

Oregon Department of Education

March 4-8, 2013

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 Oregon Department of Education (ODOE) the week of September 9-12, 2013. This was a comprehensive review of the ODOE's administration of the Title III, Part A program, which is authorized by the Elementary and Secondary Education Act of 1965, as amended (ESEA).

During the review, ED conducted several monitoring activities. The ED team reviewed evidence of State-level monitoring and technical assistance, implementation of the State's Title III accountability system, and fiscal and administrative oversight with the State educational agency (SEA). The ED team also visited four local educational agencies (LEAs) – Morrow County School District (desk monitoring), Lane Education Service District (desk monitoring), Portland Public Schools, and Salem-Keizer School District. The federal monitoring team and state employees attended parent meetings during the monitoring visits to Portland Public Schools and Salem-Keizer School District.

Previous Audit Findings: None

Previous Monitoring Findings: ED last reviewed the Title III, Part A program in the ODOE during the week of August 3-5, 2010. ED identified compliance findings in the following areas. ED considers the previous monitoring findings resolved.

The ODOE's AMAO1 (making progress in English) and AMAO2 (attainment of ELP) targets do not reflect annual increases, as required in section 3122(a)(3)(A) of Title III.

The ODOE has not required subgrantees that have not met AMAOs for 4 consecutive years accountable as required by section 3122(b)(4). Both subgrantees visited who failed to meet the AMAOs for 4 consecutive years were unable to demonstrate that they modified their curriculum, program, and method of instruction.

The ODOE has not ensured that its procedures for Title III subgrantees regarding their AMAO determinations are implemented in a timely manner. The ODE did not notify subgrantees of their failure to make progress on the 2008-2009 AMAOs until January 2010. Therefore, the subgrantees that failed to make progress on the AMAOs for 2008-2009 were unable to inform parents of such failure until January or February 2010. Additionally, subgrantees that did not make their Title III AMAOs were not able to develop and implement Title III improvement plans until the middle or end of the school year.

The ODOE's procedures for awarding Title III immigrant subgrants did not comply with Title III requirements. The State only awarded funds to the district with highest number of immigrant students. Additionally, the ODE did not award subgrants to eligible entities using the definition of significant increase required by section 3114 (d) of ESEA.

The ODOE has not ensured that all Title III subgrantees in the State conduct timely and meaningful consultation with appropriate private school officials during the design and development of Title III immigrant children and youth subgrant.

The ODOE has not ensured that all Title III subgrantees in the State conduct timely and meaningful consultations with private school officials regarding how the students will be identified. One district's Federal Grant Information Sheet did not have a means to collect LEP student counts. Additionally, the State transact template does not include LEP students as eligible private school students.

The ODOE has not ensured that all Title III subgrantees separately inform parents of their failure to meet AMAOs not later than 30 days after such failure occurs.

The ODOE has not ensured parental notifications required under section 3302 (a) and (b) of the ESEA are provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand. Neither district's parents indicated they received notifications in languages other than English and Spanish though they were available to the district.

The ODOE was not able to demonstrate that it has ensured that subgrantees meet requirements related to the maximum percentage allowed for administrative costs. One Sub-grantee reported the two percent administrative cost is used for indirect costs. In addition, this subgrantee's Title III Grant funds salary and benefits for a part time secretary. As a result, the total amount of funds permitted for administrative expenses were greater than two percent of the amount of Title III subgrant funds expended. Another subgrantee also reported taking two percent for indirect cost. This subgrantee also has Teachers on Special Assignment (TOSAS) funded on the Title III grant whose responsibilities include interpreting results of initial ELL screenings, assisting with annual ELPA assessments and ensuring schools' compliance with Federal laws. All of the aforementioned duties constitute administrative responsibilities. Thus, the total amount of funds permitted for administrative expenses were greater than two percent of the amount of Title III subgrant funds expended in some LEAs.

The ODOE was not able to demonstrate that it has ensured its subgrantees fully comply with supplement, not supplant requirements. Specifically, one sub grantee uses Title III funds to hire two Teachers on Special Assignment (TOSAS) whose job responsibilities include training teachers for and assisting with the administration of the Oregon state-mandated ELPA and Woodcock-Munoz assessments. Additionally, this subgrantee uses Title III funds to support school-based improvement team meetings designed specifically for professional development. It was documented that during meetings designated for professional development, training for the state-mandated ELPA Assessments was taking place. Another subgrantee also uses the Title III funds to hire TOSAS. One of the TOSAS provides assistance with interpretation of results following the administration of the Woodcock-Munoz, the initial screening assessment for ELLs. Moreover, this TOSA also provides technical assistance to schools during the administration of the state-mandated ELPA.

Monitoring Indicators for Title III, Part A

State Monitoring of Subgrantees			
Element Number	Description	Status	Page
	State Monitoring of Subgrantees sections 3115, 3116, and 3121; Education Department General Administrative Regulations (EDGAR) 34 CFR 80.40	Finding	3

State Monitoring of Subgrantees

State Monitoring: The State has a process to monitor subgrantees and the evaluation components of the monitoring plan address the requirements under sections 3113, 3115, 3116, 3121, 3122 and 3302 of the ESEA.

Finding (1): The monitoring protocol used by ODOE does not ensure that Title III subgrantees take corrective actions that address all compliance issues identified during State monitoring. During interviews with SEA staff, it was indicated that many LEA corrective actions were resolved verbally. The lack of written documentation led to uncertainty as to whether the Title III subgrantees addressed and resolved all compliance issues.

Citation: Section 80.40 of EDGAR requires grantees to monitor grant and subgrant activities to ensure compliance with applicable Federal requirements.

Section 34 C.F.R. 76.731, which requires, “A State and a subgrantee shall keep records to show its compliance with program requirements.”

Further Action Required: The ODOE must establish corrective action reporting procedures to ensure that Title III subgrantees have addressed and resolved all compliance issues. The ODOE must submit to ED a sample report demonstrating resolution of the findings.

Instructional Support			
Element Number	Description	Status	Page
Element 2.2	State Oversight and Review of Local Plans sections 3116(a) and 3115(c); EDGAR 34 CFR 76.770	Recommendation	4
Element 2.3	Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth sections 3114 and 3115	Met requirements	X
Element 2.4	Private School Participation section 9501	Met requirements	X

Monitoring Area 2: Instructional Support

Recommendation: To date, ODOE had no formal process to annually update the subgrantee two-year English Language Development (ELD) plans. The SEA informed ED that beginning in the spring of 2014, each district will be required to submit an amendment to the State in order to update any information annually. ED recommends that the State provide technical assistance to the LEAs regarding the annual update process to ensure implementation.

Fiduciary			
Element Number	Description	Status	Page
Element 3.1	State Allocations, Reallocations and Carryover section 3111(b); 20 USC 6821(b)(3); sections 3114(a)-(d)	Findings	5 & 6
Element 3.2	District Allocations, Reallocations and Carryover section 3115	Met requirements	X
Element 3.3	Maintenance of Effort sections 1120A and 9021	Met requirements	X
Element 3.4	Supplement, Not Supplant – General section 3115(g)	Finding	6

Monitoring Area 3: Fiduciary

Element 3.1 – State Allocations, Reallocations and Carryover: The SEA complies with required provisions.

Finding (1): The ODOE exceeded the amount allowable for State-level administrative costs. Of the 5% set aside for State-level activities, the State may only use 60% for administrative costs. The State charged administrative indirect costs to the funds reserved for State-level activities resulting in exceeding the allowable for administrative costs associated with the grant.

Citation: Section 3111(b)(2) of the ESEA states that “...each State educational agency receiving a Title III formula grant may reserve not more than 5 percent of the agency’s allotment to carry out one or more of the following activities: (A) professional development activities. (B) planning, evaluation, administration and inter-agency coordination. (C) providing technical assistance and other forms of assistance to subgrantees. (D) providing recognition to subgrantees.” Further, section 3111(b)(3) allows an SEA to use not more than 60 percent of the above reserved amount or \$175,000, whichever is greater, for the planning and administrative costs associated with section 3111 (b)(1)-(2).

Further action required: The ODOE must demonstrate fiscal control and accountability of Title III funds reserved for administration and State-level activities. The SEA must provide evidence that the ODE is not using more than the allowable amount for administrative costs under section 3111(b)(3). The State must also provide documentation showing the amounts reserved for State-level activities under section 3111(b)(2) and amounts reserved for planning and administration under section 3111(b)(1-2) for the 2013-2014 school year.

Finding (2): The ODOE has not ensured that Title III funds are available to Title III subgrantees for the full 27 month allowable period under the Tydings Amendment. The State uses a restrictive process for applying for carryover funds that limits the subgrantees to a specific window of time in which they can apply to use carryover funds. Both LEAs visited were preparing to return funds to the State because they were not aware that they were allowed to carry over the funds.

Citation: The Tydings Amendment, Section 421(b) of the General Education Provisions Act, 20 U.S.C. 1225(b), states that funds awarded on July 1, are available for obligation for 27 months.

Further action required: The ODOE must submit to ED evidence demonstrating it does not unreasonably restrict the period of time provided to its LEAs by the Tydings Amendment to obligate its allocated Title III subgrant. In addition, the ODE must also provide evidence that LEAs have received notification and guidance of this policy including its carryover process.

Element 3.4 – Supplement, Not Supplant – General:

Finding (1): The ODOE was not able to demonstrate that the State has fully complied with Education Department General Administrative Regulations cost principles regarding allowable use of funds. The ODE was reimbursing State personnel travel to meetings that are required work under other grants. Travel costs associated with the Enhanced Assessment Grant as well as travel costs to attend the English Language Proficiency Assessment for the Twenty-First Century grant meetings are not related to the administration of the Title III Program.

Citation: Office of Management and Budget (OMB) Circular A-87 (2 CFR 225) requires that in order for costs to be allowable under Federal awards, they must be reasonable, necessary, and allocable.

Further action required: The ODOE must provide ED with a description or steps it will take to annually ensure funds are used for activities that are reasonable, necessary, and allocable for Title III program implementation.