests for proposals and through announcements posted in e-newsletters and on the NYSED funding opportunities website.

Once an LEA submits its consolidated application, NYSED's Office of LEA Finance completes allocation calculations for each program using a formulated spreadsheet to calculate the appropriate allocations for each program based on Department guidance. After preliminary allocation amounts are reviewed and approved for each program, NYSED notifies all LEAs of their awards through email notifications to superintendents and Federal program coordinators, as well as by posting public award notifications on NYSED's website. Mid-year allocation adjustments are communicated to LEAs via email, and updated amounts are posted on the NYSED website. During the review, NYSED provided the Department with copies of its LEA consolidated application, award letters, and grant notices as evidence of its allocation process.

Although NYSED was able to describe its process for calculating allocations and subawarding funds to LEAs, the SEA was unable to provide documented procedures for its allocation process, including the process by which preliminary subaward amounts are reviewed for accuracy before issuance. Without such procedures, there is a risk that both an initial error could be made during the subaward calculation process or that errors would fail to be identified during the subaward allocation review process, resulting in inaccurate subaward amounts being issued to subrecipients.



RECOMMENDATION

The Department recommends that NYSED develop written procedures capturing its allocation process for the covered programs. These procedures should include the subaward calculation process for each program, instructions for staff in obtaining and verifying eligibility data (where necessary), and a description of the various stages of the calculation review process, including how the various levels of review are to be documented. Such procedures could help to ensure that subawards are made in accordance with applicable requirements.

P.

MAINTENANCE OF EFFORT



REQUIREMENT SUMMARY

An SEA shall ensure that each LEA shall have an amount of funding not less than 90% of the amount available the preceding year.

ESEA §9521

ESEA Regulations 34 C.F.R. 299.5



ISSUE

To ensure that LEAs are meeting maintenance of effort (MOE) requirements, NYSED annually performs MOE calculations based on expenditure data that LEAs submit through a statewide financial report. NYSED enters submitted LEA expenditure information into a formulated spreadsheet which then calculates and compares expenditures for each LEA for the preceding two fiscal years to determine whether the LEA has met MOE requirements. Where an LEA does not meet MOE requirements, NYSED notifies the LEA of its status and informs the LEA of its option to seek a waiver of MOE requirements from the Department. If an LEA that fails to meet MOE does not seek or receive a waiver, NYSED reduces the LEA's program allocations in the exact proportion by which the LEA failed to meet MOE.

Prior to the review, NYSED provided the Department with a copy of its MOE calculation spreadsheet, which clearly includes local expenditure comparisons for the two relevant fiscal years and a designation of whether or not an LEA maintained effort. However, NYSED was unable to provide documented procedures capturing the SEA's process for collecting expenditure data, completing and reviewing MOE calculations, notifying LEAs of their status, working with LEAs to obtain waivers, or reducing program allocations and reallocating funds where LEAs failed to meet MOE.



RECOMMENDATION

The Department recommends that NYSED develop written procedures capturing the SEA's process for evaluating LEA compliance with MOE requirements, including the processes for obtaining LEA expenditure data, performing calculations, and taking action where LEAs are identified as having failed to meet MOE. Such procedures should help ensure that SEA staff understands the process to be followed for calculating MOE and those calculations are performed consistently for all LEAs for each year.

Q.

COMPARABILITY



ISSUE

Under ESEA §1120A(c), an SEA may only provide Title I, Part A funds to an LEA if the State and local funds will be used in schools served by Federal programs to provide services that, on the whole, are at least comparable to services in schools that are not receiving funds. Because the comparability requirement is a prerequisite for receiving Title I, Part A program funds, it is essential that an SEA has a process in place to review LEA compliance with comparability and to address any identified instances of non-comparable schools as early in the school year as possible. In order to maintain assurances that LEAs are in compliance, States must sufficiently monitor comparability for every LEA, and follow up on identified noncompliance in order to ensure LEAs are correcting deficiencies in a timely manner.

During the review, the Department identified two issues regarding NYSED's process for ensuring LEA compliance with comparability requirements:

1. **NYSED's review timeline did not allow for timely verification of LEA compliance with comparability requirements.** During the review, NYSED staff noted that, while comparability reports must be submitted by November, the SEA does not complete evaluations of an LEA's compliance with comparability requirement until targeted or coordinated monitoring reviews are conducted during the second half of the school year (between January and June). Because comparability is a prerequisite for Title I, Part A NYSED's waiting until the second half of the school year to monitor LEA compliance increases the risk that students at Title I schools will not receive comparable services for the majority of a given school year due to the challenges of making adjustments to staffing or other conditions late in the school year, resulting in students being in schools that do not meet comparability requirements for the majority of the school year. However, since the review, NYSED has updated their timeline and has a process that is clear, reasonable and meet the requirements for this section. NYSED has combined the efforts of their comparability requirement with their consolidation application. NYSED sends a survey tool to their LEAs and if the LEA is out of compliance, the State gives the LEA the highest

REQUIREMENT SUMMARY

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

ESEA §1120A(c)

risk assessment points, which triggers a monitoring visit to the LEA which is conducted the same school year.

2. **NYSED did not have a process to ensure that LEAs which fail to demonstrate comparability address deficiencies in a timely manner.** NYSED noted during the review that it provides LEAs that fail to comply with comparability requirements until the following school year to address any issues, including making any staffing changes at the school-level. While ensuring comparability can necessitate complicated changes, allowing an LEA to wait until the next school year to make the adjustments needed to provide comparable services to students at Title I schools deprives those students of needed services and effectively allows an LEA to receive an entire year's Title I, Part A allocation without meeting a requirement that is a prerequisite for receiving those funds. However, since the review, NYSED has combined the efforts of their comparability requirement with their consolidation application and if the LEA is out of compliance, the State gives the LEA the highest risk assessment points, which triggers a monitoring visit to the LEA that is conducted the same school year.

Following the issuance of the draft report for this review, NYSED provided the Department with an updated Comparability Report form that explicitly addresses how an LEA's need to address Comparability issues in a timely manner, especially when comparability is not determined. The updated January 31st (or 30 day timeline) is sufficient in regards to corrective actions and timelines for any required follow up related to corrective action implementation. As such, no further action is required to address this issue at this time.



RECOMMENDATION

The Department recommends that NYSED consider establishing a two-year cycle in which it reviews comparability documentation for half of its LEAs in year one and the other half in the next year. NYSED may also require its LEAs to submit documentation annually that they have maintained comparability.

V.

TRANSPARENCY AND DATA REPORTING



ISSUE

To ensure timely data collection and reporting, NYSED aligns its LEA and SEA data reporting cycles to the Federal reporting timelines for reporting and publishing student performance data. LEAs submit data for all required Federal and State data elements using NYSED's SIRS system, which includes two levels of data checks to verify the accuracy of the reported data. The design of the SIRS system also enables NYSED to review, monitor, and conduct data checks at any time throughout the data submission process to ensure timely reporting and to identify LEAs who fail to (or are at risk of failing to) submit timely data. During the review, NYSED provided evidence that the SEA has prepared and annually disseminated report cards in accordance with the requirements of §1111(h) of the ESEA, by making report cards available on the SEA and LEA websites.

To ensure LEAs are updated on data reporting requirements, NYSED provides technical assistance and training, and issues guidance to LEAs regarding data reporting. NYSED communicates with LEAs regarding data reporting issues through weekly phone calls, and provides Federal reporting guidelines and updates on the SEA's website. NYSED also provides LEAs with access to its School Reporting Requirements (SRR) system, a web-based database of all P-12 educational plans, reports, and data elements required for submission to NYSED.

While the SRR provides a single access point for LEAs to obtain specific parameters for each data element that must be submitted to the SEA, NYSED acknowledged during the review that the SRR system had inadvertently included out-of-date data requirements during school year 2016-2017. NYSED noted that it resolved the inaccurate reporting requirements error by emailing the correct Federal data requirements to the LEAs for data submission. NYSED stated that the SRR is updated annually; however, its process for reviewing and verifying the accuracy of the SRR could be improved to ensure that potential inaccuracies do not complicate the data collection and submission process for LEAs.



RECOMMENDATION

The Department recommends that NYSED develop a process for updating its SRR

REQUIREMENT SUMMARY

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

ESEA §1003(f) and §1111(h)(1)

Title I Regulations 34 C.F.R. 200.11, 200.19(b)

system to ensure it accurately includes all Federal data reporting requirements. Clearly communicating to LEAs, in a central location, the required data elements will help to ensure that LEAs submit all required data in a timely manner and that NYSED can meet Federal data reporting obligations as required under ESEA, amended by the ESSA.

SECTION VI

Action Required

C.

AUDIT REQUIREMENTS



REQUIREMENT SUMMARY

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

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



ISSUE

Under Uniform Guidance §200.521(a), management decisions pertaining to audit findings must clearly state whether or not the audit finding is sustained, the reasons for the decisions, and the expected auditee action (i.e., repay disallowed costs, make financial adjustments, or take other corrective action) (2 C.F.R. 200.521(a)). The management decision should also confirm the appropriateness of the LEA's planned corrective actions or identify additional or alternative corrective actions for the LEAs to take. If the LEA has not yet implemented corrective actions, the management decision should include a timetable for follow-up related to implementing corrective actions.

During the review, NYSED provided the Department evidence of a robust internal process for evaluating and resolving subrecipient audit findings, including evidence of evaluations of the sufficiency of subrecipient corrective actions and determinations regarding the potential repayment of funds. However, NYSED provided the Department with several examples of management decision letters issued to resolve subrecipient audits that failed to include all of the criteria required under the Uniform Guidance. Specifically, several of the sample determination letters included requirements that subrecipients repay questioned costs but did not address corrective actions for the conditions that led to the unallowable expenditures that required repayment; other decision letters noted that the LEA had not yet implemented corrective actions but did not include a timeline for follow up related to implementing corrective actions. While several of the provided sample decision letters did include all required information, NYSED's audit resolution procedures and management decision letter templates did not require the inclusion of all necessary information in every determination letter issued. Failing to include

such information in management decision letters prevents subrecipients from understanding whether corrective action already taken is sufficient, whether additional specific actions are needed to fully address the issue, and the expected timeline for providing any additional needed information to NYSED.

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REQUIRED ACTION

Following the issuance of the draft report for this review, NYSED provided the Department with updated audit resolution procedures and an updated management decision letter template that clearly require audit resolution staff to communicate determinations regarding the sufficiency of corrective action and timelines for any required follow up related to corrective action implementation. As such, no further action is required to address this issue at this time.

S.

SUPPLEMENT NOT SUPPLANT



ISSUE

Sections §1114(a)(2)(b), §1120A(b), §2113(f), §2123(b), and §3115(g) of the ESEA requires States and sub-recipients to use program funds only to supplement the funds that would, in the absence of such funds be made available from non-Federal sources for the education of students participating in programs funded by the Title I program, and not to supplant such funds for Title I, Part A, Title II, Part A, and Title III, Part A grant programs (and for Title III, Part A funds to supplement and not supplant other Federal funds).

In a school operating a schoolwide program under Title I, Part A, the supplement, not supplant requirement of ESEA §1120A(b) does not apply as it does for a targeted assistance program, and a schoolwide program does not need to demonstrate that Title I funds are used only for activities that supplement those the school would otherwise provide with non-Federal funds. However, in order for Federal funds to make a difference in supporting school reform in a schoolwide program, Title I, Part A funds must supplement those non-Federal funds the school would otherwise receive. As required under ESEA §1114(a)(2)(B), an LEA operating a schoolwide program in a Title I school must ensure that the school receives the amount of funds from non-Federal sources it would receive in the absence of the Title I, Part A funds (including funds needed to provide services that are required by law for children with disabilities and English learners). In other words, the supplement, not supplant requirement for a schoolwide program is a funds-based test to ensure the school receives all non-Federal funds it would receive if it did not receive Title I, Part A funds. As such, while an SEA is not required to ensure compliance with ESEA §1120A(b) using the same methods as it would for targeted assistance schools, it must ensure that the requirements of ESEA §1114(a)(2)(B) are met for Title I schools operating schoolwide programs.

During the fiscal review, the Department identified two primary issues with regards to how NYSED is meeting supplement, not supplant requirements:

1. **In evaluating LEA compliance with supplement, not supplant requirements, NYSED's process does not distinguish between**

REQUIREMENT SUMMARY

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

ESEA §1114(a)(2)(B), §1120A(b), §2113(f), §2123(b), and §3115(g)

Title I Regulations 34 C.F.R. 200.79

supplement, not supplant standards for Title I schoolwide and targeted assistance programs. NYSED indicated that, although the SEA understands that the supplement, not supplant requirements for Title I schoolwide and targeted assistance programs are different, the SEA utilizes the same supplement, not supplant review process for both types of programs. NYSED described a process for evaluating compliance that appeared to utilize the criteria for targeted assistance programs (i.e., whether individual costs or services supported by the program are supplemental) when evaluating compliance for both types of programs. Because the requirements for the two types of programs differ, only utilizing the criteria for targeted assistance programs creates a risk that LEAs operating schoolwide programs could have violated supplement, not supplant requirements for schoolwide programs.

2. **NYSED’s process for monitoring compliance with Title II, Part A and Title III, Part A supplement, not supplant requirements does not sufficiently consider the unique elements of the requirements for each program.** Overall, NYSED provided limited information to support compliance with supplement, not supplant in its Title II, Part A and Title III, Part A programs. During the review, NYSED stated that it utilizes the same criteria for evaluating supplement, not supplant requirements for the Title II, Part A and Title III, Part A programs during its LEA application review and monitoring processes. Because compliance with supplement, not supplant requirements for Title II, Part A and Title III, Part A are unique from each other (as well as from the requirements for Title I, Part A), NYSED’s process creates a risk that potential LEA uses of Title II, Part A or Title III, Part A funds would fail to comply with applicable supplement, not supplant requirements.

REQUIRED ACTION

Within 30 business days of receiving this report, NYSED must provide the Department with:

1. A plan and timeline for the SEA to support LEAs to develop a methodology to allocate State and local funds to each school receiving Title I, Part A funds that ensures such school receives all of the State and local funds it would otherwise receive if it were not receiving Title I, Part A funds, reflecting the changes to supplement, not supplant as required under §1118(b)(2) of the ESEA, as amended by ESSA;
2. A description of how the SEA will monitor an LEA’s compliance with Title I, Part A supplement, not supplant requirements in school year 2018-

2019; and

3. Documentation that the SEA has developed procedures for evaluating whether its LEAs have met supplement, not supplant requirements for the Title II, Part A and Title III, Part A programs, either during subaward application reviews, subrecipient monitoring, or through some combination of processes.