

## Minnesota Department of Education

June 7 – 11, 2010

**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 Minnesota Department of Education (MDE) the week of June 7-11, 2010. This was a comprehensive review of the MDE's administration of the Title III, Part A program, which is authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

During the review, the ED team 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 3 local educational agencies (LEAs) - Minneapolis Public School District (MPS), Rochester Public School District (RPS) and St. Cloud Public School District (SCPS) where they reviewed documentation and interviewed district and school staff.

**Previous Audit Findings:** None

**Previous Monitoring Findings:** ED last reviewed the Title III, Part A program in the MDE during the week of May 16-20, 2005, ED identified compliance findings in the following areas:

### Element 3.1 - ELP Standards

Finding: The ED monitoring team reviewed Minnesota's English language proficiency standards during the on-site visit. The State demonstrated that English language proficiency standards in four language domains are in place and appear to be satisfactory under the current State academic requirements for LEP students. However, the ELP assessments will need to be aligned with the ELP standards for grades K-12.

### Element 3.2 - ELP Assessments

Finding: The State's ELP assessment the Test of Emerging Academic English (TEAE) will need to be aligned to the ELP standards for the purpose of testing English language proficiency in order to assess accurately ELP progress and attainment and meet the requirements in Section 3113.

### Element 3.4 – Transition to new ELP assessment

Finding: The State must also ensure that the new assessment is aligned with the ELP standards.

**Element 3.5 – Annual Measurable Achievement Objectives (AMAOs)**

Finding: The State reported to the ED monitoring team that the majority of LEAs have not met Title III AMAO targets since No Child Left Behind began. The reasons that the SEA reported for the failure to meet AMAOs were partially attributed to a language-based curriculum, especially in mathematics, testing difficulties, excessively high AMAOs targets, lack of linkage/alignment between ELP and academic content standards, and a lack of uniformity in LEP programs throughout the State.

**Element 7.1– Parental Notification**

Finding: The State informed the LEAs of the Title III requirement to notify parents if the AMAO targets were not met. However, the State is currently unaware whether or not LEAs have issued parental notification letters.

## 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; 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, 3121, 3122 and 3302 of the ESEA.

**Finding:** The MDE's procedures for monitoring its Title III subgrantees for compliance with Title III of the ESEA did not ensure that all areas of noncompliance were identified. Although the MDE has a plan to monitor Title III subgrantees, the plan does not include all required Title III components such as use of funds for the required activity of professional development (section 3115(c)) and immigrant children and youth, if applicable (section 3115(e)).

Additionally, MDE did not provide sufficient evidence in its monitoring protocol review of subgrantee compliance with Title III requirements. The protocol did not ensure that Title III funds are monitored on a regular basis for all compliance issues.

Furthermore, the MDE did not provide sufficient documentation in its monitoring protocol regarding follow-up procedures to ensure that Title III subgrantees take corrective actions that address compliance issues identified during State monitoring.

**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 controls and funds accounting procedures that will ensure the proper disbursement of and accounting for Federal funds.

**Further Action Required:** The MDE must submit to ED its plan for reviewing and revising its monitoring procedures to ensure that it includes all Title III requirements. Once the monitoring procedures have been revised, MDE must submit to ED the evidence of implementation. Additionally, the MDE must establish corrective action reporting procedures to ensure that Title III subgrantees have effectively addressed and resolved compliance issues. Documented evidence of the findings' resolution shall be submitted to ED.

Standards, Assessments and Accountability			
Element Number	Description	Status	Page
Element 1.1	English Language Proficiency (ELP) Standards section 3113	Finding	4
Element 1.2	English Language Proficiency (ELP) Assessment sections 3113 and 3116	Finding	4&5
Element 1.3	Annual Measurable Achievement Objectives (AMAOs) sections 3122(a)(1)(2)(3) and 1111(b)(2)(B)	X	X
Element 1.4	Data Collection and Reporting sections 3121 and 3123; EDGAR 34 CFR 76.731	Recommendation	5

### Monitoring Area 1: Standards, Assessments and Accountability

**Element 1.1 - ELP Standards: The State provided evidence of a process that complies with section 3113 of the ESEA.**

**Finding:** During several interviews with public school staff at the LEAs, school personnel were not familiar with English language proficiency (ELP) standards. The District interviews further indicated that ELP standards are not fully implemented in the State.

**Citation:** Section 3113(b)(2) of the ESEA requires States to establish standards and objectives for raising the level of English proficiency.

**Further Action Required:** The MDE must develop and submit to ED a plan, including a timeline, outlining the steps it will take to ensure that there is statewide ELP standards implementation.

**Element 1.2 – ELP Assessment: The State provided evidence of a process that complies with section 3113 of the ESEA and evidence that an ELP assessment has been administered to all K-12 limited English proficient (LEP) students in the State.**

**Finding:** The State has provided an alignment study of the Test of Emerging Academic English (TEAE) and Minnesota’s English Language Proficiency Standards. However, the State’s ELP Assessment of the K-2 Reading and Writing Checklist and the K-12 speaking and listening of the Minnesota Student Oral Language Observation Matrix (MN SOLOM) were not aligned to the ELP standards.

**Citation:** Section 3113(b)(2) of the ESEA requires States to 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 academic achievement standards. In addition, States are required to ensure that all LEP students have their English proficiency assessed annually and that determinations on whether they have attained English proficiency are based on valid and reliable assessments. Sections 3113(b)(3)(D) and 3122(a)(3)(2) of the ESEA.

Further Action Required: The State must submit to ED an alignment process and plan, including a timeline, outlining the steps to ensure that its ELP assessments are to be aligned with the ELP standards in grades K-12 for raising the level of English proficiency that are derived from the four recognized domains so that they are fully aligned with the achievement of State academic content standards.

**Element 1.4 - 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.**

Recommendation : According to the State, each district provides its own exit criteria for exiting LEP students. The documentation demonstrated a lack of consistency within the State for determining which students might be eligible for Title III funding. Thus a student who is eligible for Title III funding in one district in the State could transfer to another district in the State and not be eligible for funding there. ED recommends that consistent measures in exiting LEP students are established so that a student who is eligible for Title III services in one district could transfer to another district and be eligible for Title III services.

Instructional Support			
Element Number	Description	Status	Page
Element 2.1	State Level Activities section 3111 (b)(2)	Recommendations	6
Element 2.2	State Oversight and Review of Local Plans sections 3116(a) and 3115(c); EDGAR 34 CFR 76.770	Finding	6&7
Element 2.3	Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth sections 3114 and 3115	Findings	7
Element 2.4	Private School Participation section 9501	X	X
Element 2.5	Parental Notification and Outreach section 3302	Finding	8

### Monitoring Area 2: Instructional Support

**Element 2.1 - State Level Activities: Using funds retained at the State level, the State carries out one or more activities noted in section 3111(b)(2) of the ESEA.**

Recommendation: One LEA reported that it had not received sufficient guidance from the State regarding the use of Title III funds. The LEAs interviewed indicated that their requests for technical assistance had gone unanswered. ED recommends providing technical assistance and other forms of assistance to subgrantees in identifying and implementing language instruction educational programs and curricula that are based on scientific research on teaching limited English proficient children; identifying or developing, and implementing, measures of English proficiency; and promoting parental and community participation in programs that serve limited English proficient children.

Recommendation: One LEA visited by the ED team stated that the Sheltered Instruction Observation Protocol (SIOP) was provided two years ago but not of sufficient intensity and duration to have a lasting impact in the classroom. ED recommends fully implementing high-quality professional development activities of such intensity and duration for teachers, principals, and administrators.

**Element 2.2 – State Oversight and Review of Local Plans: The SEA ensures that its LEAs comply with the provision for submitting an application to the SEA (section 3116(a)).**

Finding : In one district’s approved Title III local plan, the documentation showed that Title III funds were not used for the required professional development activity but rather through District Exemplary Staff Development Grants.

Citation: Section 3115(c) of the ESEA states that an eligible entity receiving funds under section 3114(a) of the ESEA shall use the funds to provide high quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel.

Further Action Required: When using Title III funds, professional development is a required activity under section 3115(c) of the ESEA. The State must provide ED with evidence that it has revised its policies to ensure that LEAs receiving Title III funds are including the required activity of professional development.

**Element 2.3 - 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.**

Finding(1): The MDE did not ensure that its subgrantees that are awarded Title III funds under section 3114(d)(1) use the Title III funds for activities that provide enhanced instructional opportunities for all immigrant children and youth.

Citation: Section 3115(e) of the ESEA states that an eligible entity 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.

Further Action Required: The MDE must submit to ED a plan with a timeline indicating how it will ensure that its subgrantees conduct activities that provide enhanced instructional opportunities for all immigrant children and youth and evidence that this plan has been implemented for the 2010-2011 school year.

Finding(2): The MDE awards Title III immigrant funds to districts for a 2-year cycle. Documentation showed that some districts that receive an immigrant subgrant in the second year of the two year cycle, did not meet the definition of significant increase in the second year.

Citation: Section 3114(d) of the ESEA requires not more than 15 percent of the agency's allotment under section 3111(c)(3) 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 fiscal year for which the subgrant is made.

Further Action Required: The MDE must submit to ED a plan with a timeline indicating how it will ensure that its subgrantees meet the definition of significant increase in any particular fiscal year in which Title III immigrant funds are awarded to those districts, including the second fiscal year of a 2-year award cycle.

**Element 2.5 – Parental Notification and Outreach: Parental notification in an understandable format as required under section 3302 for identification and placement and for not meeting the State AMAOs.**

**Finding** : The MDE has not ensured that Title III subgrantees comply with all the parental notification requirements in section 3302 of the ESEA. LEA documentation indicated that the subgrantee’s exit criteria and graduation rate are not included in the identification and placement letter for English learners.

**Citation**: Section 3302(a) of the ESEA states that each eligible entity using Title III funds are to provide a language instruction educational program and shall include the reasons for the identification and placement in a language instruction educational program; the child’s level of English proficiency, how such level was assessed, and the status of the child’s academic achievement; the method of instruction used in the program; how the program will meet the educational strengths and needs of the child; how such program will specifically help the child learn English and meet age appropriate academic achievement standards for grade promotion and graduation; the specific exit requirements for such program, the expected rate of transition from such program into classrooms that area not tailored for limited English proficient children; in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; information pertaining to parental rights that includes written guidance.

Section 3302(c) of the ESEA states that the information required to be provided shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

**Further Action Required**: The MDE must disseminate guidance to its subgrantees regarding parental notification requirements. The State shall submit to ED evidence that the guidance has been provided and implemented by Title III subgrantees.

<b>Fiduciary</b>			
<b>Element Number</b>	<b>Description</b>	<b>Status</b>	<b>Page</b>
Element 3.1	<b>State Allocations, Reallocations and Carryover</b> section 3111(b); 20 USC 6821(b)(3); sections 3114(a)-(d)	Findings	9&10
Element 3.2	<b>District Allocations, Reallocations and Carryover</b> section 3115	Finding	10
Element 3.3	<b>Maintenance of Effort</b> sections 1120A and 9021	X	X
Element 3.4	<b>Supplement, Not Supplant – General</b> section 3115(g)	Recommendation	10
Element 3.4A	<b>Supplement, Not Supplant – Assessment</b> sections 1111(b)(7) and 3113(b)(2)	Finding	10&11

### **Monitoring Area 3: Fiduciary**

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

**Finding(1):** The MDE documentation did not separate out the administrative and State level activities in the 5 percent of the agency’s allotment. The State could not demonstrate that they spent less than the allowable 60 percent of the 5 percent reserved from the grant administration. Additionally, the State did not provide evidence that it is allocating funds for conducting State level activities.

**Citation:** Section 3111(b)(2) of the ESEA states that State educational agencies receiving a grant may reserve not more than 5 percent of the agency’s allotment to carry out one or more of the State activities such as professional development; planning, evaluation, administration and interagency coordination; and providing technical assistance to eligible entities.

Section 3111(b)(3) of the ESEA states that the amount reserved under section 3111(b)(2), a State educational agency may use not more than 60 percent of such amount or \$175,000, whichever is greater, for planning and administrative costs.

**Further Action Required:** The MDE must provide ED with evidence that the State is allocating Title III funds and conducting the required State level activities from the 5 percent allotment of the Title III grant. The State must also provide evidence that the MDE may not use more than 60 percent of such amount or \$175,000, whichever is greater, for the planning of administrative costs.

**Finding(2):** The MDE did not include all LEP students identified in private schools as part of the count used to allocate funds under Section 3114(a) to Title III subgrantees. Non-public student counts are sent to the State and are only included in the LEP count if they actually receive Title III services from the district.

**Citation:** Section 3114(a) of the ESEA requires SEAs to allocate funds under that provision to LEAs on the basis of the total count of LEP children in schools served by each LEA, both public and private.

**Further Action Required:** The State must submit evidence of a revised process that demonstrates that private school LEP students are included in relevant districts' LEP counts when issuing allocations.

**Element 3.2 – District Allocations, Reallocations and Carryover: The SEA ensures that its LEAs comply with the provisions related to LEA use of funds under section 3115 of the ESEA.**

**Finding:** The MDE has not ensured that its Title III subgrantees meet requirements related to the maximum percentage allowed for administrative costs. Guidance issued to the districts allowed a general indirect cost rate to all grants which was above the 2 percent cap on administrative costs for awards made under section 3114(a) of the ESEA.

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

**Further Action Required:** The MDE must provide ED with a detailed description of how it has informed its Title III subgrantees of the two percent administrative costs restriction on LEAs' Section 3114(a) subgrants. The MDE must also provide ED with a description of how it will annually ensure the correct implementation of the two percent administrative cost restriction.

**Element 3.4 - 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.**

**Recommendation:** The MDE has not provided sufficient technical assistance or guidance to subgrantees regarding the supplement vs. supplant provision, especially related to the determination of what the district provides to meet its *Lau* requirements and what is paid for with Title III funds. ED recommends to provide technical assistance and other forms of assistance to subgrantees in identifying and implementing the supplement vs. supplant provision.

**Element 3.4A - 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.**

**Finding :** The State did not ensure that LEAs not use Title III funds to administer State ELP assessments. In reviewing districts' local plans, the documentation which includes time and

effort logs showed that the funds were budgeted for the assessment that is used to identify and place ELL students.

Citation: Section 3115(g) of the ESEA prohibits the use of Title III funds to support services or activities that the State or local funds would provide in the absence of a Title III subgrant.

Further Action Required: The State must direct its subgrantees to discontinue Title III funding for the purpose of administering State ELP assessments. Use of Title III funds for this purpose violates the supplement, not supplant requirements since the ELP assessment is required under Section 1111(b)(7). MDE must submit to ED a plan with a timeline indicating how it will ensure that its subgrantees will implement this requirement on an annual basis.