

Arizona Department of Education Fiscal Monitoring Activity: LEA Allocations

Visit Summary

OSEP conducted on-site fiscal monitoring of Arizona Department of Education (ADE) on September 13–14, 2017, as part of OSEP’s system of Differentiated Monitoring and Support (DMS). The monitoring activities were conducted by members of OSEP’s Fiscal Accountability Implementation Team, in consultation with the OSEP State lead for Arizona and the OSEP Associate Division Director (ADD) with responsibility for the team working with Arizona. OSEP’s Fiscal Monitoring in 2017 examined the status of ADE’s corrections of noncompliance involving: 1) local educational agency (LEA) Allocations, and 2) Subrecipient Monitoring. During the visit, OSEP met with representatives of the State to review the State’s fiscal processes for LEA allocations and subrecipient monitoring. The ADE officials who participated in the monitoring activity related to LEA allocations included the Associate Superintendent for Highly Effective Schools, the Deputy Associate Superintendent for Exceptional Student Services (ESS), and the Director of Operations for ESS. The ADE officials who participated in the monitoring activity related to subrecipient monitoring included the Deputy Associate Superintendent for Grants Management, the Director of the Fiscal Monitoring Unit (part of the Grants Management office), and the ESS Program Support Monitoring staff representative. At the State’s invitation, staff from the Center for IDEA Fiscal Reporting (CIFR) also participated in the monitoring activities.

This document addresses the status of ADE’s corrections of noncompliance involving LEA Allocations, based on OSEP’s May 5, 2016 fiscal monitoring letter and fiscal monitoring instrument (FMI). Subrecipient Monitoring is addressed in a separate FMI.

OSEP did not make additional findings of noncompliance related to LEA allocations as a result of the September 2017 monitoring activity. However, the information submitted by ADE at the time of the monitoring visit did not resolve the findings identified in May 2016. The list at the end of this report reflects actions the State is required to take to resolve the findings identified in May 2016, taking into account the current status of those findings and the additional information submitted by ADE as part of the September 2017 monitoring activity and in the letter dated February 21, 2018 from the Arizona Superintendent of Public Instruction and received by OSEP on April 26, 2018.

Background

On May 5, 2016, OSEP issued a fiscal monitoring letter and FMI to ADE. The FMI included nine findings of fiscal noncompliance and 17 corrective actions to be taken by the State.

On October 19, 2016, OSEP issued Arizona a DMS document that specified engagement activities that OSEP would conduct with the State across five areas during FFY 2016 (2016-2017): results, compliance, State Systemic Improvement Plan (SSIP), correctional education, and fiscal. For the fiscal area, OSEP assigned Arizona a designation of intensive engagement due to factors identified as changes in leadership, audits, and unresolved fiscal monitoring.

During FFY 2016, OSEP monitored States with intensive fiscal designations, including Arizona, in two areas: LEA allocations and subrecipient monitoring.

To address the findings identified in the May 5, 2016 FMI and ADE's intensive designation, ADE staff worked actively with OSEP and OSEP-funded technical assistance centers in resolving the identified noncompliance. Technical assistance activities included multiple phone calls, emails, and a face-to-face meeting held in Denver in November 2016. In addition, ADE sought technical assistance from the Center for IDEA Fiscal Reporting (CIFR) and the National Center for Systemic Improvement (NCSI). Throughout this time, ADE submitted additional documents in draft and final formats to address the noncompliance, and also submitted written questions based on specific fiscal scenarios, for which OSEP provided written responses. In the midst of the work to resolve the fiscal monitoring findings, staff retirements and changes resulted in several key positions in ADE's Exceptional Student Services (ESS) unit being filled by new personnel. ADE reported that these personnel changes contributed to delays in their correction of the identified noncompliance.

Subsequently, on August 17, 2017, OSEP notified ADE that the State had provided the required documentation to resolve five of the nine findings identified in the May 2016 FMI. Specifically, OSEP determined that the State had demonstrated correction of the identified noncompliance in the following areas: maintenance of State financial support, excess cost, LEA maintenance of effort, and prior approval procedures for use of IDEA funds for equipment, construction or alteration of facilities. ADE was unable to demonstrate correction of noncompliance for the four findings related to LEA allocations of IDEA section 611 and section 619 subgrants based upon the correct formulas as required at 34 CFR §§300.705, 300.815-300.817, 34 CFR Part 76 Subpart H (the U.S. Department of Education (Department's) Charter School Expansion Act regulations), and the Department's December 2000 guidance titled "How Does a State or Local Educational Agency Allocate Funds to Charter Schools that are Opening for the First Time or Significantly Expanding their Enrollment?".

Status of the LEA Allocations Findings

To address the noncompliance regarding LEA allocations identified in OSEP's FMI, ADE was required to recalculate its previous LEA allocations and to make whole any LEA that received less than the amount of IDEA section 611 or section 619 funds to which it was entitled in FFY 2014, FFY 2015, and/or FFY 2016; alternatively, the State was to provide to OSEP, by August 2016, a plan outlining how the State intended to make the required corrections during FFY 2016. In addition, ADE was required to provide revised State policies and procedures that demonstrate ADE will allocate the IDEA section 611 and section 619 funds to eligible LEAs in accordance with IDEA requirements. During the September 2017 monitoring visit, ADE provided documentation that it had made the required recalculations, but had not yet made whole the affected LEAs. At this time, ADE also did not provide updated policies and procedures for its allocation process consistent with the relevant requirements. The Deputy Associate Superintendent for ESS and the Associate Superintendent for Highly Effective Schools indicated that they had researched options to make whole the affected LEAs, but that no funds were

available to the State for this purpose. ADE asked OSEP to waive the requirement to make whole the affected LEAs, reduce the amounts the State needs to repay the LEAs, or offer other flexibilities to the State. In a follow-up phone call between OSEP and ADE on October 26, 2017, OSEP explained that it could not reduce the amount by which the State needed to make the affected LEAs whole or waive the requirements to ensure LEA allocations are made in accordance with IDEA requirements, but provided an additional option involving the timelines for making LEAs whole. The original corrective action had included a provision allowing the State to use any remaining FFY 2014, FFY 2015, and/or FFY 2016 section 611 and/or section 619 State set-aside funds that were still available to the State, for the purpose of making whole any LEAs that received less than the amount of section 611 or section 619 funds to which they were entitled in in FFY 2014, FFY 2015, and/or FFY 2016. To provide additional flexibility to complete the corrective action in response to the State's request, OSEP informed the State that it could also consider the use of FFY 2017, FFY 2018, and FFY 2019 State set-aside funds for this purpose.

In a letter dated February 21, 2018 and received by OSEP on April 26, 2018, Diane Douglas, the Arizona Superintendent of Public Instruction, requested "a five-year period to smooth out allocations for LEAs, from FY 2018 through FY 2022." ADE stated that using State-level funds "creates a marked hardship for ADE to continue to be compliant with the State-level administration requirements for IDEA." In addition, ADE stated that it would "lose[s] its opportunity to embark on State-led initiatives and activities related to development, implementation, and scale-up of evidence-based literacy and universal design professional development initiatives to support results-driven accountability needs around increasing achievement outcomes." The State therefore proposed a plan to use a portion of its FFYs 2018, 2019, 2020, 2021, and 2022 IDEA Part B State set-aside funds to make whole any LEA that received less than the amount of section 611 or section 619 funds to which it was entitled in FFY 2014, FFY 2015, and/or FFY 2016. As reflected in the updated corrective action list below, taking into account the circumstances described in the State's February 2018 letter, OSEP has determined that it will allow ADE to use FFY 2018 through FFY 2022 State set-aside funds for this purpose.

Unresolved Findings of Noncompliance from May 2016 FMI

At the time of the September 13-14, 2017 monitoring visit,¹ the following required actions from the May 5, 2016 fiscal monitoring letter remained unresolved:

Further Action Required: Within 90 days of the receipt of this letter [the May 5, 2016 letter], the State must submit to OSEP:

1. Policies and procedures that demonstrate that the SEA will ensure that each LEA has submitted a plan that provides assurances to the SEA that the LEA meets each of the conditions in 34 CFR §§300.201 through 300.213 before it determines that an LEA is eligible for assistance under Part B of the IDEA for a fiscal year.

¹ For details of the original findings, see that attached May, 5, 2016 fiscal monitoring letter and FMI.

2. Documentation of the section 611 and section 619 allocation that each LEA was entitled to receive in FFY 2014, FFY 2015, and/or FFY 2016 and the amount of the section 611 and section 619 allocation each LEA actually received in FFY 2014, FFY 2015, and/or FFY 2016.
3. For any LEA whose section 611 or section 619 allocation was less than the amount to which it was entitled in FFY 2014, FFY 2015, and/or FFY 2016, a calculation of the difference between the amount the LEA actually received and the amount of the allocation the LEA should have received.
4. Documentation demonstrating that any LEA that received less than the amount of section 611 or section 619 funds to which it was entitled in FFY 2014, FFY 2015, and/or FFY 2016 was made whole or a plan outlining how the State will make these LEAs whole during FFY 2016. The State may use any remaining FFY 2014 or FFY 2015 section 611 and/or section 619 State set-aside funds or any FFY 2016 section 611 and/or section 619 State set-aside funds that become available on July 1, 2016 for this purpose.
5. Revised State policies and procedures that demonstrate the SEA will allocate the IDEA section 611 and section 619 subgrants to eligible LEAs in accordance with 34 CFR §§300.705(b) and 300.816.
6. Revised State policies and procedures that demonstrate the SEA will allocate FFY 2015 and subsequent years' section 611 and section 619 funds that the State originally set aside for LEAs that do not submit an approvable application during a Federal fiscal year in accordance with the allocation procedures under 34 CFR §§300.705(a) and 300.815 to the LEAs that established eligibility in the initial Federal fiscal year in accordance with the formula used in that fiscal year, or retain those funds for use at the State level to the extent the State has not reserved the maximum amount it is permitted to reserve for State-level activities pursuant to 34 CFR §§300.704 and 300.812, and for those LEAs that elect not to apply for IDEA Part B funds, use the payments that would have otherwise been available to such an LEA to provide special education and related services directly to children with disabilities residing in the area served by that LEA, as required by 34 CFR §300.227(a)(1)(i).

7. A copy of the correspondence in which the State has informed its State audit office that is responsible for conducting audits in accordance with the Single Audit Act and Subpart F of the Uniform Guidance (former OMB Circular A-133)², of this finding of noncompliance and OSEP's required corrective actions.

Within 30 days of OSEP's notification to the State that it has approved the revisions made to the policies and procedures, the State must provide documentation that it has notified the LEAs of the revisions.

Based upon the review of additional documentation, OSEP has determined that required actions 2, 3, and 7 have been met, and no further action is required. Because required actions 1, 4, 5, and 6 remain unresolved, and because OSEP considers ADE's letter of February 21, 2018 to be a plan outlining how the State will make the affected LEAs whole, OSEP is requiring the following:

1. Within 90 days of the date of this letter, the State must submit to OSEP documentation of its plan to ensure that any LEA that received less than the amount of section 611 or section 619 funds to which it was entitled in FFYs 2014, 2015, and/or 2016 will be made whole. Consistent with the request made in the State's February 21, 2018 letter, the State may use any available FFY 2018, FFY 2019, FFY 2020, FFY 2021, and FFY 2022 section 611 and/or section 619 State set-aside funds for this purpose.
2. Within 90 days of the date of this letter, the State must submit to OSEP revised State policies and procedures that describe how ADE allocates IDEA section 611 and section 619 funds to eligible LEAs, consistent with statutory and regulatory formulas in IDEA sections 611(f) and section 619(g) and 34 CFR §§300.705 and 300.815. The policies and procedures must document how ADE fulfills its responsibilities for each of the following actions, consistent with statutory and regulatory requirements: a) determines the LEA's eligibility to receive a subgrant based on the submission of a plan that includes required assurances; b) calculates base payments; c) calculates base payment adjustments, when required; d) calculates the allocation of remaining funds based on population and poverty; e) calculates subgrants to eligible charter school LEAs that open or significantly expand their enrollment; f) reallocates funds to eligible LEAs, including charter school LEAs, consistent with requirements and in the appropriate year³; and g) ensures that section 619 allocations are made consistent with IDEA requirements,

² Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, IDEA Part B funds are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR Part 200 and commonly referred to as the Uniform Guidance. The Uniform Guidance provisions in 2 CFR Part 200 replace provisions previously found in EDGAR in 34 CFR Parts 74 and 80 and prior OMB Circulars A-87 and A-133.

³ After receipt of OSEP's May 2016 FMI, ADE submitted to OSEP questions regarding charter school LEAs that close mid-year after establishing eligibility to receive an IDEA subgrant, as opposed to closing mid-year but before establishing eligibility to receive a subgrant, as well as two questions regarding the differences between the reallocation provisions at 34 CFR §§300.705(c) and 300.817, and the requirements at 34 CFR §300.227. Because ADE personnel indicated that the responses to these questions were critical to its future actions and the development of its policies and procedures, OSEP expects that the reallocation policies and procedures will reflect OSEP's February 28, 2017 response to these specific questions.

including when allocations to States for section 619 grants are below the 1997 appropriation level. In addition, the policies and procedures must include relevant policies and procedures of any ADE organizational units that have a role in calculating, issuing, or otherwise ensuring the distribution of section 611 and/or section 619 funds to eligible LEAs, including eligible charter school LEAs.