

Pennsylvania Department of Education

April 20 - 24, 2009

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 Pennsylvania Department of Education (PDE) the week of April 20-24, 2009. This was a comprehensive review of the PDE's administration of Title III, Part A, authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

During the review, the ED team conducted several monitoring activities. The team reviewed evidence of implementation of the State's Title III accountability system, State level monitoring, technical assistance, and fiscal and administrative oversight with the State educational agency (SEA). During the on-site week, the ED team also visited three local educational agencies (LEAs)--Allentown School District (ASD), Reading School District (RSD) and York City School District (YCSD)--where they reviewed documentation and interviewed administrative and school staff.

The PDE has 30 business days from receipt of this report to respond to all of the compliance issues.

Previous Audit Findings: None

Previous Monitoring Findings: ED last reviewed the Title III, Part A program in the PDE during the week of October 24-28, 2005. ED identified compliance findings in the following areas:

- (1) Title III funds in the School District of Lancaster were used exclusively for teacher salaries.
- (2) The State's English language proficiency (ELP) assessment (Stanford English Proficiency Assessment or SELP) will need to be further revised for the purpose of testing English language proficiency in order to align with the ELP standards.
- (3) The State must ensure that the new ELP assessment (SELP) is aligned with the ELP standards.
- (4) The State reported to the ED monitoring team that many LEAs did not meet Title III annual measurable achievement objectives (AMAO) targets since the inception of No Child Left Behind. Inaccurate assessment data and an inadequate original AMAO model were two of the reasons that the State provided for the failure to meet AMAOs.
- (5) The State has established a 3-year cycle for monitoring of LEAs. In the monitoring process, an LEA is notified if any corrective action procedures are required. The State informed the ED monitoring team that the LEAs were not notified of AMAO determinations.

(6) Since the LEAs have not been notified of the AMAO determinations, parents of English language learners (ELLs) in districts that did not meet the AMAOs were not notified.

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.	Findings	3

Monitoring Area 1: State Submissions

Element 1.1 - State Submissions: Follow-up on areas identified through desk audit and document reviews.

Finding (1): The PDE did not submit, in section 1.6.3.2.2 of its 2007-2008 Consolidated State Performance Report (CSPR), complete English language proficiency achievement results for Title III limited English proficient (LEP) students making progress in learning English and attaining English language proficiency.

Citation: Section 3122 (b) of the ESEA requires each State educational agency receiving a grant under subpart 1 shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives.

Further Action Required: The PDE must submit the required CSPR data.

Finding (2): The PDE did not submit, in section 1.6.3.6.2 of its 2007-2008 CSPR, data on the number of monitored former LEP students who were tested on the annual mathematics assessment, the number who scored at or above proficient, and the number who scored below proficient.

Citation: Section 3121(a)(4) of the ESEA requires each Title III subgrantee to provide an evaluation at the conclusion of every second fiscal year during which the subgrant is received that includes a description of the progress made by children in meeting challenging State academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

Further Action Required: The PDE must submit the required CSPR data.

Finding (3): The PDE did not submit, in section 1.6.3.6.3 of its 2007-2008 CSPR, data on the number of monitored former LEP students who were tested in reading/language arts in all adequate yearly progress (AYP) grades, the number who scored at or above proficient, and the number who scored below proficient.

Citation: Section 3121(a)(4) of the ESEA requires each Title III subgrantee to provide an evaluation at the conclusion of every second fiscal year during which the subgrant is received that includes a description of the progress made by children in meeting challenging State

academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

Further Action Required: The PDE must submit the required CSPR data.

Finding (4): The PDE did not submit, in section 1.6.3.6.4 of its 2007-2008 CSPR, data on the number of monitored former LEP students who were tested in science, the number who scored at or above proficient, and the number who scored below proficient.

Citation: Section 3121(a)(4) of the ESEA requires each Title III subgrantee to provide an evaluation at the conclusion of every second fiscal year during which the subgrant is received that includes a description of the progress made by children in meeting challenging State academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

Further Action Required: The PDE must submit the required CSPR data.

Finding (5): The PDE did not submit, in section 1.6.4.1 of its 2007-2008 CSPR, data on the performance of Title III subgrantees.

Citation: Section 3122(b) of the ESEA requires each State educational agency receiving a grant under subpart 1 shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a), including making adequate yearly progress for limited English proficient children.

Further Action Required: The PDE must submit the required CSPR data.

Finding (6): The PDE did not submit, in section 1.6.4.2 of its CSPR, information on whether the State met all three Title III AMAOs.

Citation: Section 3122(b) of the ESEA requires each State educational agency receiving a grant under subpart 1 shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a), including making adequate yearly progress for limited English proficient children.

Further Action Required: The PDE must submit the required CSPR data.

Finding (7): The PDE reported, in its 2007-2008 CSPR, that 1,073 immigrant students participated in programs for immigrant children and youth funded under section 3114(d)(1) of the ESEA, but reported zero for the number of subgrants. During the on-site review, the PDE reported that it made 57 awards for immigrant and youth subgrants. The State included the following comment in its response to section 1.6.4.3: "No LEA received immigrant funding that did not receive a Title III grant for LEP."

Citation: Section 3114(d)(1) 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 2 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, such entities.

Further Action Required: The PDE must submit the required data and provide an explanation for the comment.

Fiduciary			
Element Number	Description	Status	Page
Element 2.1	Within State Allocations, Reallocations and Carryover: The SEA complies with- <ul style="list-style-type: none"> ▪ The subgrant provision under section 3111 of the ESEA. ▪ The State activities provision under section 3111(b) of the ESEA. ▪ 20 USC 6821(b)(3). ▪ The provisions related to allocations under section 3114(a)-(b) of the ESEA. ▪ The provisions related to reallocations under section 3114(c) of the ESEA. ▪ The provisions related to making immigrant subgrants under section 3114(d) of the ESEA. 	Findings	6
Element 2.2	Within District: The SEA ensures that its LEAs comply with the provisions related to LEA use of funds under section 3115 of the ESEA.	Findings	7
Element 2.3	Maintenance of Effort: The SEA ensures that the LEAs comply with the procedures for ensuring maintenance of effort (MOE) as outlined in § 1120A and 9021 of the ESEA.	Met Requirements	N/A
Element 2.4	Supplement Not Supplant – General: The SEA ensures that the LEA complies with the provision related to supplement not supplant under section 3115(g) of the ESEA.	Met requirements	N/A
Element 2.4A	Supplement Not Supplant – Assessment: The SEA has met requirements related to supplement not supplant and use of Title III funds to develop and administer State ELP assessments under sections 1111(b)(7) and 3113(b)(2) of the ESEA.	Met requirements	N/A

Monitoring Area 2: Fiduciary

Element 2.1 – Within State Allocations, Reallocations and Carryover

Finding (1): The PDE does not have a process for reallocating Title III funds. LEAs do not report to the SEA on the use of funds until the end of the 27 months of availability. Accordingly, the PDE does not have a mechanism in place to determine when LEAs may have funds that would be available for reallocation, and therefore, does not notify its LEAs of the availability of reallocated funds.

Citation: Section 3114(c) of the ESEA requires that, whenever an SEA determines that an amount from an LEA's Title III allocation under section 3114(a) will not be used for the purpose for which the allocation was made, the SEA must reallocate the amount to other eligible entities in the State in accordance with the rules it determines to be appropriate.

Further action required: The PDE must provide ED with evidence within 30 days from the receipt of this report, that it has developed a process for reallocating Title III funds, including a timeline to determine, before the end of the 27 months of availability, when LEAs are not using Title III funds for the purpose for which the allocation was made, and a method for notifying other LEAs of their availability.

Recommendation: The ED team recommends that the State implement a process that ensures that LEAs have use of the Title III (non-immigrant) funds for the 15-month period of initial availability plus a 12-month period for carryover. ASD, RSD and YCSD submitted Title III applications in July/August 2008. However, the PDE did not notify these LEAs of the approval until January-April 2009. Since LEA policies do not allow the obligation of funds until the final notification has been received, the LEAs did not have access to the funds until after the second half of the school year.

Finding (2): The PDE has not complied with the requirements in section 3114(d) of the ESEA for making immigrant children and youth awards. The State's definition of significant increase is "interpreted as any increase over the average of the two previous years."

Citation: Section 3114(d)(1) of the ESEA requires that the determination of whether there has been a significant increase in the percentage or number of immigrant students in an LEA must involve a comparison of (1) the average of the number or percentage of immigrant students enrolled in an LEA's public and non-public elementary and secondary schools of the two preceding fiscal years to (2) the percentage or number of immigrant students enrolled in that LEA's public and nonpublic elementary and secondary schools in the fiscal year immediately preceding the fiscal year for which the subgrant is to be made.

Further Action Required: The PDE must provide an assurance that procedures have been developed for awarding Title III immigrant subgrants that comply with section 3114(d)(1). The SEA has discretion to determine the level of increase that is needed to be considered significant as long as it makes the comparison required by section 3114(d)(1) of the ESEA. The State must

submit to ED evidence of the procedures it has implemented to ensure that this definition will be followed in awarding immigrant subgrants.

Element 2.2 – Within District

Finding (1): The PDE has not ensured that its LEAs comply with the requirement in section 3115(b) to use a maximum of 2 percent of Title III funds for administrative costs. The PDE's electronic application allows LEAs to enter indirect costs above the 2 percent maximum. While no indirect costs were included in YCSD's application, a budget worksheet indicated the LEA used more than 2 percent of its Title III funds for administrative costs.

Citation: Section 3115(b) of the ESEA requires that LEAs limit the amount that they may spend on administrative costs in any fiscal year to 2 percent. This limitation applies to all direct and indirect costs associated with administering a Title III program.

Further action required: The PDE must provide ED by July 24, 2009 with an assurance that the PDE developed and distributed the procedures of how and when it informed its LEAs of this requirement. In addition, the PDE must provide ED with a description of how it will annually ensure the correct implementation of this requirement.

Finding (2): The PDE has not complied with the requirement to make subgrants of \$10,000 or more. The PDE has combined section 3114(a) of the ESEA Title III grants and immigrant grants under section 3114(d) of the ESEA to enable LEAs to meet the \$10,000 minimum imposed by section 3114(b) of the ESEA.

Citation: Section 3114(b) of the ESEA prohibits SEAs from awarding a subgrant of less than \$10,000 from an allocation under Section 3114 (a). A State may not combine subgrants awarded under section 1114(d) for immigrant children with subgrants awarded under section 3114(a) of the ESEA for the purpose of meeting the \$10,000 minimum in section 3114(b) of the ESEA.

Further action required: The PDE must provide ED with documentation that, for the 2009-2010 school year, it has complied with the requirement to award Title III subgrants of at least \$10,000. In addition, the PDE must provide ED with evidence that, for the 2009-2010 school year, it has awarded immigrant grants that are separate from Title III grants and has required its LEAs to account for these funds separately.

Finding (3): The PDE has not ensured that staff paid with Title III funds as well as other funds have supported the charges to Title III. A staff member in ASD who is paid partially with Title III funds as well as other funds has not kept time and effort records.

Citation: The Office of Budget Management (OMB) Circular A-87, Attachment B, Section 8.(h)(4) requires that where employees work on multiple activities or cost objectives, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation. Furthermore, pursuant to Section 8(h)(5), personnel activity reports or equivalent documentation must meet the following standards-- they must: reflect an after-the-fact distribution of the actual activity of each employee; account for the total activity for which each employee is compensated; be prepared at least monthly and must coincide with one or more

pay periods, and be signed by the employee.

Further Action Required: The PDE must provide ED with evidence that it has informed its LEAs of this requirement. The PDE must also provide ED with a detailed description of how it will monitor this requirement. In addition, the PDE must submit evidence to ED that, for the 2009-2010 school year, ASD has remedied this situation. This evidence must include one or more monthly time and effort payroll logs for this staff member.

English Language Proficiency (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 of the ESEA.	Met requirements	N/A
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.	Met requirements	N/A
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.	Findings	9
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.	See Element 1.1.	9

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

Element 3.4 – Annual Measurable Achievement Objectives

Finding (1): The PDE has not made annual measurable achievement objectives (AMAOs) determinations for the 2007-2008 school year. As a result, the PDE has not notified LEAs that did not meet Title III AMAOs.

Citation: Sections 3122(a)(3) and (b)(1) and 3302(b) of the ESEA require SEAs to determine whether an LEA has met the AMAOs and to communicate AMAO determinations to the LEAs, and to the parents of LEP students served by the LEAs' Title III programs when the LEAs do not meet AMAOs.

Further Action Required: The State must make AMAO determinations, notify Title III subgrantees that did not meet AMAOs, and require the subgrantees to comply with the parent notification requirements.

Finding (2): The PDE did not require LEAs that did not meet Title III AMAOs for 2 consecutive years to comply with the requirement to develop improvement plans.

Citation: Section 3122(b)(2) of the ESEA requires that if a State determines that an LEA has failed to make progress toward meeting Title III 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 PDE must develop and submit to ED a plan within 30 days of the receipt of this report, 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 LEAs from meeting Title III AMAOs.

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.

See Element 1.1.

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) of the ESEA shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth.</p>	Findings	10

Monitoring Area 4: State Level Activities

Element 4.4 - Authorized Subgrantee Activities

Finding: The PDE did not require subgrantees to submit plans for the use of immigrant funds to provide enhanced instructional opportunities for immigrant children and youth.

Citation: Section 3115(e) of the ESEA requires LEAs receiving funds under section 3114(d)(1) of the ESEA to use the funds for activities that provide enhanced instructional opportunities for immigrant children and youth.

Further Action Required: The PDE must ensure that those LEAs receiving an immigrant grant award provide enhanced instructional opportunities for immigrant children and youth. PDE must develop and provide guidance to LEAs receiving immigrant subgrants and submit this evidence to ED.

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) of the ESEA).	Finding Recommendation	12
Element 5.2	Private School Participation: LEAs are complying with NCLB requirements regarding participation of LEP students and teachers in private schools in Title III.	Met requirements	N/A
Element 5.3	Teacher English Fluency: Certification of teacher fluency requirement in English and any other language used for instruction (section 3116 of the ESEA).	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	13
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.	Finding	13

Monitoring Area 5: State Review of Local Plans

Element 5.1 – State Review of Local Plans Application: The SEA ensures that its LEAs comply with the provision for submitting an application to the SEA.

Finding: The PDE has not required LEAs to specify in its Title III applications sufficient information about the activities they will implement to meet the professional development requirements under section 3115(c)(2) of the ESEA. One of the local plans the team reviewed contained a list of generic activities.

Citation: Section 3115(c)(2) of the ESEA states that the subgrantee must provide high-quality professional development to classroom teachers, principals, administrators, and other school or community-based organizational personnel that is designed to improve the instruction and assessment of limited English proficient children; designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for limited English proficient children; based on scientifically based research demonstrating effectiveness of the professional development in increasing children’s English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of

such teachers; and of sufficient intensity and duration to have a positive and lasting impact on the teachers' performance in the classroom.

Further Action Required: The PDE must ensure that the professional development activities are specifically addressed in applications for subgrants under section 3114(a) of the ESEA consistent with 3115(c)(2) of the ESEA. PDE must submit evidence within 30 days of the receipt of this report that it has revised the LEA application to ensure that LEAs include specific professional development activities.

Recommendation: It is recommended by ED that the programmatic issues of the application process are to be reviewed by staff experienced in Title III and LEP issues.

Monitoring Area 6: 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: The PDE's procedures for monitoring its Title III subgrantees for compliance with Title III programmatic and fiscal requirements are insufficient to ensure that all areas of noncompliance are identified and corrected. Although the PDE has procedures to monitor Title III subgrantees, the procedures do not include follow up to ensure LEAs have corrected the noncompliance.

Citation: Section 80.40 of the Education Department General Administrative Regulations (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 ensure that (1) programs authorized under the 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 and accounting for Federal funds.

Further Action Required: The PDE must provide ED with a plan that indicates how it will review its monitoring procedures and protocols to ensure that they are inclusive of all Title III programmatic and fiscal requirements.

Recommendation: ED recommends that the PDE ensure that contractors who are hired to monitor LEA compliance with Title III have experience in working with Title III and in programs for limited English proficient students.

Monitoring Area 7: Parent Notification

Element 7.1 – Parent Notification: Parent notification in an understandable format as required under section 3302 of the ESEA for identification and placement and for not meeting the State AMAOs.

Finding: The PDE has not notified the subgrantees regarding AMAO status for the 2007-2008 school year and, as a result, Title III subgrantees that have failed to make progress on the AMAOs have been unable to comply with the parent notification requirements.

Citation: Section 3302(b) of the ESEA requires subgrantees to provide parents of LEP children participating in or identified for participation in a Title III funded program with notification of the failure of the LEA to make progress on the AMAOs not later than 30 days after such failure occurs.

Further Action Required: The PDE must notify subgrantees regarding their AMAO status. The State must also ensure that LEAs that fail to meet AMAOs notify parents in an understandable and uniform format, and to the extent practicable, in a language that the parent can understand, not later than 30 days after the LEA fails to meet AMAOs. The State must provide ED with a timeline and a plan to comply with this requirement.