

Kansas Department of Education

October 20-23, 2008

Scope of Review: The U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office, Title III State Consolidated Grant Group, monitored the Kansas State Department of Education (KSDE) the week of October 20-23, 2008. This was a comprehensive review of the KSDE's administration of the following programs authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act (NCLB): Title I, Part A; Title I, Part D; and Title III, Part A. Also reviewed was Title VII, Subtitle B of the McKinney -Vento Homeless Assistance Act, as amended by NCLB. This is a report of the Title III, Part A program only. Title I, Part A; Title I, Part D; and Subtitle B of the McKinney-Vento Homeless Assistance Act is addressed in a separate report.

During the review, the ED team conducted several monitoring activities. The team reviewed evidence of the implementation of the State's Title III accountability system, State level monitoring, technical assistance, and fiscal and administrative oversight. During the onsite week, the ED team also visited two LEAs -- Kansas City Public Schools (KCPS) and Topeka Public Schools (TPS) -- where they reviewed documentation and interviewed administrative and school staff.

Previous Audit Findings: None

Previous Monitoring Findings: None. This was the first Title III, Part A monitoring visit using the current protocol.

Summary of Title III, Part A Monitoring Indicators

State Submissions			
Element Number	Description	Status	Page
Element 1.1	State Submissions: Follow-up on areas identified through desk audit and document reviews	Met Requirement	N/A
Fiduciary			
Element 2.1	Reservation and Use of Funds: The SEA has a system in place that enables it to account for: (1) Funds reserved for State administration (2) Funds reserved to provide technical assistance and other State-level activities (3) Funds reserved for immigrant activities, and (4) Funds that become available for reallocation	Fiscal Report Forthcoming	N/A
Element 2.2	Allocations, Reallocations, and Carryover: The SEA complies with— <ul style="list-style-type: none"> • The procedures for Title III, allocations outlined in Section 3114 • The procedures for allocating funds for immigrant children and youth programs as outlined in Section 3114(d) • The reallocation provisions in Section 3114(c) 	Fiscal Report Forthcoming	N/A
Element 2.3	Supplement not Supplant: The SEA ensures that Title III funds are used only to supplement or increase Federal, State, and local funds used for the education of participating children and not to supplant those funds.	Fiscal Report Forthcoming	N/A
Element 2.4	Equipment and Real Property: The SEA ensures that equipment is procured at a cost that is recognized as reasonable and that the equipment is necessary for the performance of the Federal award. Title III funds may not be used to acquire real property.	Fiscal Report Forthcoming	N/A
Element 2.5	Other Financial Management Issues	Fiscal Report Forthcoming	N/A

ELP Standards, Assessments and Accountability			
Element Number	Description	Status	Page
Element 3.1	English Language Proficiency (ELP) Standards: State English language proficiency standards: the State provided evidence of a process that complies with Section 3113.	Finding	6
Element 3.2	ELP Assessments: The State provided evidence of a process that complies with Title III Section 3113 and evidence that an ELP assessment has been administered to all K-12 LEP students in the State.	Findings	7
Element 3.3	New English Language Proficiency Assessment: The State provided evidence of a process that complies with Title III, Section 3113. The process addresses the transition to a new ELP assessment or revision of the current State ELP assessment aligned to the State developed ELP standards.	Met requirements	N/A
Element 3.4	Annual Measurable Achievement Objectives (AMAOs): AMAOs have been developed and AMAO determinations have been made for Title III-served LEAs.	Finding	7
Element 3.5	Data Collection: The State has established and implemented clear criteria for the administration, scoring, analysis, and reporting components of its ELP assessments, and has a system for monitoring and improving the ongoing quality of its assessment systems. A data system is in place to meet all Title III data requirements, including capacity to follow Title III-served students for two years after exiting, and State approach to following ELP progress and attainment over time.	Finding	7

State Level Activities; LEA Authorized and Required Activities, Immigrant Children and Youth			
Element Number	Description	Status	Page
Element 4.1	<p>State Level Activities: Using funds retained at the State-level, the State carries out one or more activities that may include:</p> <ul style="list-style-type: none"> • Professional development • Planning, evaluation, administration and interagency coordination • Promoting parental and community participation • Providing recognition to subgrantees that have exceeded AMAO requirements 	Met requirements	N/A
Element 4.2	<p>Required Subgrantee Activities: The subgrantee must provide high quality language instruction educational programs and sustained professional development activities to all classroom teachers of LEP students (including teachers in classroom settings that are not defined as language instruction educational programs). Training activities must also include principals, administrators, and other school or community- based organization personnel.</p>	Met requirements	N/A
Element 4.3	<p>Authorized Subgrantee Activities: The LEA may use the funds by undertaking one or more authorized activities.</p>	Met requirements	N/A
Element 4.4	<p>Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth: The subgrantee receiving funds under Section 3114(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth.</p>	Met requirements	N/A

State Review of Local Plans

Element Number	Description	Status	Page
Element 5.1	Application: The SEA ensures that its LEAs comply with the provision for submitting an application to the SEA. (Section 3116(a)).	Finding	8
Element 5.2	Private School Participation: LEAs are complying with NCLB requirements regarding participation of LEP students and teachers in private schools under Title III.	Finding	9
Element 5.3	Teacher English Fluency: Certification of teacher fluency requirement in English and any other language used for instruction (Section 3116)	Met requirements	N/A
State Monitoring of Subgrantees			
Element 6.1	Monitoring: The SEA conducts monitoring of its subgrantees sufficient to ensure compliance with Title III program requirements.	Finding	8
Parent Notification			
Element 7.1	Parent Notification: Parent notification in an understandable format as required under Section 3302 for identification and placement and for not meeting the State AMAOs.	Met requirements	N/A

Monitoring Area 2: Fiduciary

A separate report will be issued on the fiduciary indicators.

Monitoring Area 3: English Language Proficiency (ELP) Standards, Assessments, and Accountability

Element 3.1 – State English language proficiency standards: the State provided evidence of a process that complies with Section 3113.

Finding: The KSDE did not provide documentation that explains the process it uses to determine that the State English for Speakers of Other Languages (ESOL) standards are aligned with the State academic content and student achievement standards in English language arts and mathematics.

Citation: Section 3113(b)(2) of the ESEA requires each State educational agency plan to describe how the agency will establish standards and objectives for raising the level of English proficiency that are derived from the four recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student achievement standards described in section 1111(b)(1) of the ESEA.

Further Action Required: The KSDE must submit documentation to ED that explains the process it uses to determine that the State ESOL standards are aligned with achievement of the State English language arts and mathematics academic standards.

Element 3.2 – The State provided evidence of a process that complies with Title III, Section 3113 and evidence that an ELP assessment has been administered to all K-12 limited English proficient (LEP) students in the State.

Finding #1: The KSDE did not provide evidence that the English proficiency of all limited English proficient children is assessed on an annual basis.

Finding #2: The KSDE also did not provide sufficient evidence that its State ELP assessment is aligned with the State ELP standards.

Citation: Section 3113(b)(3)(D) of the ESEA requires States to ensure that LEAs receiving a subgrant under Title III annually assess the English proficiency of all limited English proficient children in kindergarten through grade 12. Section 3122(a)(3)(ii) of the ESEA requires States to ensure that LEAs use assessments that are valid and reliable assessments of English proficiency consistent with section 1111(b)(7). Although States may develop their own test or use a commercially developed English language proficiency assessment, in order to ensure adequate assessment validity, they must ensure that any English language assessment that they use is aligned with the English language proficiency standards.

Further Action Required: The KSDE must also provide written guidance to its LEAs informing them of the requirement to assess the English proficiency of all limited English proficient students (K-12) and provide a copy of this guidance to ED. The KSDE must provide ED with evidence that its English language proficiency assessment(s) are aligned with its English language proficiency standards.

Element 3.4 – Annual Measurable Achievement Objectives

Finding: The KSDE did not require LEAs that did not meet Annual Measurable Achievement Objectives (AMAOs) for two consecutive years to develop district improvement plans to ensure LEA's meet such objectives. On the list of LEAs reviewed by the ED team, five had not met AMAOs for two consecutive years, and the KSDE staff indicated they had not required them to develop a district improvement plan.

Citation: Section 3122(b)(2) of the ESEA requires that if a State determines that an LEA has failed to make progress toward meeting AMAOs for two consecutive years, the State must require the LEA to develop an improvement plan that will ensure that the LEA meets such objectives. The improvement plan must specifically address the factors that prevented the LEA from achieving the objectives.

Further Action Required: The KSDE must develop and submit to ED a plan, including a timeline, outlining the steps it will take to ensure that LEAs not meeting AMAOs for two consecutive years develop an improvement plan that specifically addresses the factors that prevented the LEA from meeting AMAOs

Element 3.5 – Data Collection

Finding: The KSDE's procedure for collecting and calculating LEA data on the number or percentage of immigrant children and youth used to determine eligibility for immigrant funds was not accurate. The KSDE used two different data systems to calculate program eligibility resulting in some LEAs being designated as ineligible even though they met the State's definition of "significant increase".

Citation: Section 3114(d) of the ESEA requires States to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the two preceding fiscal years, in the percentage or number of immigrant children and youth who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary and secondary schools in the geographic areas under the jurisdiction of, or served by, the entity.

Further Action Required: The KSDE must develop and submit to ED a detailed plan that delineates the steps it will take to ensure accurate and timely collection of data on the number or percentage of immigrant children and youth from all LEAs. The KSDE must submit evidence demonstrating how its new data system will enable the State to collect student data and determine LEAs eligible for immigrant funds. The KSDE must provide evidence that it has a process that ensures funds awarded under 3114(d)(1) are awarded to eligible entities based on the State definition of "significant increase".

Monitoring Area 5: State Review of Local Plans

Element 5.1 – State Review of Local Plans

Finding #1: The KSDE has a consolidated application for Federal and State funds that includes Title III activities and budget summaries in a three-year LEP plan. However, the KSDE did not require LEAs to revise or amend LEP plans when there was an increase of Title III funds. For example, the KSDE did not ensure that LEAs that are awarded funds under Section 3114(d)(1) address in their plan how these funds would be spent on activities that provided enhanced instructional opportunities for immigrant children and youth.

Citation: Section 3116 of the ESEA requires LEAs to submit a plan to the SEA that, among other components, describes the programs and activities proposed to be developed, implemented, and administered and describes how the LEA will use the subgrant funds to meet annual measurable achievement objectives.

Further Action Required: The KSDE must require LEAs to revise or amend plans when there are significant changes in the programs and activities to be carried out under the Title III program. The KSDE must provide evidence to ED that it has revised the instructions for its LEA consolidated application so it requires the submission of a revised or amended plan when there are significant changes in the program and when new funds under a different legislative authority are received.

Element 5.2 – Participation of Private School Students

Recommendation: The KSDE requires LEAs to verify that consultation has occurred with appropriate private school officials before the LEAs make decisions that affect the participation of Title III eligible private school children, and there is evidence that consultation did occur in the two LEAs visited during the review. However, the initial letter sent to the private schools by the LEAs inviting them to attend a meeting about their Federal programs contains no information about the Title III program although extensive information about Title I, Part A is included. The ED team recommends that the KSDE encourage LEAs to provide information about Title III, and other Federal programs in the initial letter sent to private schools so that private school officials will be fully informed about what services their children are eligible to receive, and they can make an informed decision about whether or not to attend the meeting.

Monitoring Area 6: State Monitoring of Subgrantees

Element 6.1 – State Monitoring of Subgrantees

Finding: The KSDE's procedures for monitoring its LEAs for compliance with Title III of the ESEA were insufficient to ensure that all areas of noncompliance were identified and corrected in a timely manner. Although the KSDE has a plan to monitor all LEAs at

least once every three years, the protocol used to monitor did not include all the essential requirements of the Title III statute.

Citation: Section 80.40 of the Education Department General Administrative Regulation (EDGAR) requires grantees to monitor grant and subgrant activities to ensure compliance with applicable Federal requirements.

Section 9304(a) of the ESEA requires that the SEA must ensure that (1) programs authorized under ESEA are administered in accordance with all applicable statutes, regulations, program plans, and applications, and (2) the State will use fiscal control and funds accounting procedures that will ensure the proper disbursement of an accounting for Federal funds.

Further action required: Although the KSDE is making an effort to monitor its LEAs at least once every three years, and there are more than 300 LEAs in the State of Kansas, its current protocol is insufficient to ensure compliance with applicable Federal requirements under Title III. The KSDE must, therefore, provide ED with a plan that indicates how it will amend its monitoring process to ensure that all requirements in the Title III statute are being met.