

## Missouri Department of Elementary and Secondary 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 **Missouri Department of Elementary and Secondary Education (MDESE)** the week of **June 7-11, 2010**. This was a comprehensive review of the MDESE'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 three local educational agencies (LEAs) – Saint Louis School District (SLSD), North Kansas City School District (NKCSO) and Jefferson City School District (JCSO) - where they reviewed documentation and interviewed district and school staff.

**Previous Audit Findings:** None

**Previous Monitoring Findings:** This was the second monitoring visit of Missouri for Title III, Part A. The first visit was conducted in March 2009. ED identified compliance findings in the following areas:

- 1) The MDESE did not ensure that its LEAs submit a plan for Title III funds as required by statute.
- 2) The MDESE did not ensure that its LEAs used Title III funds to supplement and not supplant Federal funds.
- 3) The MDESE did not ensure that it provided documentation that explains the process it uses to determine that the State English language proficiency (ELP) standards are aligned with the State academic content and student achievement standards in English language arts and mathematics.
- 4) The MDESE did not ensure that it provided evidence that the English proficiency of all limited English proficient (LEP) children is assessed on an annual basis.
- 5) The MDESE did not ensure that it provided sufficient evidence that its State ELP assessment (LAS-links) is aligned with the State ELP standards.
- 6) The MDESE made Annual Measurable Achievement Objectives (AMAO) determinations for the 2003-2004, 2004-2005, and 2005-2006 school years; however, there was no evidence that the State notified its Title III LEAs of their AMAO status or ensured LEAs that did not make all three AMAOs notified parents of this fact.

- 7) The MDESE did not ensure that its procedure for collecting and calculating LEA data on the number of LEP students used to determine eligibility for Title III funds was accurate.
- 8) The MDESE did not ensure that it provided data in the February 2009 Consolidated State Performance Report regarding the number of LEAs failing to meet AMAOs as required by section 3123 of the ESEA.
- 9) The MDESE did not ensure that the LEAs that are awarded funds under section 3114(d)(1) use the funds for activities that provide enhanced instructional opportunities for immigrant children and youth.
- 10) The MDESE did not ensure that LEAs properly identify students as immigrant children and youth as required by section 3114(d)(1) of the ESEA.
- 11) The MDESE did not ensure that its LEAs submit annual plans or amendments for their Title III LEP grants.
- 12) The MDESE did not ensure that its LEAs submit annual plans or amendments for the Immigrant Children and Youth subgrant.
- 13) The MDESE did not ensure teacher fluency in English and any other language of instruction.
- 14) The MDESE did not ensure that its procedures for monitoring its LEAs for compliance with Title III of the ESEA were sufficient to ensure that all areas of noncompliance were identified and corrected in a timely manner.
- 15) The MDESE has not ensured that all Title III subgrantees separately inform parents of their failure to meet AMAOs for school years 2006-2007 and 2007-2008 not later than 30 days after such failure occurs.

**Monitoring Indicators for Title III, Part A**

<b>State Monitoring of Subgrantees</b>			
<b>Element Number</b>	<b>Description</b>	<b>Status</b>	<b>Page</b>
	<b>State Monitoring of Subgrantees</b> sections 3115, 3116, and 3121; EDGAR 34 CFR 80.40	X	X

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)	Findings	5
Element 1.4	Data Collection and Reporting sections 3121 and 3123; EDGAR 34 CFR 76.731	X	X

### 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:** The MDESE did not provide evidence that it has implemented ELP standards statewide. One LEA visited did not convey any evidence of State ELP standards' implementation in the classroom.

**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 MDESE must develop and submit to ED a plan, including a timeline, outlining the steps it will take to ensure that ELP standards are implemented statewide.

**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 MDESE did not provide evidence that the English language proficiency of all LEP children is assessed on an annual basis. Data submitted on the Consolidated State Performance Report (CSPR) indicated that 2,852 LEP students were not tested.

**Citation:** Section 3113(b)(3)(D) of the ESEA requires States to ensure that Title III subgrantees annually assess the English language proficiency of all LEP children in grades K-12.

**Further Action Required:** The MDESE must provide written guidance to its Title III subgrantees informing them of the requirement to assess annually the English language proficiency of all LEP students in grades K-12, and provide a copy of this guidance to ED. The State must also

review subgrantees' practices and procedures regarding the annual ELP assessment of LEP students and require corrective actions to ensure compliance.

**Element 1.3 - AMAOs: AMAOs have been developed and AMAO determinations have been made for Title III-served LEAs.**

**Finding:** The MDESE did not provide evidence that it is requiring subgrantees that failed to make progress toward meeting AMAOs for two consecutive years to develop an improvement plan that will address the factors that prevented the subgrantee from achieving such objectives.

**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 2 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 MDESE must develop and submit to ED a plan, including a timeline, outlining the steps it will take to ensure that subgrantees not meeting AMAOs for 2 consecutive years develop an improvement plan that specifically addresses the factors that prevented the LEAs from meeting Title III AMAOs and provide evidence that the plan has been implemented.

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

### **Monitoring Area 2: Instructional Support**

**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:** The MDESE did not ensure LEAs use Title III LEP funds to support Title III LEP allowable activities. The MDESE did not ensure that LEAs that are awarded funds under section 3114 address described (in their plans) how these funds would be spent on activities that help students attain English proficiency, develop high levels of academic attainment in English, and help students meet the same challenging State academic content.

**Citation:** Section 3116 of the ESEA requires LEAs to submit a plan to the SEA that, among other components, describes the programs and activities proposed to be developed, implemented, and administered and describes how the LEAs will use the subgrant funds to meet AMAOs.

**Further Action Required:** The MDESE must provide ED with evidence that it has revised its LEA consolidated application so it requires the submission of a plan for funds under section 3114(a) of the ESEA that meets the requirements of section 3116 of the ESEA. The MDESE must require LEAs to submit plans that are specifically targeted for the Title III program. The MDESE must provide ED with evidence that it has revised its LEA consolidated application.

**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:** The MDESE did not ensure that the LEAs that are awarded funds under section 3114(d)(1) of the ESEA use the funds for activities that provide enhanced instructional opportunities for immigrant children and youth. The LEAs visited were unable to specify how they use funds awarded under section 3115(e) of the ESEA to enhance instructional opportunities for immigrant children and youth. Additionally, the MDESE has not provided guidance to its LEAs regarding allowable activities under immigrant grants.

**Citation:** Section 3115(e) of the ESEA requires eligible entities to pay for activities that provide enhanced instructional opportunities for immigrant children and youth which may include: family literacy and parent outreach; provision of tutorials, mentoring and academic or career counseling; identification and acquisition of curricular materials; and other instructional services that are designed to assist immigrant children and youth to achieve in elementary and secondary schools in the United States.

Section 3116 of the ESEA requires LEAs to submit a plan to the SEA that, among other components, describes the programs and activities proposed to be developed, implemented, and administered.

**Further Action Required:** The MDESE must submit to ED a plan with a timeline indicating how it will ensure that its LEAs conduct activities that provide enhanced instructional opportunities for immigrant children and youth, and evidence that this plan has been implemented for the 2010-2011 school year. The MDESE must also submit evidence that it has revised its LEA consolidated application so it requires the submission of an immigrant plan. The MDESE must require LEAs seeking funds under section 3114(d)(1) of the ESEA to submit plans that are specifically targeted for the immigrant children and youth subgrant.

## **2.4 Private School Participation**

**Recommendation:** ED recommends that the MDESE provide additional guidance on meaningful consultation in the area of identifying students as limited English proficient and ensure that LEAs conduct timely and meaningful consultation with appropriate private school officials during the design and development of the Title III program.

## **2.5 Parental Notice and Outreach**

**Finding:** The MDESE has not ensured that all Title III subgrantees separately inform parents of the LEA's failure to meet AMAOs not later than 30 days after such failure occurs.

**Citation:** Section 3302(b) of the ESEA requires eligible entities that have failed to make progress on the AMAOs described in section 3122 of the ESEA for any fiscal year for which Title III, Part A is in effect shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

**Further Action Required:** The MDESE must provide ED with evidence that Title III subgrantees complied with the requirement to notify parents of their failure to meet AMAOs as required by section 3302(b) of the ESEA, beginning with AMAO determinations made for the 2009-2010 school year.

<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)	X	X
Element 3.2	<b>District Allocations, Reallocations and Carryover</b> section 3115	Findings	9-11
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)	Finding	11
Element 3.4A	<b>Supplement, Not Supplant – Assessment</b> sections 1111(b)(7) and 3113(b)(2)	X	X

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

**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 (1):** The MDESE has not ensured that its LEAs meet Federal requirements related to “allowable costs.” In one LEA visited, two teachers were paid from Title III funds in July 2009; however, there was no evidence that these teachers had actually worked during this time.

**Citation:** OMB Circular A-87, Attachment B, section 8(h)(1) requires that charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, must be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.

**Further Action Required:** The MDESE must ensure that its LEAs pay employees with grant monies from the specific grant period in which they have performed their duties. The MDESE must provide ED with a detailed description of how and when it informed its Title III subgrantees of this requirement. The MDESE must also provide ED with a description of how it will annually ensure that LEAs use funds as allowed under Title III and OMB Circular A-87, Attachment B, section 8(h)(1).

**Finding (2):** The MDESE has not ensured that LEAs maintain appropriate time and effort records for Title III employees who are also paid for by local funds. In one LEA personnel funded .25 FTE under Title III and .75 FTE with local funds did not keep time and effort records to demonstrate their time. In one LEA visited, tutors were funded partially by Title III and partially by local funds and Personnel Activity Reports (PARs) were not kept.

Citation: OMB Circular A-87, Attachment B, section 8(h)(4) requires that time and effort records be kept for individuals whose salaries are charged to a Federal program. When the salaries of personnel are charged to more than one source, monthly time reports or PARs are required. The PAR must account for the total time, be prepared and signed at least monthly, be signed by the employee, and reflect the actual work performed. PARs must be examined regularly and, if the amount of time for that employee does not accurately reflect the percentage of salary charged to that account, the salary must be adjusted.

Further Action Required: The State must ensure that Title III subgrantees keep appropriate time distribution records and PARs for employees who are funded from more than one funding source. The MDESE must provide ED with a detailed description of how and when it informed its Title III subgrantees of this requirement. The MDESE must also provide ED with a description of how it will annually ensure the correct implementation of this requirement.

**Finding (3):** The MDESE has not ensured that its LEAs control Title III program funds used to provide equitable participation to private school LEP students and their teachers. One LEA is using Title III funds to pay for a contract between private school officials and third-party contractors to provide tutoring services to LEP students.

Citation: Section 9501(d) of the ESEA requires LEAs to maintain control of programs being provided to private school students and their teachers. This section requires that services be provided by employees of a public agency, or through contract by the public agency with an individual, association, agency, organization or other entity. Private school officials have no authority to obligate Federal funds.

Section 9306(a)(1) & (2) of the ESEA requires an LEA submitting a consolidated application to ensure that Title III is administered in accordance with all applicable rules, regulations, program plans, and applications in which the LEA will maintain control of funds provided and the title to any property acquired with Title III funds. Contracts must contain sufficient detail on how the third-party provider will implement Title III requirements to enable LEAs to determine that the Title III statutory and regulatory requirements will be met.

Further action required: The MDESE must require LEAs that provide services to LEP students in private school using third-party contractors to be the fiscal agents for the contract. The MDESE must ensure that the third-party contractors are providing services to private school students that meet Title III requirements. The MDESE must require its LEAs to have signed contracts or agreements with third-party vendors that provide technical descriptions of the services with detail sufficient to enable LEAs to determine that the Title III statutory requirements will be met as required by section 9306 of the ESEA. The MDESE must provide

ED with a detailed description of how and when it informed its LEAs of this requirement, along with how it will implement and monitor this requirement.

**Recommendation:** The immigrant grants must be awarded to eligible LEAs from the total award to the state before deducting the 5% set aside for State activities.

**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**

**Finding:** The MDESE was not able to demonstrate that it had ensured its subgrantees fully comply with supplement, not supplant requirements. Consequently, Title III funds are used for district positions that should be supported with other funding sources. One LEA uses Title III funds to pay the salary of tutors who provide instructional services required to meet the *Lau* requirements.

**Citation:** Section 3115(g) of the ESEA prohibits an LEA from using Title III funds to support services or activities that it would provide in the absence of a Title III subgrant.

**Further Action Required:** The MDESE must provide ED with a detailed description of how and when it informed its Title III subgrantees of supplement, not supplant requirements. The MDESE must also provide ED with a description of how it will annually ensure the correct implementation of this requirement.