



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

October 5, 2020

The Honorable Tony Thurmond
Superintendent
California Department of Education
1430 N Street
Sacramento, CA 95814

Dr. Linda Darling-Hammond
President
State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

Dear Superintendent Thurmond and Dr. Darling-Hammond:

In a letter dated June 3, 2019, the U.S. Department of Education (the Department) placed California's fiscal year (FY) 2018 Title I, Part A grant on high-risk status because the California Department of Education (CDE) did not identify schools for comprehensive support and improvement (CSI) and additional targeted support and improvement (ATSI) in the 2018-2019 school year based on data from the 2017-2018 school year using all indicators required by the Elementary and Secondary Education Act of 1965 (ESEA). (ESEA sections 1111(c)(4)(B), 1111(c)(4)(D), and 1111(d)(2)(C)-(D)). Specifically, CDE did not include a Progress in Achieving English Language Proficiency (ELP) indicator in its accountability system that it used to identify schools for support and improvement. The Department also placed California's FY 2019 Title I, Part A grant award on high-risk status based on this non-compliance.

On November 8, 2019, the Department amended California's FY 2019 Title I, Part A grant award's high-risk status because CDE did not calculate its Academic Achievement indicator consistent with the requirement to make adjustments based on participation rate in ESEA section 1111(c)(4)(E). Therefore, CDE did not identify schools for CSI and ATSI consistent with statutory requirements.

As a condition of the high-risk status, CDE was required to provide the following:

1. Evidence that it used the Progress in Achieving ELP indicator to identify schools for CSI and ATSI in fall 2019 based on data from the 2018-2019 school year.
2. Modified business rules for calculating its Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.
3. An amendment to its consolidated State plan to reflect correct calculation of the Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.

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4. Evidence that it identified schools for CSI and ATSI in fall 2020 based on a system of annual meaningful differentiation that meets the requirements in ESEA section 1111(c)(4)(C) using data from the 2019-2020 school year, and calculating the Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.
5. Evidence that it required any school not already identified in fall 2019 to begin implementing a CSI or ATSI plan in the 2020-2021 school year.

CDE provided the required evidence on May 6, 2020 that it used the Progress in Achieving ELP indicator to identify schools for CSI and ATSI in fall 2019 based on data from the 2018-2019 school year. CDE also submitted an amendment to its consolidated State plan on January 31, 2020, to reflect the correct calculation of the Academic Achievement indicator. Because CDE used the progress in achieving ELP indicator to identify CSI and ATSI schools in the 2019-2020 school year and submitted an amendment to reflect correct calculation of the Academic Achievement indicator, I am removing these conditions of high-risk status from California's FY 2019 Title I, Part A grant.

As part of its evidence to address these requirements, CDE submitted its business rules for calculating its Academic Achievement indicator. The Department notes that these business rules are not in accordance with the requirements in ESEA section 1111(c)(4)(E). Section 1111(c)(4)(E)(ii) of the ESEA requires, for purposes of calculating the Academic Achievement indicator, the denominator be the greater of 95 percent of all students, or all students in a subgroup, or the number of students participating in the assessment. Thus, if a school's (or student subgroup's) participation rate is 95 percent or greater, the denominator for purposes of calculating the Academic Achievement indicator is the number of students assessed. If, on the other hand, a school's (or student subgroup's) participation rate is less than 95 percent, the State must adjust the denominator of the Academic Achievement indicator to include the number of untested students such that the denominator is equal to 95 percent. Because CDE uses scale scores, rather than percent proficient, to calculate its Academic Achievement indicator, it makes the required adjustment by including the lowest obtainable scale score (LOSS) for each untested student in the numerator and including the untested students in the denominator. This approach is permissible. However, CDE considers a school (or student subgroup) to have met the "95 percent participation rate" requirement based on achieving a participation rate of 94.1 percent (page 7 of the "Academic Indicator Business Rules"). In addition, for any school (or student subgroup) that does not meet CDE's participation rate requirement of 94.1 percent, CDE calculates the adjustment required to the indicator based on the difference between the percentage of tested students and 94.1 percent.

Although CDE's business rules note that this is due to the decision to round 94.1 percent to 95 percent, the Department is not aware of any statistical or professional standard that would permit using 94.1 percent instead of 95 percent. Because CDE's business rules fail to use 95 percent participation rate required by the ESEA, CDE must submit to the Department, within 60 days, its modified business rules for calculating its Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.

Thus, California's FY 2020 Title I, Part A grant remains on high-risk status. CDE must modify and submit to the Department, its business rules for calculating its Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.

In addition, because California received a waiver of the requirements in ESEA sections 1111(c)(4) and 1111(d)(2)(C)-(D) that are based on data from the 2019-2020 school year, California is not required to identify schools for CSI and ATSI in fall 2020. Accordingly, I am amending California's high-risk

status for its Title I, Part A grants. CDE must provide evidence to the Department by March 1, 2022, that CDE identified schools for CSI and ATSI in fall 2021 based on a system of annual meaningful differentiation that meets the statutory requirements using data from the 2020-2021 school year, including calculating the Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.¹

Finally, during the Department’s review of CDE’s business rules for the participation rate requirement, the Department found references to different cut scores for “DASS” schools in calculating the Academic Achievement indicator (pages 9-12 of the “Academic Indicator Business Rules”). Although CDE’s business rules do not define DASS schools, the State’s website states that the Dashboard Alternative School Status (DASS) program “holds alternative schools and alternative schools of choice accountable for modified methods of measurement for accountability indicators, when appropriate” (<https://www.cde.ca.gov/ta/ac/dass.asp>). In addition to appearing to use a different methodology to calculate the Academic Achievement indicator for these schools, it appears that California is using a different methodology for the Graduation Rate indicator for DASS schools (<https://www.cde.ca.gov/ta/ac/documents/dassgradrate.pdf>).

ESEA section 1111(c)(4)(C) requires that a State include all public schools in its system of annual meaningful differentiation, which must be based on all indicators in the State’s accountability system under section 1111(c)(4)(B) of the ESEA. The Department has therefore permitted a State to establish an alternative methodology only for schools for which an accountability determination cannot be made (e.g., P-2 schools) because the schools do not have the data needed to make a determination using the system put forth by the State (e.g., due to the school not having students who take the annual State assessment). The ESEA does not permit different accountability systems for schools that have the data necessary to be included in the system put forth by the State in its consolidated State plan. Within 60 days, CDE must either:

1. Demonstrate how it is meeting the requirement to include all schools in its system of annual meaningful differentiation consistent with California’s ESEA consolidated State plan (i.e., evidence that DASS schools are held accountable under the same system of annual meaningful differentiation as other schools, including the same Academic Achievement indicator and Graduation Rate indicator) or
2. Provide a plan to meet the requirement to include all schools in its system of annual meaningful differentiation prior to the next time it uses its accountability system (i.e., accountability determinations provided in fall 2021).

If CDE does not demonstrate compliance with this requirement, the Department may take enforcement action pursuant to the authority in 2 C.F.R. §§ 200.207 and 3474.10.

Thank you for your efforts and the efforts of your staff in correcting these issues. For ease of reference, enclosed is an updated list of the conditions of California’s high-risk status for its FY 2020 Title I,

¹ In this letter, the Department is removing the condition that was included in California’s Attachment T in its Title I, Part A grant award notice that required any school not already identified in fall 2019 to begin implementing a CSI or ATSI plan consistent with the requirements in ESEA section 1111(d) (e.g., including evidence-based interventions and resource inequity reviews) in the 2021-2022 school year (i.e., schools identified for the 2021-2022 school year are not permitted to have a planning year).

Part A grant award. The Department looks forward to continuing to work with you to support the educational needs of all students in California. If you have any questions regarding this letter, or the implementation of California's Title I, Part A program, please contact my staff at: OESE.title-a@ed.gov.

Sincerely,

A handwritten signature in black ink that reads "Frank T. Brogan". The signature is written in a cursive style with a large, looping initial "F" and a long, sweeping underline.

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education

Enclosure

cc: Joseph Saenz, Federal Policy Liaison

Appendix A

Consistent with the letter above, the U.S. Department of Education (Department) is placing California's fiscal year (FY) 2020 Title I, Part A grant award on high-risk status and imposing related conditions on its grant award as follows:

- Within 60 days, CDE must submit to the Department a draft of its modified business rules for calculating its Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.
- Within 60 days, CDE must either:
 - Demonstrate how it is meeting the requirement to include all schools in its system of annual meaningful differentiation consistent with California's ESEA consolidated State plan (i.e., evidence that DASS schools are held accountable under the same system of annual meaningful differentiation as other schools, including the same Academic Achievement indicator and Graduation Rate indicator) or
 - Provide a plan to meet the requirement to include all schools in its system of annual meaningful differentiation prior to the next time it uses its accountability system (i.e., accountability determinations provided in fall 2021).
- By March 1, 2022, CDE must provide evidence to the Department that CDE identified schools for comprehensive support and improvement and additional targeted support and improvement in fall 2021 based on a system of annual meaningful differentiation that meets the statutory requirements using data from the 2020-2021 school year, including calculating the Academic Achievement indicator in accordance with the requirements in section 1111(c)(4)(E) of the ESEA.

If these issues are not resolved in a timely manner, the Department may request additional information, revise this high-risk status or conditions to require further action, or take further administrative action.