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Dear County and District Superintendents and Direct-funded Charter School Principals:

IMPORTANT MESSAGE REGARDING POTENTIAL CHANGES IN THE IDENTIFICATION OF LOCAL EDUCATIONAL AGENCIES FOR PROGRAM IMPROVEMENT UNDER THE TITLE I PROGRAM. PLEASE REVIEW THIS INFORMATION CAREFULLY AND SHARE IT WITH YOUR STAFF AND YOUR LOCAL SCHOOL BOARD MEMBERS.

This letter is to alert you to two important findings from the United States Department of Education (ED) and its fall 2004 monitoring of California's Title I Program and to suggest some proactive steps to ensure that school and local educational agencies (LEAs) efforts are focused on activities that will result in increased student achievement as the California Department of Education (CDE) and the State Board of Education (SBE) work with the ED to resolve the findings. (See enclosure.)

Background

In September 2004, the ED conducted a review of the way in which the State administers Title I programs, as reauthorized by the *No Child Left Behind (NCLB) Act of 2001*. In December 2004, the State received the results of that review. The report of findings contained many commendations, as well as a number of requirements for modifications that can be easily implemented and that will result in positive outcomes. Also included in the report, however, are other more severe requirements that would, potentially, have a major impact on LEAs around the State. These findings focus on two main issues: (1) out-of-level testing for special education students, and (2) the criteria used by the State to identify LEAs for Program Improvement (PI). These findings, requirements, and their effects are summarized herein. For more detailed information about the report and the State's response, visit the CDE SBE Meeting Agenda-January 2005 Web site at *http://www.cde.ca.gov/be/ag/ag/yr05/agenda0105.asp.* and scroll down to Item 9.

Participation Rate and Students Using Out-of-level Testing or Modifications

The ED report of findings includes a requirement for calculating the **federal** Adequate Yearly Progress (AYP) that the State **discontinue counting in the participation rate** those students who take the Standardized Testing and Reporting (STAR) Program assessments with an out-of-level test or who require level-three accommodations (modifications) to access STAR and the California High School Exit Examination (CAHSEE). In other words, a special education student who is visually impaired and has the reading comprehension portion of the English-language arts assessment read to him or her (a modification) would not be counted for federal purposes as having taken the test.

Current STAR regulations end the use of out-of-level assessments after the 2004-05 testing cycle. We are **not** asking districts to alter their testing procedures for this year, since the testing window for 2004-05 has already begun and many students have Individualized Education Program (IEP) plans specifying how their assessments will be conducted this year–including the use of out-of-level assessments. We will ask the ED **not** to require California to implement the out-of-level provision until the 2005-06 testing cycle.

Current STAR and CAHSEE regulations allow modifications to continue to be available for special education students. The State wants to ensure a policy that encourages the maximum participation of special education students in the statewide testing program and promotes achievement at the highest possible levels for all students. We believe that allowing students with disabilities to use modifications is consistent with the *Individuals with Disabilities Education Act* and that the use of modifications maximizes their access to the statewide assessments. Therefore, we will request that the ED allow the State to continue to include in the participation rate those students who access the statewide assessments with modifications.

Identification of local educational agencies for Program Improvement

Also included in the ED report of findings is the requirement that the State **change the criteria by which it identifies LEAs for "Program Improvement."** If this provision were to be applied immediately for the current school year, it could result in the immediate identification of as many as 310 additional LEAs for PI. It also means that substantial numbers of additional LEAs would be identified in subsequent years. Because PI LEAs must increase student achievement or face increasing interventions and sanctions under the law, it is important to understand the requirements for PI LEAs and the steps they can begin to take at this early stage to address these requirements.

The current criteria for designating a California LEA as in PI are: (1) the LEA did not make AYP LEA-wide for two consecutive years, and (2) the LEA did not meet the minimum threshold on the Academic Performance Index (API) for its socio-economically disadvantaged subgroup. Last October, using these criteria, the State identified 14 LEAs for PI for the 2004-05 school year. This number would increase dramatically, however, if the State is required to modify the criteria by making PI identification for LEAs based solely on AYP. To do so would result in the identification of approximately 310 additional LEAs. Further, the ED may require that the criteria be changed immediately (i.e., retroactively) for the current 2004-05 school year.

What are the implications for local educational agencies identified for Program Improvement?

NCLB requires that LEAs identified for PI must immediately employ a variety of actions, including notifying parents of the LEA's PI status within 30 days of identification, and revising its LEA Plan within 90 days of identification. As required by *NCLB*, the Plan should indicate that not less than ten percent of the PI LEA's allocation will be dedicated to high quality professional development (*NCLB* Section 1116(c)(7)(iii)).

Additionally, all LEAs currently identified for PI that also are on the list of approved Supplemental Educational Services (SES) providers must notify parents that the LEA will be removed from the provider list and will be allowed to continue providing SES only through the end of the current school semester.

LEAs can exit PI status by making AYP for two consecutive years. However, if the LEA continues to fail AYP for two additional years, the State (by federal law) must become involved in intervention activities. For more information about PI determination, please visit the CDE PI Web site at *http://www.cde.ca.gov/ta/ac/ti/programimprov.asp.*

To determine whether your LEA would be affected by a change in the criteria for PI designation, review your AYP data. If the LEA did not make AYP in both of the past two years, the LEA would be affected by this change. To obtain more information about AYP and the requirements resulting from PI status, please visit the CDE AYP Web site at *http://www.cde.ca.gov/ta/ac/ay/index.asp.*

Next Steps in Negotiations

While we continue to work with the ED to resolve issues identified in its Title I monitoring activity, it is our hope that this has alerted you to the most important potential issues and provided resources and ideas that will result in improved achievement for all students.

In the interest of negotiating for additional flexibility within the provisions of *NCLB*, we have asked for a meeting with Margaret Spellings, U.S. Secretary of Education, to discuss the review, the findings, and several alternatives to the actions proposed by the ED. We also are requesting additional time to comprehensively address the two findings. In the meantime, we recommend that all LEAs: (1) determine whether or not they would be affected by the proposed actions; and (2) take the proactive steps outlined in the enclosure to ensure that schools and LEAs are focusing their efforts in ways that will improve achievement.

Contacts

This letter provides all the information we have at this time. Once negotiations with the ED are completed, we will send follow-up communications and provide you with additional information. In the meantime, if you have questions regarding the requirements for LEAs identified for PI, please contact Dr. Wendy Harris, Director, School Improvement Division, at (916) 319-0830 or by e-mail at *wharris@cde.ca.gov.* If you have questions regarding the use of assessment modifications for special education students, please contact Dr. Alice Parker, Director, Special Education Division, at (916) 445-4602 or by e-mail at *aparker@cde.ca.gov.*

Sincerely,

JACK O'CONNELL
State Superintendent of Public Instruction

RUTH E. GREEN, President
State Board of Education

JO/RG:dl
Enclosure

ADDITIONAL INFORMATION FOR LOCAL EDUCATIONAL AGENCIES IDENTIFIED FOR PROGRAM IMPROVEMENT

What can local educational agencies (LEAs) be doing now, pending the outcome of the United States Department of Education (ED) review?

California has established a system of improvement for its lower decile schools, including those that become state-monitored under provisions of the Public Schools Accountability Act. This system, which consists of nine "essential program components" offers an approach to increasing academic achievement that is useful to any district or school wishing to focus its efforts on immediate improvement. We would encourage you to begin to evaluate how well the following components are being implemented in your district:

1. Use of the State Board of Education (SBE)-adopted (K-8) or standards-aligned (9-12) English-language arts and mathematics instructional materials, including intervention materials
2. Instructional time (adherence to recommended instructional minutes for reading/language arts and mathematics [K-8] and high school access to standards-aligned core courses)
3. Participation by principals in instructional leadership training (Assembly Bill 75 training on SBE-adopted instructional materials)
4. Fully credentialed teachers and teacher participation in AB 466 training on SBE-adopted instructional materials
5. Student achievement monitoring system (use of data to monitor student progress on curriculum-embedded assessments and modify instruction)
6. Ongoing instructional assistance and support for teachers (use of content experts and instructional coaches)
7. Monthly teacher collaboration by grade level (K-8) and department (9-12)
8. Lesson and course pacing schedule (K-8) and master schedule flexibility for sufficient numbers of intervention courses
9. Fiscal support

There are tools now available (described below) designed to help schools determine the depth of implementation of these nine components. Additionally, there is a tool to help LEAs assess their support for underperforming schools and LEA structures for school-level implementation of these program components. These tools can be useful to any LEA embarking on an intensive improvement effort, whether or not it is identified for PI and consequently needs to revise its LEA Plan.

The Academic Program Survey (APS) consists of grade-span-specific tools designed to help a school determine how well it is implementing the nine essential program components. For more information about how to use the APS, visit the CDE Virtual

Library Web site at *http://www.cde.ca.gov/ta/lp/vl/#cir* and scroll down to Curriculum and Instructional Resources.

Any LEA that would like to begin a process that could facilitate later revision of its LEA Plan may wish to convene a LEA-level team of teachers, parents, and school and district administrators to complete a District Assistance Survey. This survey can be downloaded from the CDE Prevention/Intervention Tools Web site at *http://www.cde.ca.gov/ta/lp/vl/preventinterventls.asp.*

These tools can be helpful as LEAs attempt to determine the reasons for the failure of their prior Plans to bring about increased student achievement, as required by *NCLB* Section 1116(c)(7)(A)(v).

Where can I go for help?

County offices of education offer a variety of support and assistance to lower decile schools and their LEAs through various programs including the federally mandated and funded statewide system of school support (S4). Many county offices are approved providers of School Assistance and Intervention Teams (SAIT) and have staff assigned to work with the tools described above. SAIT providers are listed on the CDE 2004-05 Approved SAIT Providers Web site at *http://www.cde.ca.gov/ta/lp/iu/saitproviders.asp.* County offices and these provider organizations may be available to help LEAs move through the self-assessment process.

If you have not yet done so, you may wish to enroll your teachers and principals in the AB 466 and AB 75 training(s). For a list of approved providers for these training programs, visit the CDE Virtual Library Web site at *http://www.cde.ca.gov/ta/lp/vl* and scroll down to Curriculum and Instructional Resources.

Finally, you may want to contact your nearest Learning Resources Display Center (LRDC) where you may view the most current SBE-adopted instructional resources. A lisit of LRDCs is available on the CDE LRDC Web site at *http://www.cde.ca.gov/ci/cr/cf/lrdc.asp.*