



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MAR 31 2010

Honorable Jack T. O'Connell  
Superintendent of Public Instruction  
California Department of Education  
1430 N Street, Suite 5602  
Sacramento, California 95814

Dear Superintendent O'Connell:

Thank you for your November 20, 2009 response to the non-compliance issues identified during the on-site review of the California Department of Education's (CDE) administration of Title III, Part A, authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended. The U.S. Department of Education's Student Achievement and School Accountability Programs (SASA) conducted the review during the week of June 8-14, 2009.

The attached document identifies the non-compliance issues that have been resolved and those that require additional information. We look forward to working further with your staff to resolve the remaining non-compliance issues.

Please do not hesitate to contact us if you have any questions.

Sincerely,

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

Enclosure

CC: Phil Lafontaine  
Director, English Learner and Curriculum Support Division

**SASA's Review of the California Department of Education's (CDE) November 2009 Response to Report of Findings  
Title III Monitoring Visit — June 8-12, 2009**

**MONITORING AREA 2: FIDUCIARY**

INDICATOR NUMBER AND FINDING	FURTHER ACTION REQUIRED	Initial Status		DOCUMENTATION OF STATUS DESIGNATION FOR FURTHER ACTIONS SUBMITTED	Follow-Up Action Resolved	
		Resolved	In Progress		Yes	No
<b>Finding 2.1 (1):</b> The CDE has no formal written procedures for the submission of subgrantee budget instructions or guidance or a process for ensuring that subgrantees meet requirements related to allowable expenditures. The CDE does not, prior to awarding funds, require its LEAs to submit a description of how each LEA will spend its Title III funds. The CDE depends solely 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.	The CDE must develop and provide ED with written procedures that it will use to ensure that all Title III programs proposed by subgrantees meet all applicable statutes and regulations prior to awarding funds. The CDE must also provide ED with evidence that the procedures have been implemented.		X	The CDE indicated in its November 2009 monitoring report response that the State has developed a process that it will use to ensure that all Title III programs proposed by subgrantees meet all applicable statutes and regulations prior to awarding funds. The CDE is developing and adding a proposed budget plan form to the Consolidated Application (ConApp). The Language Policy and Leadership Office (LPLO), together with the Data Management Division (DMD), have created a budget proposal page to be added to the <b>June 30, 2010</b> , ConApp I. On the ConApp II, due <b>January 31, 2011</b> , LEAs will report on actual expenditures. The CDE staff during the third quarter of the school year will review the ConApp II and compare it with the ConApp I		X

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				<p>regarding the proper expenditure of Title III funds. This process, which will be implemented in the 2010-11 school year, will assist the CDE in determining if the LEAs' proposed and actual expenditures are in alignment with Title III requirements. This procedure will allow the CDE to identify inappropriate expenditures of Title III funds and take appropriate corrective action during the fourth quarter of the school year.</p> <p><b>ED requires further evidence from the CDE demonstrating that the procedures have been implemented.</b></p>		
<p><b>Finding 2.1 (2):</b> The CDE has no process for reallocating funds. The CDE does not determine when or if any amount of an LEA allocations will not be used for the purpose for which the allocation was</p>	<p>The CDE must provide ED with a detailed description including a timeline of the process it will use to determine whether Title III</p>		X	<p>The CDE provided ED in its November 2009 monitoring report response with a detailed description including a timeline of the process it will use to determine whether Title III funds will not be used by a LEA for the purpose for which those</p>		X

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		Resolved	In Progress		Yes	No
made.	funds will not be used by a 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.			<p>funds were awarded and, thus, can be reallocated to other LEAs.</p> <p>The CDE will publicize an enhanced reallocation process for identifying, reallocating, and distributing Title III funds. Such Title III funds, which will not be used by a LEA for the purpose for which those funds were awarded will be awarded to other LEAs. The CDE will disseminate the information concerning the enhanced reallocation process to LEAs beginning with the first quarter of a school year.</p> <p><b>ED requires further evidence from the CDE demonstrating that the procedures have been implemented.</b></p>		
<b>Finding 2.1 (3):</b> The CDE has not ensured that it has met requirements related to allowable costs. The CDE does	The CDE must develop and provide ED with the written procedures it will use	X		In its November 2009 onsite monitoring report response, the CDE provided evidence of processes that ensure the State	X	

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		Resolved	In Progress		Yes	No
		not consolidate administrative funds. The CDE charges a certain portion of the salaries of staff that carry out the monitoring and complaint functions to Title III. The CDE staff was not able to provide ED with time and effort documentation for CDE support staff who are partially funded through Title III.	to determine the appropriate amount or percentage of Title III funds it will charge to Title III. The procedures must describe how employees who are split funded will maintain time and effort records and must include a description of how and when the CDE will review these records and how and when it will make adjustments in the percentage of salary charged to Title III. The CDE must also provide ED with evidence that the procedures have been implemented and that			

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		Resolved	In Progress		Yes	No
	time and effort reports have been completed for personnel who are split-funded.					
<b>Finding 2.4 (1):</b> 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 (ELL) "Best Practices" pilot program. California State Bill #AB 2117 requires that the CDE contract with an independent organization to perform an evaluation of this pilot project.	The CDE must provide ED with evidence that it has informed the CDE's Superintendent of Education 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		X	In its November 2009 onsite monitoring report response, the CDE responded to finding 2.4.  ED understands CA Education Code Section 430-446 basically makes following the Federal Title III law a part of the State's own law. Additionally, under Education Code Section 2177 CDE is required to evaluate the ELLPP. The CDE stated that the State's use of Title III funds for this evaluation is not a mandate. However, CDE did not provide an assurance that Title III funds will not be used for a specific evaluation required by State law nor did the State provide any evidence that California has not used Title III funds to pay for a mandated State activity. The CDE needs to assure		X

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		Resolved	In Progress		Yes	No
	cannot be carried out.			ED that they will not use funds for State-required evaluations that would take place even if there were no Title III program.  <b>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.</b>		
<b>Finding 2.4 (2):</b> The CDE has not ensured that its 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. LBUSD was not able to provide ED staff with evidence that it is not using	The CDE must provide 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, or State, or local funds. This documentation must include letters to		X	In its November 2009 onsite monitoring report response, the CDE responded to finding 2.4.  ED understands California's law requires the translation of all documents sent by a school to parents under certain circumstances. A non-supplanting issue would be raised by the use of Title III funds to pay for the translation of documents that are subject to the translation		X

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		Resolved	In Progress		Yes	No
Title III funds to meet State requirements for translations.	LEAs or agendas for technical assistance meetings. In addition, the CDE must provide evidence to ED that, for the 2009-2010 school year, the State has ensured that LEAs have complied with this requirement.			<p>requirements of Section 48985 of California's Education Code. California, therefore, must take steps to implement the Further Action Required.</p> <p><b>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 2009-2010 school year, the State has ensured that LEAs have complied with this requirement.</b></p>		

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**MONITORING AREA 4: Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth**

INDICATOR NUMBER AND FINDING	FURTHER ACTION REQUIRED	Initial Status		DOCUMENTATION OF STATUS DESIGNATION FOR FURTHER ACTIONS SUBMITTED	Follow-Up Action Resolved	
		Resolved	In Progress		Yes	No
<p><b>Finding 4.4 (1):</b> The CDE does not ensure that LEAs that are receiving Title III immigrant children and youth subgrants 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 4-year monitoring cycle or the LEA is in improvement status. LEAs visited were implementing activities with immigrant children and youth subgrants that were not consistent with their State approved plans.</p>	<p>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.</p>		X	<p>In its November 2009 onsite monitoring report response, the CDE provided evidence of 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.</p> <p>Language will be added to the instructions of the <b>2010-11 ConApp</b> due on <b>June 30, 2010</b> requiring LEAs to update Immigrant Student Program plans, as needed, in accordance with sections 3114, 3116, and 9304 of the ESEA as a condition of funding. Plans will be made accessible electronically to the CDE.</p> <p><b>ED requires further evidence from the CDE demonstrating that the procedures have been implemented.</b></p>		X

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		Resolved	In Progress		Yes	No
<b>Finding 4.4 (2):</b> The CDE does not ensure that the appropriate students are included in the immigrant children and youth counts. The CDE does not include students born in the U.S. Territories and Outlying Areas (excluding Puerto Rico) in immigrant counts and LEAs visited do not account for the age of students in immigrant counts.	The CDE must provide ED with evidence that it counts the appropriate students in the immigrant children and youth counts.	X		In its November 2009 onsite monitoring report response, the CDE provided evidence it has reviewed and revised its definition of immigrant children and youth to include all appropriate students in the immigrant children and youth counts.  <b>ED considers this finding resolved.</b>	X	
<b>Finding 4.4 (3):</b> The CDE requires LEAs to join a consortium to be eligible for an immigrant children and youth subgrant if they are not eligible for a minimum of \$10,000.	If the CDE wants to establish \$10,000 as the minimum size of awards it will make under section 3114(d)(1), it must submit evidence to ED that it has revised its procedures to incorporate that requirement.	X		In its November 2009 onsite monitoring report response, the CDE submitted evidence to ED that it revised its procedures to incorporate a minimum size of awards it will make under section 3114(d)(1). CDE has also submitted changes to its definition of significant increase under this part.  <b>ED considers this finding resolved.</b>	X	

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**MONITORING AREA 5: STATE REVIEW OF LOCAL PLANS**

INDICATOR NUMBER AND FINDING	FURTHER ACTION REQUIRED	Initial Status		DOCUMENTATION OF STATUS DESIGNATION FOR FURTHER ACTIONS SUBMITTED	Follow-Up Action Resolved	
		Resolved	In Progress		Yes	No
<p><b>Finding 5.1:</b> The CDE does not ensure that LEAs that are receiving Title III formula subgrants 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 subgrants that were not consistent with their State approved local plans.</p>	<p>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.</p>		X	<p>In its November 2009 onsite monitoring report response, the CDE provided evidence to ED that the State has a process to ensure that LEAs are updating their plans in accordance with section 3116. Language will be added to the instructions of the 2010-11 ConApp due on <b>June 30, 2010</b> requiring LEAs to update plans, as needed, in accordance with Section 3116 as a condition of funding. Plans must be made accessible electronically to the CDE.</p> <p><b>ED requires further evidence from the CDE demonstrating that the procedures have been implemented.</b></p>		X

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