



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

JUL 09 2010

Honorable Keith W. Rheault
Superintendent of Public Instruction
Nevada Department of Education
700 East 5th Street
Carson City, Nevada 89701-5096

Dear Superintendent Rheault:

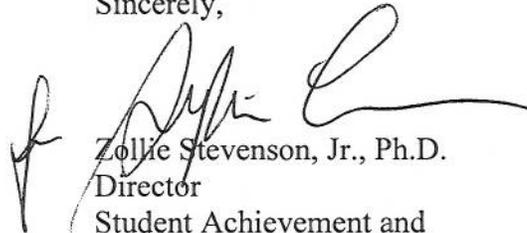
During the week of April 26-29, 2010, a team from the U. S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office reviewed the Nevada Department of Education's (NDE) administration of the Title III program authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Enclosed is a report based upon the review of the Title III program.

The report includes a brief description of the scope of the monitoring review, recommendations and findings, and required corrective actions resulting from the review. The NDE has 30 business days from receipt of this report to respond to all of the findings cited in the report. We will review the State's response to determine if all of the findings have been addressed sufficiently and request additional information, if necessary. We will allow 30 business days for the State to submit additional information or work with the State to identify a reasonable timeline that allows the State to address and correct all findings. A State that has significant unresolved findings or findings that are repeated from one monitoring review to the next may have a condition placed on the grant award.

Please note that the findings cited in the report reflect the status of compliance in NDE at the time of the on-site review.

The ED team would like to thank the Nevada Department of Education for their hard work and assistance before and during the review. We look forward to continuing to work with you and your staff to address the needs of English language learners.

Sincerely,



Zollie Stevenson, Jr., Ph.D.
Director
Student Achievement and
School Accountability Programs

Enclosure

cc: Steven Ross, State Title III Director

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Nevada Department of Education

April 26-29, 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 Nevada Department of Education (NDE) the week of April 26-29, 2010. This was a comprehensive review of the NDE'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 2 local educational agencies (LEAs) - Clark County School District (CCSD) and Washoe County School District - 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 Nevada Department of Education during the week of March 20-24, 2006. ED identified compliance findings in the following areas:

Element 3.1 – English Language Proficiency (ELP) Standards

Finding:

Nevada's State ELP standards do not include standards specific to grades 9-11. Grade 12 ELP standards are used for grades 9-11. Furthermore, evidence from the on-site school and district visits showed that the ELP standards were not fully implemented.

Element 3.2 - ELP Assessments

Finding:

Nevada uses Title III funds to provide Title III services to students that have scored proficient on the English language proficiency assessment and are, under the State's own definition, no longer classified as limited English proficient (LEP).

Element 3.4 – Annual Measurable Achievement Objectives (AMAOs)

Finding:

The State has completed an annual AMAO report for school year 2004-2005; however, AMAO determinations have not been provided to the districts. The majority of the LEAs in Nevada have not met AMAO targets.

Element 3.5 – Data Collection

Finding: Not all LEAs in Nevada are consistent in their use of the State’s ELP data collection system.

Element 4.2 – Required Subgrantee Activities

Finding:

Title III subgrantees are not fully implementing professional development activities to provide high-quality professional development for teachers of LEP students. This is a required activity.

Element 4.4 – Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth

Finding:

Nevada did not uniformly apply the relevant criteria set out in section 3114(d)(2) when making subgrants to LEAs with substantial increases in immigrant children and youth.

Element 6.1 – State Monitoring of Subgrantees

Finding:

The State did not monitor LEAs for timely expenditure of Title III funds.

Element 7.1– Parental Notification

Finding:

The State has failed to notify the LEAs regarding AMAO status; therefore, school districts that failed to meet AMAOs have not sent 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 NDE has not developed and implemented 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.

Further Action Required: The NDE 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	X	X
Element 1.2	English Language Proficiency (ELP) Assessment sections 3113 and 3116	X	X
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	X	X

Monitoring Area 1: Standards, Assessments and Accountability

No findings or recommendations at this time.

Instructional Support			
Element Number	Description	Status	Page
Element 2.1	State Level Activities section 3111 (b)(2)	X	X
Element 2.2	State Oversight and Review of Local Plans sections 3116(a) and 3115(c); EDGAR 34 CFR 76.770	X	X
Element 2.3	Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth sections 3114 and 3115	X	X
Element 2.4	Private School Participation section 9501	X	X
Element 2.5	Parental Notification and Outreach section 3302	Finding	5

Monitoring Area 2: Instructional Support

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 NDE has not ensured that Title III subgrantees comply with all the parental notification requirements in section 3302 of the ESEA. One LEA's documentation addressed only the ELP assessment completion requirements and not the parental notification requirement in section 3302(b) of the ESEA.

Citation: Section 3302(b) and (d) of the ESEA requires subgrantees to provide parents of LEP children participating in or identified for participation in a Title III-funded program with notification regarding this identification and placement not later than 30 days after the beginning of the school year and within 2 weeks if the student enrolls during the school year.

Further Action Required: The NDE must develop and disseminate guidance to its subgrantees regarding the parental notification requirements for students who enroll during the school year. The State shall submit to ED evidence that the guidance has been provided to and implemented by the Title III subgrantees.

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)	Finding	6 & 7
Element 3.2	District Allocations, Reallocations and Carryover section 3115	Findings	7
Element 3.3	Maintenance of Effort sections 1120A and 9021	X	X
Element 3.4	Supplement, Not Supplant – General section 3115(g)	Finding	8
Element 3.4A	Supplement, Not Supplant – Assessment sections 1111(b)(7) and 3113(b)(2)	X	X

Monitoring Area 3: Fiduciary

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

Finding: The NDE’s documented procedures for the allocation and reallocation of Title III subgrants for formula and immigrant programs did not meet the requirements of federal regulations.

Citation: Sections 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; 3114(c) of the ESEA states whenever a State educational agency determines that an amount from an allocation made to an eligible entity for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose; and section 3114(d) of the ESEA requires that a State educational agency shall reserve not more than 15 percent of the agency’s allotment.

Section 3115 of the ESEA states that a State educational agency may make a subgrant to an eligible entity from funds received by the agency only if the entity agrees to expend the funds to improve the education of limited English proficient children.

34 CFR 76.722 and 34 CFR 80.40 state that subgrantees are required to furnish reports that the State needs to carry out its responsibilities under the program and requires grantees to monitor grant and subgrant activities to ensure compliance with applicable Federal requirements.

Further Action Required: The NDE must provide ED with evidence of detailed written procedures for allocating and reallocating Title III subgrants for the formula and immigrant grant programs.

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 NDE misinterpreted the limitation under section 3114(b) of the ESEA that an SEA may not award a subgrant under Section 3114(a) (Title III formula program) for less than \$10,000 as also applying to subgrants under 3114(d) (immigrant subgrants). As a result, the NDE has not awarded immigrant subgrants to districts eligible for awards of less than \$10,000 under Section 3114(a) of the ESEA.

Citation: Section 3114(b) of the ESEA requires that a State educational agency shall not award a subgrant from an allocation if the amount of such subgrant would be less than \$10,000.

Further Action Required: The NDE must provide ED with revised documentation of its immigrant subgrant award process indicating that all LEAs, even if they qualify for an award of less than \$10,000 under Section 3114(a), are not automatically disqualified for an immigrant subgrant under Section 3114(d).

Finding (2): The NDE has not ensured that subgrantees comply with the 2 percent cap on administrative costs for awards made under section 3114(a) of the ESEA. During the review of documents provided by the LEAs, the ED team found that three positions funded 100 percent under Title III include administrative functions which have not been considered in calculating indirect costs.

Additionally, one LEA is using Title III funds for a translator/interpreter whose duties include serving as a “translator/interpreter providing accurate oral and written translation of information for district-wide documents, forms, and correspondence in another language.” Title III funds should not be used to support personnel who perform non-Title III duties.

Citation: Section 3115(b) of the ESEA provides that each eligible entity receiving funds under section 3114(a) for a fiscal year may not use more than 2 percent of such funds for the cost of administering this subpart. This requirement applies to all direct and indirect costs associated with administering the Title III program.

Further Action Required: The NDE must develop and submit to ED procedures that it will implement to ensure that Title III subgrantees do not exceed the 2 percent administrative cap. The NDE must also provide ED with evidence that it has informed its subgrantees of the 2 percent administrative cap and provided guidance related to direct and indirect costs.

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 NDE has not ensured that its subgrantees comply with Title III non-supplanting requirements:

One LEA is using Title III funds to pay for materials and the salaries of English language learner (ELL) Specialists who provide Sheltered Instruction Observation Protocol (SIOP) training, which the district has identified as one of the two possible methods that the district uses to meet *Lau* requirements. No clear documented evidence was found that these Title III expenditures are for activities that are supplemental to the LEA core educational program for English learners.

In another LEA, teachers who deliver core English as a second language instructional services are paid utilizing Title III funds. The district does not have a distinct job description for EL teachers funded with Title III funds, and the subgrantee reported that the job responsibilities for these teachers are the same as those for any other EL teacher in the district. Utilization of Title III funds for the salaries of these teachers is not in compliance with Title III non-supplanting provisions.

Citation: Section 3115(g) of the ESEA prohibits a subgrantee 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 NDE must establish procedures to ensure the use of Title III funds for subgrantees to meet the supplement, not supplant requirement. The NDE must provide ED with a plan for how it will annually ensure through its review of LEA plans and monitoring activities that Title III subgrantees comply with Title III non-supplanting requirements.