

Nebraska Department of Education

April 15-19, 2013

Scope of Review: A team from the U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office monitored the Nebraska Department of Education (NDE) the week of April 15-19, 2013. This was a comprehensive review of the NDE's administration of the following programs authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Title I, Part A; and Title I, Part D. Also reviewed was Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act (Education for Homeless Children and Youth), as amended.

In conducting this comprehensive review, the ED team carried out a number of major activities. In reviewing the Part A program, the ED team conducted an analysis of the effectiveness of the support measures established by the State to benefit local educational agencies (LEAs) and schools, and reviewed compliance with fiscal and administrative oversight requirements of the State educational agency (SEA). During the onsite week, the ED team visited two LEAs – Omaha Public School District (OPS), Lincoln Public School District (LPS) and interviewed the public and private school staff, as well as administrative staff in these LEAs that have been identified for improvement.

In its review of the Title I, Part D program, the ED team examined the State's application for funding, procedures and guidance for State Agency (SA) applications under Subpart 1 and LEA applications under Subpart 2, technical assistance provided to SAs and LEAs, the State's oversight and monitoring plan and activities, SA and LEA subgrant plans and local evaluations for projects in OPS, LPS, and the Nebraska Department of Correctional Services.

The ED team interviewed administrative, program and teaching staff. The ED team also interviewed the NDE Title I, Part D State coordinator to confirm information obtained at the local sites and discuss administration of the program.

In its review of Title VII of the McKinney-Vento Homeless Assistance Act (Education for Homeless Children and Youth), the ED team examined the State's procedures and guidance for the identification, enrollment and retention of homeless students, technical assistance provided to LEAs with and without subgrants, the State's McKinney-Vento application, and LEA applications for subgrants and local evaluations for projects in OPS, LPS. The ED team also interviewed the NDE McKinney-Vento State coordinator to confirm information obtained at the local site and discuss administration of the program.

Previous Audit Findings: None.

Previous Monitoring Findings: ED last reviewed Title I programs in the NDE during the week of May 7–10, 2007. The following were findings in the previous monitoring review of Title I, Part A. The NDE's procedures for monitoring its LEAs for compliance with Title I of the ESEA were insufficient to ensure that all areas of noncompliance were identified and corrected in a timely manner. Further, ED's review of the NDE's procedures for onsite reviews indicated that they did not include a method for collecting information and making compliance determinations on a number of Title I requirements, including parental involvement (school policies and compacts), private schools and schoolwide program requirements. Prior to 2006-07 testing, the NDE allowed students with disabilities to be given an out-of-level assessment or an assessment with modifications to be counted as scoring at the "beginning" level for AYP purposes. Out-of-level assessments, by definition, were not aligned to grade-level academic content and student academic achievement standards. In August 2005, the NDE publicized a policy of allowing ELDA results to be used for reporting student assessment results in reading for non-English speaking students who have been in a Nebraska school district up to three years. The state had not established a statewide system of support that provided technical assistance to districts and schools in improvement that met the requirements of the statute. The NDE had not ensured that LEA SES and Choice parental notification letters contained all of the components required by the statute, additionally, the notification letters issued to parents in the one LEA with a school in improvement did not include all of the required elements. Schools visited by the ED team did not have school-level parental involvement policies as required by the statute. The NDE had not ensured that school improvement plans were thorough in description and included all components such as annual, measurable objectives. The NDE did not have an approved reallocation policy for allocating Title I funds that had been returned. Additionally, no State-approved policy addressed criteria for reallocating Title I funds. The NDE had not ensured that LEAs receiving a Title I allocation of more than \$500,000 allocated at least 95 percent of its parental involvement set-aside directly to schools. The NDE had not ensured that student enrollments counts were included as part of the LEA rank ordering of schools. The NDE did not ensure that all LEAs had correctly calculated comparability when determining instructional staff/student ratios. The NDE did not ensure that its LEAs were ensuring that the private school children they served resided in Title I participating public school attendance areas of the LEA. The NDE had not reported data for LEAs without subgrants for the 2006-2007 school year. An LEA used 100 % of its McKinney-Vento subgrant funds to provide transportation for homeless students to attend school.

Overarching Requirement – SEA Monitoring

A State's ability to fully and effectively implement the requirements of Title I of the ESEA is directly related to the extent to which it is able to regularly monitor its LEAs and provide quality technical assistance based on identified needs. This principle applies across all Federal programs under the ESEA.

Federal law does not specify the particular method or frequency with which States must monitor their grantees, and States have a great deal of flexibility in designing their monitoring systems. Whatever process is used, it is expected that States have mechanisms in place sufficient to ensure that they are able to collect and review critical implementation data with the frequency and intensity required to ensure effective (and fully compliant) programs under the ESEA. Such a process should promote quality instruction and lead to achievement of the proficient or advanced level on state standards by all students.

Met Requirements

Summary of Title I, Part A Monitoring Indicators

Monitoring Area 1, Title I, Part A: Standards, Assessment, and Accountability			
Indicator Number	Description	Status	Page
1.1	The SEA has approved systems of academic content standards, academic achievement standards and assessments (including alternate assessments) for all required subjects and grades, or has an approved timeline for developing them.	Finding	5
1.2	The SEA has implemented all required components as identified in its accountability workbook.	Met Requirements	N/A
1.3	The SEA has published an annual report card as required and an Annual Report to the Secretary.	Met Requirements	N/A
1.4	The SEA has ensured that LEAs have published annual report cards as required.	Finding	5
1.5	The SEA indicates how funds received under Grants for State Assessments and related activities (section 6111) will be or have been used to meet the 2012-13 assessment requirements of the ESEA	Met Requirements	N/A
1.6	The SEA ensures that LEAs meet all requirements for identifying and assessing the academic achievement of limited English proficient students.	Met Requirements	N/A

Title I, Part A
Standards, Assessment and Accountability

Indicator 1.1 - SEA has approved systems of academic content standards, academic achievement standards and assessments (including alternate assessments) for all required subjects and grades, or has an approved timeline for developing them.

Finding: The NDE did not provide decisions about AYP in a timely manner for LEAs to implement Title I school choice and SES before the beginning of the 2012-13 school year. Final results of the assessments, review of the accuracy of the achievement and data quality checks, and identification of the LEAs and schools for improvement were not conducted with a timeline to implement the required 14 day notification provision.

Citation: Section 1116(a)(2) of the ESEA requires SEAs to ensure that the results of State academic assessments administered in that school year are available to the LEA before the beginning of the next school year.

Section 1116(b)(1) of the ESEA requires the identification of schools for improvement before the beginning of the school year and provides public school choice no later than the first day of the school year.

Further action required: The NDE must submit to ED a plan for conducting prerequisite activities in order to provide decisions about AYP in a timely manner for LEAs to implement Title I school choice and SES before the beginning of the 2013-14 school year and future years. The NDE must notify ED when it has provided LEAs with decisions about AYP for schools on which LEAs are expected to act to implement Title I school choice and SES for the 2013-14 school year.

Indicator 1.4 – The SEA has ensured that LEAs have published annual report cards.

Finding: Although the SEA demonstrated that all the required elements of the LEA report cards were available on the State website, the LEAs visited could not produce an LEA report card with all the required elements. To find all the elements of the report card, constituents must access multiple pages and visit multiple sites.

The following elements were not easily accessible:

1. Information, in the aggregate, on student achievement at each proficiency level on the State academic assessments disaggregated by race, ethnicity, gender, disability status, and migrant status; English proficiency and status as economically disadvantaged (where the minimum “n” has been met).
2. Comparison of the actual achievement levels of each subgroup of students to the State’s annual measurable objectives for each required assessment.
3. The percentage of students not tested, disaggregated by the same categories noted in number one, by subject.

4. Aggregate information on any other academic indicator used by the State to determine AYP; and aggregate information on any additional indicators used by the LEA to determine AYP.
5. The number of recently arrived LEP students who are not assessed on the State's reading/language arts test.

Citation: Section 1111(h)(2)(E) of the ESEA requires that the LEA publicly disseminate the information in the LEA report card to all schools served by the LEA and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make information widely available through public means.

Further action required: The SEA must provide additional guidance to its LEAs regarding what constitutes an understandable and uniform format for the LEA report card. The SEA must provide ED with evidence that it has disseminated such additional guidance to its LEAs.

Monitoring Area 2, Title I, Part A: Program Improvement, Parental Involvement and Options			
Indicator	Description	Status	Page
2.1	The SEA has developed procedures to ensure the hiring and retention of qualified paraprofessionals.	Met Requirements	N/A
2.2	The SEA has established a statewide system of support that provides, or provides for, technical assistance to LEAs and schools as required.	Met Requirements	N/A
2.3	The SEA ensures that LEAs and schools meet parental involvement requirements.	Finding	8
2.4	The SEA ensures that LEAs and schools identified for improvement, corrective action, or restructuring have met the requirements of being so identified.	Met Requirements	N/A
2.5	The SEA ensures that requirements for public school choice are met.	Met Requirements	N/A
2.6	The SEA ensures that requirements for the provision of supplemental educational services (SES) are met.	Met Requirements	N/A
2.7	The SEA ensures that LEAs and schools develop schoolwide programs that use the flexibility provided to them by the statute to improve the academic achievement of all students in the school.	Met Requirements	N/A
2.8	The SEA ensures that LEA targeted assistance programs meet all requirements.	Met Requirements	N/A

Title I, Part A

Monitoring Area 2: Program Improvement, Parental Involvement and Options

Finding (1): The NDE has not ensured that its LEAs notified parents about public school choice options 14 calendar days prior to the start of school. In Lincoln Public Schools (LPS) and Omaha Public Schools (OPS), parent notification letters were not mailed out to parents 14 calendar days prior to the start of school. As a result, parents did not have enough time to make an informed decision.

Citation: Section 200.44 of the Title I regulations requires, in the case of a school identified for school improvement, corrective action, or restructuring, the LEA must provide all students enrolled in the school with the option to transfer to another public school serviced by the LEA. The LEA must offer this option not later than 14 calendar days before the start of the school year.

Further action required: The NDE must provide ED with evidence that it has provided technical assistance and guidance to its LEAs regarding the 14-day parent notification requirement for public school choice for the 2013-2014 school year. NDE must also provide ED with written evidence that the LPS and OPS parent notification letters are sent to all parents not later than 14 calendar days before the start for the 2013-2014 school year.

Title I, Part A Monitoring Area: Fiduciary Responsibilities

Monitoring Area 3, Title I, Part A: Fiduciary Responsibilities			
Indicator Number	Description	Status	Page
3.1	<ul style="list-style-type: none"> • Within State Allocations, Reallocations, and Carryover. The SEA complies with— • The procedures for adjusting ED-determined allocations from funds outlined in §§200.70-200.75 of the regulations. • The procedures for reserving funds for school improvement, state administration, and (where applicable) the State Academic Achievement Awards program. • The reallocation and carryover provisions in §§ 1126(c) and 1127 of the ESEA. 	Met Requirements Recommendations	10
3.2	LEA Plan. The SEA ensures that its LEAs comply with the provision for submitting an annual application to the SEA and revising LEA plans as necessary to reflect substantial changes in the direction of the program[§1112].	Met Requirements	N/A
3.3	Within District Allocation Procedures. The LEA complies with the requirements with regard to: (1) Reserving funds for the various set-asides either required or allowed under the statute, and (2) Allocating funds to eligible school attendance areas or schools in rank order of poverty based on the number of children from low-income families who reside in an eligible attendance area. [§§1113, 1116, 1118, of the ESEA and §200.77 and §200.78 of the Title I regulations].	Finding Recommendation	10
3.4	Fiscal Requirements: Maintenance of Effort, Comparability, Supplement, not Supplant, Internal controls, and Reporting -- The SEA ensures that the LEA complies with --- <ul style="list-style-type: none"> • The procedures for ensuring maintenance of effort (MOE). • The procedures for meeting the comparability requirement. • The procedures for ensuring that Federal funds are supplementing, not supplanting non-Federal sources. 	Findings Recommendations	11
3.5	Services to Eligible Private School Children. The SEA ensures that the LEA complies with requirements with regard to services to eligible private school children, their teachers, and families. §§1120 and 9360 of the ESEA, §443 of GEPA and §§200.62-200.67, §200.77 and §200.78 of the Title I regulations.	Met Requirements	N/A

Indicator 3.1: Within State Allocations, Reallocations, and Carryover

Recommendation (1): ED recommends that the NDE ensures that valuable information is shared with the appropriate officials at the LEA level. Information is available through various means (NDE website, list serves, “in person” technical assistance and newsletters, etc.); however, information is not always available to the appropriate individuals at the LEA level.

Recommendation (2): ED recommends that the NDE address the timeliness of its fiscal processing for Title I, Part A funds. This issue of “timeliness” is a major concern in the areas of application approval, LEA “draw down” of funds, “claim processing” etc. This past year (2012-2013) a delay (at least partially) in Title I funding was implemented due to the reduction in funds from ED; however, there still seems to be a delay in these areas. OPS officials requested special permission to “draw down” funds (in order to properly pay for its Title I expenses) and LPS officials had not “drawn down” funds at the time of the monitoring review. ED spoke with NDE about these situations and NDE stated that there were circumstances in each LEA prompting these situations. This issue was discussed in great detail with NDE officials and some technical assistance from ED was provided. Timeliness in these areas will avoid future cash management issues.

Indicator 3.3: Within District Allocation Procedures

Finding: The NDE did not ensure that its LEAs selected children according to the statute when it used Title I funds to support a preschool instructional program in LPS. The criteria for Pre-K selection in LPS do not involve an academic indicator for selecting students for participation in the preschool program. In LPS, the preschool program is being partially supported with Title I funds. Therefore, Title I requirements apply because Title I funds are being used to help support the preschool program. While Title I funds may be used to complement or extend a preschool program, all Title I requirements apply to the use of Title I funds including student eligibility when this occurs. Eligibility must be determined by the use of multiple, educationally related, criteria such as a developmentally appropriate measure of child development, teacher judgment or interviews with parents. In the case of preschool, poverty may be used as a surrogate for one of the criterion, but at least one other measure of educational need must also be used.

Citation: Section 1115(b) of the ESEA requires the LEA to use multiple, educationally related, objective criteria in selecting children to participate in the Title I program.

Further action required: The NDE must provide ED with evidence that it has provided guidance on eligibility for preschool students to all of its LEAs serving preschool children. In addition, the NDE must provide ED with evidence that, for the 2013-2014 school year, LPS has established selection criteria that meet the requirements and that it is following all of the requirements of a Title I program because it is using Title I funds to supplement a preschool program.

Recommendation: ED recommends that the NDE have a direct link between its schoolwide plans and budget expenditures with the action items identified in the comprehensive needs

assessment. A link between the budget expenditures and the comprehensive needs assessment could improve the efficiency and timeliness of the approval and reimbursement process.

Indicator 3.4: Fiscal Requirements: Maintenance of Effort, Comparability, Supplement not Supplant, and Internal Controls

Finding (1): The NDE did not ensure that inventory purchased with Title I funds were properly managed through the input and reconciliation process in the public and private schools served. Inventory maintenance and reconciliation must be established and maintained with materials purchased at the LEA for participating Title I children in the private school. OPS officials did not properly inventory and reconcile all equipment purchased with Title I funds.

Citation: Section 1120(d) (1) of the ESEA requires an LEA to maintain control of Title I funds, materials, equipment, and property.

Section 80.32(d) of the Education Department General Administrative Regulations (EDGAR) requires that a control system be implemented that ensures adequate safeguards to prevent loss, damage, or theft of the property.

Further action required: The NDE must submit evidence to ED that it has implemented a record keeping and control system for properly identifying and reconciling all property and equipment purchased with Title I funds located in the public and private schools served.

Finding (2): The NDE did not ensure that LEA staff with salaries supported through split-funds keep and submit Personnel Activity Reports (PARs) as required by regulation. PARs ensure the work of the staff member's consistency with the salary percentage distribution and the consistency of the program charged for supporting the salary with the work being performed. In LPS, there was an employee whose work was funded with Title I and another funding source (this was also the case in OPS) and neither of these employees completed a personnel activity report (PAR). Both of these employees (and similar type employees) are required to do so by regulation.

Citation: Attachment B, 8.h.(4) of the OMB Circular A-87 provides the requirements for the PARs stating that a distribution of a split-funded staff member's salaries or wages will be supported by personnel activity reports (PARs). Additionally, PARs must meet the following standards:

- Reflect an after-the-fact distribution of the actual activity of the employee;
- Account for the total activity for which the employee is compensated;
- Be prepared at least monthly and coincide with one or more pay periods; and
- Be signed by the employee.

Further Action Required: The NDE must submit evidence to ED that it has informed its LEAs of this requirement. Additionally, the NDE must submit a PAR for the split-funded administrative staff members (discussed during the on-site review) with a salary that is supported in part with Title I funds (and other administrative staff members like it) in LPS or at least two PARs from any of its LEAs with staff members who are subject to the PAR requirement for the 2012-2013 school year.

**Title I, Part D
Summary of Monitoring Indicators**

Neglected, Delinquent or At-Risk of Dropping-Out Program			
Indicator Number	Description	Status	Page
1.1	The SEA conducts monitoring and evaluation of its subgrantees sufficient to ensure compliance with Title I, Part D program requirements and progress toward Federal and State program goals and objectives.	Met Requirements	N/A
2.1	The SEA ensures that State Agency (SA) programs for eligible students meet all requirements, including facilities that operate institution-wide projects.	Met Requirements	N/A
2.2	The SEA ensures that local educational agency (LEA) programs for eligible students meet all requirements.	Met Requirements	N/A
3.1	The SEA ensures each State agency complies with the statutory and other regulatory requirements governing state administrative activities, providing fiscal oversight of the grants including reallocations and carryover, ensuring subgrantees reserve funds for transition services, demonstrating fiscal maintenance of effort and requirements to supplement, not supplant.	Met Requirements	N/A
3.2	The SEA ensures each LEA complies with the statutory and other regulatory requirements governing state administrative activities, providing fiscal oversight of the grants including reallocations and carryover, and allowable uses of funds.	Met Requirements	N/A

**McKinney-Vento Homeless Education Program
Summary of Monitoring Indicators**

McKinney-Vento Homeless Education Program			
Indicator Number	Description	Status	Page
Indicator 1.1	The SEA conducts monitoring and evaluation of LEAs with and without subgrants, sufficient to ensure compliance with McKinney-Vento program requirements.	Met Requirements	N/A
Indicator 2.1	The SEA implements procedures to address the identification, enrollment and retention of homeless students through coordinating and collaborating with other program offices and State agencies.	Met Requirements	N/A
Indicator 2.2	The SEA provides, or provides for, technical assistance to LEAs to ensure appropriate implementation of the statute.	Met Requirements	N/A
Indicator 3.1	The SEA ensures that local educational agency (LEA) subgrant plans for services to eligible homeless students meet all requirements.	Met Requirements	N/A
Indicator 3.2	The SEA complies with the statutory and other regulatory requirements governing the reservation of funds for state-level coordination activities.	Met Requirements	N/A
Indicator 3.3	The SEA has a system for ensuring the prompt resolution of disputes.	Met Requirements	N/A