



CALIFORNIA
DEPARTMENT OF
EDUCATION

JACK O'CONNELL
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

September 27, 2010

Amy Weinmann, Title III Program Officer
Office of Student Achievement and School Accountability
U.S. Department of Education
400 Maryland Avenue, SW LBJ #3W258
Washington, DC 20202

Dear Ms. Weinmann:

During the week of June 8–12, 2009, a team from the U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office reviewed the California Department of Education's (CDE) administration of the Title III program authorized by the Elementary and Secondary Education Act of 1965.

Upon receiving the results of the review, the CDE and State Board of Education (SBE) staff worked in conjunction to develop resolutions and plans for implementation. The CDE responded to each of the findings in a letter to ED dated November 20, 2009. On March 31, 2010, the CDE received documentation identifying three resolved findings related to the cost allocation for Title III funds, the appropriate definition for immigrant children and youth counts, and the establishment of a minimum size of awards under the immigrant program (\$5,000); four resolvable findings related to budgetary oversight over Title III allowable expenditures, the reallocation of Title III funds, and the updating of local educational plans, including immigrant children and youth plans; and two unresolved findings related to the funding of the English Language Learner Acquisition and Development Pilot Program (ELLPP) evaluation and the funding of translation costs with Title III funds. California's response, including additional evidence to each of the remaining findings, is included as Enclosures 1 through 6.

If you have any questions regarding this subject, please contact Erin Koepke, Education Programs Consultant, Curriculum, Learning, and Accountability Branch, English Learner and Curriculum Support Division, by phone at 916-323-5467, or by e-mail at ekoepke@cde.ca.gov.

Sincerely,

/s/

Phil Lafontaine, Director
English Learner and Curriculum Support Division

PL:ek
Enclosures

cc: Supreet Anand, Title III State Formula Group Leader

**California's Follow Up and Additional Evidence
to the Federal Monitoring Letter Received
March 31, 2010
Administration of the Elementary and Secondary Education Act, Title III, Part A**

Monitoring Area 2: Fiduciary

Element 2.1 – Within State Allocations, Reallocations, and Carryover

Finding (1):

The California Department of Education (CDE) has no formal written procedures for the submission of the sub grantee budgets instructions or guidance, or a process for ensuring that sub grantees meet requirements related to allowable expenditures. Prior to awarding funds, the CDE does not require its local educational agencies (LEAs) to submit a description of how each LEA will spend its Title III funds. The CDE depends only on the single audit process, signed assurances, and its monitoring conducted every four years, to determine whether LEAs are proposing and carrying out activities that meet Title III requirements.

Further Action Required:

The CDE must develop and provide the United States Department of Education (ED) with written procedures that it will use to ensure that all Title III programs proposed by sub grantees meet all applicable statutes and regulations prior to awarding funds. The CDE must also provide ED with evidence that the procedures have been implemented.

Further Evidence Required:

ED requires further evidence from the CDE demonstrating that the procedures have been implemented.

California's Additional Evidence:

In a letter to the field dated April 23, 2010, the CDE provided information related to the completion of the 2010–11 Consolidated Application (ConApp) for Funding Categorical Aid Programs, Part I, and highlighted the most notable changes in the ConApp and its categorical programs (Enclosure 2, Pages 2–6). Enclosed, and for your review, is the ConApp, Part I, pages 24 and 25, including instructions for completion, which identifies required and allowable Title III activities, as well as the proposed expenditure amounts each LEA plans to use. These pages are provided as evidence that the proposed Title III expenditures written procedures ensure that all Title III programs proposed by sub grantees meet all applicable statutes and regulations prior to awarding funds (Enclosure 2, Pages 7–8 and 9–10).

Likewise, the CDE will publish a letter in the second quarter of fiscal year 2010 which will provide information relating to the completion of the 2010–11 ConApp for Funding Categorical Aid Programs, Part II, and highlight the most notable changes in the ConApp and its categorical programs. Also enclosed, and for your review, is a draft copy of the ConApp, Part II, LimitedEnglish Proficient (LEP) and Immigrant Expenditure pages, including instructions for completion, which are provided as evidence that the CDE reviews and compares proposed and actual expenditures to ensure their alignment with Title III requirements, as well as to identify inappropriate expenditures of Title III funds (Enclosure 2, Pages 11–12 and 13–14).

Finding (2):

The CDE has no process for reallocating funds. The CDE does not determine when or if any amount of an LEA allocation will not be used for the purpose for which the allocation was made.

Further Action Required:

The CDE must provide ED with a detailed description including a timeline of the process it will use to determine whether Title III funds will not be used by an LEA for the purpose for which those funds were awarded and, thus, can be reallocated to other LEAs. In addition, the CDE must provide ED with a detailed description of how and when it informed its LEAs of this process. This documentation may include letters to LEAs or agendas for technical assistance meetings.

Further Evidence Required:

ED requires further evidence from the CDE demonstrating that the procedures have been implemented.

California's Additional Evidence:

Enclosed, and for your review, is a copy of a letter distributed to the field dated July 9, 2010, in which the CDE provided information outlining the enhanced reallocation process for identifying, reallocating, and distributing excess Title III funds. The reallocation process is based on the concept of supporting all LEAs that meet the Annual Measurable Achievement Objectives (AMAO) for their English learner (EL) population. The CDE will identify those LEAs that have met all of their AMAO targets. These LEAs will receive any available additional Title III funds to facilitate the sustainability of those efforts (e.g., community outreach, research-based instructional programs, and professional development) that led to the LEA successfully meeting their targets and build capacity at the LEA to continue to successfully meet their achievement goals (Enclosure 3, Pages 2–6).

Element 2.4 – Supplement, Not Supplant – General

Finding (1):

The CDE has not ensured that it does not carry out activities which violate Title III supplement, not supplant requirements. The CDE is proceeding with plans to use

Title III funds to provide an analysis of the English Language Learner Acquisition and Development Pilot Program (ELLPP). California Assembly Bill 2117 requires that the CDE contract with an independent organization to perform an evaluation of this pilot project

Further Action Required:

The CDE must provide ED with evidence that it has informed the California State Superintendent of Public Instruction and the State Board of Education (SBE) that Title III funds may not be used to carry out this state requirement. The CDE must also provide ED with documentation that the CDE has used state or non-federal funds to carry out these activities, or that it has determined that these activities cannot be carried out.

Further Evidence Required:

In order to resolve this finding, the CDE must provide ED with evidence that it has used State or non-federal funds to carry out these activities, or that it has determined that these activities cannot be carried out using Title III funds.

California's additional evidence:

A letter was forwarded to Public Works, Inc. dated May 4, 2010 and is enclosed for your review, in which the CDE confirmed the termination of its contract for the purpose of the AB 2117 ELLPP's evaluation study and Public Works, Inc. evaluation study activities (Enclosure 4, Page 2).

Additionally, the CDE disseminated a letter, sent via e-mail, to all LEAs on May 30, 2010, informing LEAs of the cancellation of the AB 2117 ELLPP's evaluation study contract and how this cancellation applies to LEA grants for the program. A copy of the May 30 e-mail is enclosed for your review (Enclosure 4, Page 3).

A letter was forwarded to the California Legislature dated July 9, 2010 and is enclosed for your review regarding the cancellation of the AB 2117 ELLPP's evaluation study contract (Enclosure 4, Pages 4–5).

The 2008–09 Public Works contract #8486 was cancelled. Our records indicate that a total of \$269,421.54 was paid to the contractor during FY 2008–09. The expenditures were billed against the California Department of Education Division Index 0650 and Program Cost Accounts (PCAs) for federal programs 01064 and 01164. Due to the contract cancellation, expenditures were backed out from the federal PCAs 01064 and 01164 and moved to PCA 02042, a general fund PCA for FY 2008/09. The expenditure reports showing these changes are enclosed, which verify that the original expenditures charged to the Title III Program have been reversed and instead charged to the State General Fund (Enclosure 4, Pages 6–8).

The contract expenditures transactions were as follows:

Exhibit 1

Validates that total expenditures of \$7,792.68 was backed out from PCA 01164.

(See Report Index: 0650/PCA 01164) -Federal Fund PCA

Exhibit 2

Validates that total expenditures of \$261,628.86 was backed out from PCA 01064.
(See Report Index: 0650/PCA 01064) -Federal Fund PCA

The total amounts of expenditures backed out were **\$269,421.54**.

Finding (2):

The CDE has not ensured that LEAs comply with supplement, not supplant requirements. California has a state requirement that, when schools have 15 or more percent of students who speak another language, the LEA is required to translate documents. Long Beach Unified School District was not able to provide the ED staff with evidence that it is not using Title III funds to meet state requirements for translations.

Further Action Required:

The CDE must provide the ED with a detailed description of how and when it informed its LEAs of the requirement to use Title III funds to supplement, not supplant, federal, state, or local funds. This documentation must include letters to LEAs or agendas for technical assistance meetings. In addition, the CDE must provide evidence to the ED that, for the 2009–10 school year, the state has ensured that LEAs have complied with this requirement.

Further Evidence Required:

In order to resolve this finding, the CDE must provide ED with evidence that the CDE has informed its LEAs of the requirement to use Title III funds to supplement, not supplant, Federal, or State, or local funds and provide evidence to ED that, for the 2009–10 school year, the State has ensured that LEAs have complied with this requirement.

California's Additional Evidence:

In a letter to the field dated July 9, 2010, and enclosed for your review, the CDE provided information outlining the supplement, not supplant, requirement as it pertains to the cost of the translation of documents. Title III funds may not be used for the translation of documents. Translations are required by both federal and state law, and therefore are subject to the federal supplement, not supplant, requirement (Enclosure 5, Pages 2–4).

Monitoring Area 4: State Level Activities

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

Finding 1:

The CDE does not ensure that LEAs that are receiving Title III immigrant children and youth sub grants revise their plans if they are implementing activities with these funds that are not consistent with their 2003 plans. LEAs submitted initial plans in 2003, but the CDE does not ensure LEAs revise or update plans unless they are being monitored during the states four-year monitoring cycle or the LEA is in improvement status. LEAs visited were implementing activities with immigrant children and youth sub grants that were not consistent with their state approved plans.

Further Action Required:

The CDE must submit evidence to ED that CDE has a process to ensure that LEAs are updating their immigrant children and youth plans in accordance with sections 3114, 3116, and 9304 of the ESEA.

Further Evidence Required:

ED requires further evidence from the CDE demonstrating that the procedures have been implemented.

California's Additional Evidence:

In a letter to the field dated April 23, 2010, the CDE provided information related to the completion of the 2010–11 ConApp for Funding Categorical Aid Programs, Part I, and highlighted the most notable changes in the ConApp and its categorical programs (Enclosure 2, Pages 2–6). As a condition of receiving federal funds via the ConApp, each LEA, including direct-funded charter schools and county offices of education, must have an approved LEA Plan. Beginning fiscal year 2010–11, all LEAs must certify that their LEA Plan is current and provide the online Web address for their LEA plan. Enclosed, and for your review, is the ConApp, Part I, page 1, including instructions for completion, provided as evidence to ED that the CDE has a process to ensure that LEAs are updating their immigrant children and youth plans in accordance with sections 3114, 3116, and 9304 of the ESEA (Enclosure 6, Pages 2–4).

Monitoring Area 5: State Review of Local Plans

Element 5.1 – State Review of Local Plans Application: The State Educational Agency (SEA) ensures that its LEAs comply with the provision for submitting an application to the SEA.

Finding:

The CDE does not ensure that LEAs that are receiving Title III formula sub grants revise or update their local plans if they are implementing activities with these funds that are not consistent with their 2003 local plans. LEAs submitted initial plans in 2003, but the CDE does not ensure that LEAs revise or update plans unless they are being monitored during the states 4-year monitoring cycle or the LEA is in improvement status. LEAs visited were implementing activities with Title III formula sub grants that were not consistent with their state approved local plans.

Further Action Required:

The CDE must submit evidence to ED that CDE has a process to ensure that LEAs are updating their plans in accordance with Section 3116.

Further Evidence Required:

ED requires further evidence from the CDE demonstrating that the procedures have been implemented.

California's Additional Evidence:

In a letter to the field dated April 23, 2010, the CDE provided information related to the completion of the 2010–11 ConApp for Funding Categorical Aid Programs, Part I, and highlighted the most notable changes in the ConApp and its categorical programs (Enclosure 2, Pages 2–6). As a condition of receiving federal funds via the ConApp, each LEA, including direct-funded charter schools and county offices of education, must have an approved LEA Plan. Beginning fiscal year 2010–11, all LEAs must certify that their LEA Plan is current and provide the online Web address for their LEA plan. Enclosed, and for your review, is the ConApp, Part I, page 1, including instructions for completion, provided as evidence to ED that the CDE has a process to ensure that LEAs are updating their local plans in accordance with sections 3114, 3116, and 9304 of the ESEA (Enclosure 6, Pages 2–4).