



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Honorable Valerie Grey
Commissioner of Education
New York State Department of Education
111 Education Building
89 Washington Avenue
Albany, New York 12234

AUG 12 2010

Dear Commissioner Grey:

During the week of May 24, 2010, a team from the U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office reviewed the New York State Education Department (NYSED) administration of the following programs authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended:

- Title I, Part A (Basic);
- Title I, Part D (Neglected and Delinquent); and
- Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act (Education for Homeless Children and Youth Program).

Enclosed is a report based upon this review.

The 2009-2010 fiscal year began the first year of the third cycle of monitoring under ESEA. Based on six years of monitoring, we have learned significantly more about the status of States, districts, and schools in implementing the requirements of Title I. ED has collected data on critical compliance issues under the ESEA in all States. This knowledge has informed the current cycle of monitoring, and is reflected in the procedures and monitoring protocols utilized in the onsite review process.

The ESEA, as amended, has increased the emphasis on accountability for all students, and has focused on States' responsibilities to work with districts and schools to improve instruction and student achievement. ED will continue to work closely with States to define their responsibilities in implementing the requirements of the ESEA.

Monitoring for the Title I, Part A; Neglected and Delinquent; and Education for Homeless Children and Youth Program will continue to be conducted in three broad areas – accountability; program improvement, parental involvement and options; and fiduciary responsibilities. Prior to, during, and following the onsite monitoring review, the ED team conducted a number of activities (described in the enclosed report) to verify compliance with the critical monitoring indicators in each of the three broad areas for all three programs.

The enclosed report contains a listing of the critical monitoring elements in each of the three areas for the three programs monitored, a description of the scope of the monitoring review, and the findings, required corrective actions, and recommendations that the ED team cited as a result of the review. The NYSED has 30 business days from receipt of this report to respond to all of the compliance issues contained herein. ED staff will review your response for

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sufficiency and will determine which areas are acceptable and which will require further documentation of implementation. ED will allow 30 business days for receipt of this further documentation if required. ED recognizes that some corrective actions may require longer than the prescribed 30 days, and in these instances ED will work with you to determine a reasonable timeline. In those instances where additional time is required to implement specific corrective actions, you must submit a request for such an extension in writing to ED, including a timeline for completion of all related actions.

Each State that participates in an onsite monitoring review and that has significant compliance findings in one or more of the programs monitored will have a condition placed on that program's grant award specifying that the State must submit (and receive approval of) documentation that all compliance issues identified in the monitoring report have been corrected. When documentation sufficient to address all compliance areas has been submitted and approved, ED will then remove the condition from your grant award.

Please be aware that the issues presented in the enclosed report reflect the status of compliance in New York at the time of SASA's onsite review. NYSED may receive further communication from ED that will require it to address noncompliance occurring prior or subsequent to the onsite visit.

The ED team would like to thank Roberto Reyes and his staff for their hard work and the assistance they provided prior to and during the review in gathering materials and providing access to information in a timely manner. The ED team was impressed with the efforts of your State's staff to implement the many requirements of the three programs monitored.

We look forward to working further with your staff to resolve the issues contained in this report and to improve the quality of Title I programs in New York.

Sincerely,



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

Enclosure

cc: Roberto Reyes, Director
Mary Russman, Coordinator

New York State Education Department

May 24 - 28, 2010

Scope of Review: A team from the U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office monitored the New York State Education Department (NYSED) the week of May 24 - 28, 2010. This was a comprehensive review of the NYSED's administration of the following programs authorized by the Elementary and Secondary Education Act of 1965 (ESEA) as amended: Title I, Part A; and Title I, Part D. Also reviewed was Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act (Education for Homeless Children and Youth).

In conducting this comprehensive review, the SASA team carried out a number of major activities. In reviewing the Part A program, the SASA team conducted an analysis of State assessments and State Accountability System Plans, reviewed the effectiveness of the instructional improvement and instructional support measures established by the State to benefit local educational agencies (LEAs) and schools, and reviewed compliance with fiscal and administrative oversight requirements required of the State educational agency (SEA). During the onsite week, the ED team visited four LEAs: New York City Department of Education (NYCDOE), Utica City School District (UCSD) and Schenectady City School District (SCSD), interviewed administrative staff and school staff in the LEAs that have been identified for improvement, and conducted four parent meetings.

In its review of the Title I, Part D program, the ED team examined the State's application for funding, procedures and guidance for State agency (SA) applications under Subpart 1 and LEA applications under Subpart 2, technical assistance provided to SAs and LEAs, the State's oversight and monitoring plan and activities, SA and LEA subgrant plans and local evaluations for projects in the Department of Corrections and the Department of Youth Services; and LEA staff of Part D, Subpart 2 programs in the Rochester City School District (RCSD) and Syracuse City School District (SYCSD). The ED team interviewed administrative, program and teaching staff. The ED team also interviewed the Title I, Part D State coordinator to confirm information obtained at the local sites and discuss administration of the program.

In its review of the Education for Homeless Children and Youth program (Title VII, Subtitle B, of the McKinney-Vento Homeless Assistance Act), the ED team examined the State's procedures and guidance for the identification, enrollment and retention of homeless students, technical assistance provided to LEAs with and without subgrants, the State's McKinney-Vento application, and LEA applications for subgrants and local evaluations for projects in the RCSD and Saratoga Springs City School District (SSCSD). The ED team also interviewed a liaison from an LEA without a subgrant, Corinth City School District (CCSD) as well as the McKinney-Vento State coordinator to confirm information obtained at the local site and discuss administration of the program.

Previous Audit Findings: None

Previous Monitoring Findings: ED last reviewed Title I programs in the NYSED March 2009. ED identified compliance findings in the following areas for Title I, Part A:

The NYSED had insufficient overall monitoring of grantees; AYP determinations were not provided to LEAs in timely manner; letters to parents regarding public school choice were not provided in a timely manner; State and LEA report cards did not contain all required elements; parental involvement policies were not updated or distributed; parents were not informed about status of schools in improvement; school-wide plans were missing required elements; LEAs did not correctly calculate amounts for equitable services to private schools; LEAs did not correctly calculate amounts for comparability with non-Title I schools; complaints procedures were not in place for private schools.

The following were previous findings for McKinney-Vento: LEAs were not adequately identifying students in a doubled-up status; LEAs did not ensure a Title I reservation for homeless students; LEAs with and without subgrants were not adequately monitored for compliance.

Overarching Requirement – SEA Monitoring

A State’s ability to fully and effectively implement the requirements of the statute is directly related to the extent to which it is able to regularly monitor its LEAs and provide quality technical assistance based on identified needs. This principle applies across all Federal programs under the ESEA.

Federal law does not specify the particular method or frequency with which States must monitor their grantees, and States have a great deal of flexibility in designing their monitoring systems. Whatever process is used, it is expected that States have mechanisms in place sufficient to ensure that they are able to collect and review critical implementation data with the frequency and intensity required to ensure effective (and fully compliant) programs under the ESEA. Such a process should promote quality instruction and lead to achievement of the proficient or advanced level on State standards by all students.

Status: Met Requirement.

**Title I, Part A
Standards, Assessment and Accountability**

Monitoring Area 1, Title I, Part A: Accountability			
Indicator Number	Description	Status	Page
Indicator 1.1	The SEA has approved system of academic content standards, academic achievement standards and assessments (including alternate assessments) for all required subjects and grades, or has an approved timeline for developing them.	Met Requirements	N/A
Indicator 1.2	The SEA has implemented all required components as identified in its accountability workbook.	Finding	5
Indicator 1.3	The SEA has published an annual report card as required and an annual report to the Secretary.	Met Requirements	N/A
Indicator 1.4	The SEA has ensured that LEAs have published annual report cards as required.	Met Requirements	N/A
Indicator 1.5	The SEA indicates how funds received under Grants for State assessments and related activities (section 6111) will be or have been used to meet the 2005-06 and 2007-08 assessment requirements of the ESEA as amended.	Met Requirements	N/A
Indicator 1.6	The SEA ensures that LEAs meet all requirements for identifying and assessing the academic achievement of limited English proficient students.	Met Requirements	N/A

Title I, Part A
Standards, Assessment and Accountability

Indicator 1.2: The SEA has implemented all required components as identified in its accountability workbook.

Finding: The NYSED did not provide adequate yearly progress (AYP) determinations in a timely manner based on assessment data collected in the 2008-2009 school year and thus not all LEAs could implement Title I school choice and supplemental educational services (SES) before the beginning of the 2009-2010 school year.

Citation: Section 1116(a)(2) of the ESEA requires SEAs to ensure that the results of State academic assessments administered in that school year are available to the LEA before the beginning of the next school year. The Code of Federal Regulations (C.F.R.) 200.37 (b)(4)(iv) requires LEAs to notify parents of school choice options no later than 14 calendar days before the beginning of the school year so that parents have adequate time to exercise their choice options before the school year begins.

Further action required: Although the NYSED stated that 95 percent of schools know prior to the assessment administration their status as it relates to providing school choice and supplemental services to parents and students, the NYSED must submit (1) a plan and timeline for providing AYP determinations for the 2009-2010 assessment results that complies with the statute and that allows LEAs to comply with the statute and regulations, and (2) the 2009-2010 school AYP determination notices to UCSD, SCSD, and a sample of four NYCDOE. If the NYSED submits a waiver request for providing AYP determinations at a later date for the 2009-2010 assessment results due to the resetting of achievement standards, this further action will apply to the 2010-2011 assessment results.

Title I, Part A
Area: Instructional Support

Monitoring Area 2, Title I, Part A: Instructional Support			
Indicator Number	Description	Status	Page
Indicator 2.1	The SEA designs and implements procedures that ensure the hiring and retention of qualified paraprofessionals and ensure that parents are informed of educator credentials as required.	Met Requirements	N/A
Indicator 2.2	The SEA has established a statewide system of support that provides, or provides for, technical assistance to LEAs and schools as required.	Met Requirements	N/A
Indicator 2.3	The SEA ensures that the LEA and schools meet parental involvement requirements.	Finding Recommendation	7
Indicator 2.4	The SEA ensures that schools and LEAs identified for improvement, corrective action, or restructuring have met the requirements of being so identified.	Finding	9
Indicator 2.5	The SEA ensures that requirements for public school choice are met.	Met Requirements	N/A
Indicator 2.6	The SEA ensures that requirements for the provision of supplemental educational services (SES) are met.	Finding Recommendation	9
Indicator 2.7	The SEA ensures that LEAs and schools develop schoolwide programs that use the flexibility provided to them by law to improve the academic achievement of all students in the school.	Met Requirements	N/A
Indicator 2.8	The SEA ensures that LEA targeted assistance programs meet all requirements.	Met Requirements	N/A

Title I, Part A: Instructional Support

Indicator 2.3: The SEA ensures that LEAs and schools meet parental involvement requirements.

Finding (1): SCSD's parent involvement policy did not contain all the required components. This is a repeat finding as the NYSED was previously cited by ED in its 2007 and 2009 monitoring report for not having such policies with all required components.

Citation: Section 1118(b)(1) of the ESEA requires each Title I school to develop with and distribute to parents of participating children a written parental involvement policy, agreed on by such parents, that describes and builds the schools' and parents' capacity for strong parental involvement, coordinate and integrate parental involvement strategies with other programs such as Head Start, Early Reading First, Even Start, Parents as Teachers, and the Home Instruction Program for Preschool Youngsters; conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the school served; and involve parents in the activities of the schools served with Title I.

Further action required: The NYSED must provide ED with a detailed plan and timeline for the steps it will take to ensure that both LEAs and schools have developed parental involvement policies that address the required elements, are evaluated as appropriate, and evidence that the policy is being implemented. The plan must include the actions the NYSED will take to ensure LEAs are aware of the requirements, provide other forms of technical assistance, and monitor to ensure compliance with these provisions. The NYSED must also provide ED with documentation as to how it will monitor to ensure that the Title I schools in New York have school-level parental involvement policies that contain all the required elements.

Finding (2): The NYSED did not ensure that parental notification letters included all of the required elements. The UCSD's Notice of School Improvement did not contain all required components. This is a repeat finding as the NYSED was previously cited by ED in its 2009 monitoring report for not meeting the requirements of parental notification.

Citation: Section 1116(b)(6) of the ESEA requires that LEAs shall provide promptly to parents of each student enrolled in a school identified for improvement, corrective action, or restructuring:

- (A) An explanation of what the identification means and how the school compares in terms of academic achievement to other elementary or secondary schools served by the LEA and the SEA;
- (B) The reasons for the identification;
- (C) An explanation of what the school identified for improvement is doing to address the problem of low achievement;
- (D) An explanation of what the LEA or SEA is doing to address the problem of low achievement;

- (E) An explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for improvement; and
- (F) An explanation of the parents' option to transfer their child to another public school or to obtain supplemental educational services (SES).

Section 200.37 of the Title I regulations requires that the parental notification letter must include, at a minimum, information on the academic achievement of the school or schools to which the child may transfer. The explanation may include other information on the school or schools to which the child may transfer, including a description of any special academic programs or facilities, the availability of before- and after-school programs, the professional qualifications of teachers in the core academic subjects, and a description of parental involvement opportunities.

Further action required: The 2009 SASA monitoring report required that the NYSED provide documentation that it has informed and provided technical assistance to all LEAs and schools operating Title I programs related to the requirements for notifying the parents of each student enrolled in an elementary school or secondary school identified for school improvement, corrective action or restructuring. The NYSED must provide ED with a plan and timeline to ensure that UCSD and all other LEAs in the State comply with statute and regulations related to informing parents of public school choice and SES options 14 days prior to the start of school including how the schools in improvement compare, in terms of academic achievement, to other elementary and secondary schools.

Finding (3): The SCSD's parent-right-to-know notifications for school year 2009-2010 were not sent to parents.

Citation: Section 1111(h)(6)(A) of the ESEA requires an LEA at the beginning of each school year to notify parents of children attending Title I schools that they may request, and the LEA will provide in a timely manner, information regarding the professional qualifications of the students' classroom teachers:

- Whether the teacher has met State qualifications and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;
- Whether the teacher is teaching under emergency or other provisional status through which the State qualification or licensing criteria have been waived;
- The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree; and
- Whether the child is provided services by paraprofessionals, and if so, their qualifications.

Further action required: The NYSED must provide ED with evidence that it has developed and implemented procedures to ensure that its LEAs receiving Title I funds annually notify parents of their rights to request information regarding the qualification of their child's teachers.

Recommendation: In Schenectady, the parent involvement policy requires school board approval. This is not a Federal requirement and slows down the process and may make it more difficult for schools to evaluate, revise, and make changes in their policies so they are consistent with the needs of the parents, students, LEA and its schools. ED recommends that the LEA review if such Title I-specific policies need school board approval.

Indicator 2.4: The SEA ensures that LEAs and schools identified for improvement, corrective action, or restructuring have met the requirements of being so identified.

Finding: The NYCDOE indicated that their notification letters to LEAS with schools identified as in need of improvement were sent in October and that information regarding school accountability was not provided by the State in a timely manner. ED has not received a dated letter from the NYCDOE and an official, dated communication from the NYSED regarding the date school accountably ratings were issued. This is a repeat finding as the NYSED was previously cited by ED in its 2009 monitoring report for not meeting the requirements of parental notification.

Citation: Section 1116(b)(1)(A) and (B) of the ESEA requires that a local educational agency identify for school improvement any elementary school or secondary school served under Title I that fails for two consecutive years to make adequate yearly progress as defined in the State plan. The identification shall take place before the beginning of the school year following such failure to make adequate yearly progress.

Further action required: The NYSED must provide ED with information (e.g., a timeline) that demonstrates how it will ensure its LEAs, if applicable, identify schools in need of improvement in a timely fashion so that school improvement requirements may be implemented at least 14 days prior to the beginning of the 2010-2011 school year.

Indicator 2.6: The SEA ensures that requirements for the provision of supplemental educational services (SES) are met.

Finding: The UCSD's information sent to parents regarding SES providers does not contain a description of the qualifications of SES providers or evidence of their effectiveness.

Citation: Section 1116(e)(2)(A) of the ESEA requires an LEA to provide, at a minimum, annual notice to parents of the availability of supplemental educational services, the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and a brief description of the services, qualifications, and demonstrated effectiveness of each provider.

Further action required: The NYSED must submit to ED a detailed plan and timeline for ensuring that the information LEAs provide to parents regarding SES includes a

description of the quantifications of providers or evidence of their effectiveness. The timeline must be sufficient to ensure that this requirement will be fully implemented during the 2010-2011 school year. The NYSED must provide guidance and technical assistance to its LEAs that are required to offer SES on the statutory requirements, including the requirements of providing parents with information on the quantifications of providers or evidence of their effectiveness.

Recommendation: The ED team recommends that the NYSED provide additional guidance to all its LEAs to ensure that the required information for public school choice and SES is “prominently displayed” on each LEA’s website in a place that is visible and easy for parents to locate. Although the public school choice and SES data and other required information are displayed on each LEA website, the information is difficult to locate on several of the websites.

Monitoring Area 3, Title I, Part A: Fiduciary Responsibilities

Indicator Number	Description	Status	Page
3.1	The SEA complies with— <ul style="list-style-type: none"> ▪ The procedures for adjusting ED-determined allocations outlined in sections 200.70 – 200.75 of the regulations. ▪ The procedures for reserving funds for school improvement, State administration, and (where applicable) the State Academic Achievement Awards program. ▪ The reallocation and carryover provisions in sections 1126(c) and 1127 of the Title I statute. 	Met Requirements	N/A
3.2	The SEA ensures that its LEAs comply with the provision for submitting an annual application to the SEA and revising LEA plans as necessary to reflect substantial changes in the direction of the program.	Met Requirements	N/A
3.3	The LEA complies with the requirements with regard to: (1) Reserving funds for the various set-asides either required or allowed under the statute, and (2) Allocating funds to eligible school attendance areas or schools in rank order of poverty based on the number of children from low-income families who reside in an eligible attendance area. [§§. 1113, 1116, 1118 of the ESEA and § 200.77 and §200.78 of the Title I regulations]	Findings	12
3.4	The SEA ensures that the LEA complies with--- <ul style="list-style-type: none"> ▪ The procedures for ensuring maintenance of effort (MOE) as outlined in §1120A and 9021 of the ESEA. ▪ The procedures for meeting the comparability requirement as outlined in § 1120A of the ESEA. ▪ The procedures for ensuring that Federal funds are supplementing and not supplanting non-Federal sources used for the education of participating children as outlined in §1120A of the ESEA, §1114 of the ESEA, §1115 of the ESEA, and §1116 of the ESEA. 	Findings	14
3.5	The SEA ensures that the LEA complies with requirements with regard to services to eligible private school children, their teachers and their families. § 1120 and 9306 of the statute, § 443 of GEPA, and §§ 200.62 – 200.67, 200.77 and § 200.78 of the Title I Regulations.	Findings	15
3.6	The SEA establishes a Committee of Practitioners (COP) and involves the committee in decision making as required. §1903 and § 1111 of the statute.	Met Requirements	N/A

Title I, Part A
Monitoring Area: Fiduciary Responsibilities

Indicator 3.3: Within District Allocation Procedures. The LEA complies with the requirements in sections 1113, 1116, & 1118 of the Title I Statute and sections 200.77 and 200.78 of the regulations with regard to: (1) Reserving funds for the various set-asides either required or allowed under the statute, and (2) Allocating funds to eligible school attendance areas or schools in rank order of poverty based on the number of children from low-income families who reside in an eligible attendance area.

Finding (1): The NYSED has not ensured that its LEAs correctly calculate the amount of Title I funding available for instruction for eligible private school children. It was unclear as to whether NYCDOE has met the equitable services requirements. NYCDOE has calculated the amount of Title I funds for instruction based on the total proportion of low-income private school children from the LEA rather than applying the low-income percentage of each participating public school attendance area to the number of private school children who reside in that attendance area. Consequently, ED staff was unable to determine whether NYCDOE has provided at least the amount necessary to meet equitable services' requirements.

ED will continue to work with the NYSED and will address this under separate cover.

Finding (2): The NYSED has not ensured that its LEAs calculate equitable services on all applicable districtwide reservations. NYCDOE has not calculated equitable services on Title I funds reserved for translation of documents for parents. This is a repeat finding from the 2009 ED monitoring visit. NYCDOE staff indicated that its Bureau of Nonpublic Schools elected not to provide this service based on their needs assessment and consultation with representatives of the Nonpublic School Standing Committee.

Citation: Section 1118(a)(3)(A) of the ESEA requires that LEAs with a Title I, Part A allocation of greater than \$500,000 to reserve not less than one percent of their Title I, Part A allocation to carry out parental involvement activities. Section 200.65 of the Title I regulations requires LEAs to calculate from these funds the amount of funds available for parental involvement activities for families of private school students based on the proportion of private school students from low-income families residing in Title I attendance areas. If an LEA reserves more than the required one percent of its Title I, Part A funds or additional Title I funds for parental involvement activities, the requirement to allocate an equitable amount for the involvement of private school parents applies to the entire amount set-aside for this purpose and may be used for any allowable parental involvement activities for the families of participating private school children. Consequently, the LEA in this instance is not required to provide translation services with the additional Title I funds. However, the NYCDOE would be required to consult with private school officials regarding what allowable parental involvement activities would be provided. Only if private school officials determine that there is no need for equitable

services for parents of participating children would those funds be available to the LEA for other allowable uses. Further action required: The NYSED must ensure that its LEAs correctly calculate equitable services for services to the teachers and families of participating private school students annually. The NYSED must provide ED with a detailed description of how and when it informed its LEAs of these requirements. This documentation must include letters to LEAs or agendas for technical assistance meetings. The NYSED must also provide ED with a description of how it will annually ensure the correct implementation of these requirements. The NYSED must provide ED with evidence that, for the 2010–2011 school year, NYCDOE has correctly calculated the amount of Title I funds that must be reserved for services for the families of private school children.

Finding (3): The NYSED has not ensured that its LEAs meet the requirement that at least 95 percent of the one percent reserved for parental involvement has been allocated to Title I schools as evidenced by the following:

- UCSD has maintained its parent involvement reservation at the central level to pay for parent liaisons at its Title I schools rather than allocate funds to schools.
- SCSD has maintained its parent involvement reservation at the central level to pay for stipends for members of Parent Partnership Teams.

Citation: Section 1118(a)(3)(A) of the ESEA requires that LEAs with a Title I, Part A allocation of greater than \$500,000 to reserve not less than one percent of their Title I, Part A allocation to carry out parental involvement activities.

Section 200.65 of the Title I regulations requires LEAs to calculate from these funds the amount of funds available for parental involvement activities for families of private school students based on the proportion of private school children from low-income families residing in Title I attendance areas. The LEA then must distribute to its public schools at least 95 percent of the remainder, leaving the balance of the reserved funds for parental involvement activities at the LEA level. Any funds related to this requirement that the LEA does not use that year must be carried over into the next fiscal year and used for parental involvement activities.

Further action required: The NYSED must require that all its LEAs that receive a Title I, Part A allocation of greater than \$500,000, after the equitable portion for services to families of private school students has been calculated if applicable, distribute 95 percent of the remainder of the one percent required for parental involvement to public schools. The NYSED must ensure that LEAs that wish to use all or a portion of the 95 percent for districtwide activities such as parent liaisons appropriately document that the funds were allocated to the schools, and that each individual school agreed to give back its individual allocation to fund a districtwide activity for parents of Title I students. In addition, the NYSED must provide ED with evidence that, for the 2010-2011 school year, both UCSD and SCSD have correctly calculated the amount of Title I funding for parental involvement that must be distributed to Title I public schools. The NYSED must also

provide evidence that allocations for parental involvement activities were provided to schools, or document that the funds were allocated to the schools, and that each individual school agreed to give back its individual allocation to fund a districtwide activity.

Indicator 3.4: Maintenance of Effort, Comparability, Supplement not Supplant and Internal Controls

Finding (1): The NYSED has not ensured that its LEAs meet comparability requirements as evidenced by the following:

- When NYCDOE calculated comparability, it determined that some Title I schools were not comparable. NYCDOE staff indicated that there were not sufficient State and local dollars to provide additional funds to these schools.
- SCSD grouped its Title I schools into three grade spans – early childhood, elementary schools (including pre- grade 8), and middle/junior high schools. All schools within these grade spans are Title I. To demonstrate comparability, SCSD computed the average number of pupils to staff for each grade span, and determined whether the student teacher ratio for each school is not greater than 110 percent of the average for all schools. This process does not ensure or demonstrate that it is using State and local funds to provide services that, taken as a whole, are substantially comparable in each Title I school.

This is a repeat finding from the 2009 ED monitoring visit.

Citation: Section 1120A(c) of the ESEA requires that an LEA may meet comparability requirements if it files with the SEA a written assurance that it has developed and implemented: 1) a local educational agency-wide salary schedule; 2) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and 3) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. An LEA must keep records to document that the salary schedule and policies were actually implemented annually and that they resulted in equivalence among schools in staffing, materials, and supplies so that, in fact, the LEA has maintained comparability among its Title I and non-Title I schools.

The Education Department General Administrative Regulations (EDGAR), 34 C.F.R. Part 80 contain provisions requiring States to monitor subrecipients to ensure compliance with applicable Federal requirements. An SEA is ultimately responsible for ensuring that its LEAs remain in compliance with the comparability requirement annually. The SEA should review LEA comparability calculations at least once every two years.

Further action required: Because ED noted a similar finding during its previous Title I monitoring visit in 2009, the NYSED must take the following actions to ensure that all its LEAs meet comparability requirements:

- Reissue revised written guidance to all LEAs about the requirements for comparability, particularly those LEAs where all schools are Title I, or all schools in a grade-span are Title I.

In addition, the NYSED must also submit to ED evidence that, for the 2010–2011 school year, SCSD and NYCDOE have met comparability requirements, and that, in instances where Title I schools have not met comparability requirements, the LEA has made appropriate adjustments.

Indicator 3.5: Equitable Services

Finding (1): The NYSED has not ensured that its LEAs have met the requirements for consultation regarding the evaluation of the Title I program for private school students, including consultation regarding what constitutes annual progress for the Title I program serving eligible private school children. Although NYCDOE evaluates the Title I program, it has not established in consultation with private school officials, the standard or benchmark that will be used to determine the effectiveness of the program.

Citation: Section 1120(b)(1)(D) of the ESEA and section 200.63 (b)(5) of the Title I regulations require an LEA to consult with appropriate officials from private schools during the design and development of the LEA’s program for eligible private school students on issues such as how the LEA will assess academically the services to eligible private school students and how the LEA will use the results of that assessment to improve Title I services.

Further action required: The NYSED must ensure that its LEAs providing Title I services to children attending private schools meet evaluation requirements. The NYSED must provide ED with evidence that it has provided technical assistance to its LEAs regarding this requirement. In addition, the NYSED must provide ED with documentation that, for the 2010-2011 school year, NYCDOE has met requirements regarding evaluation of the Title I program provided to private school children.

Finding (2): The NYSED has not ensured that its LEAs exercise proper oversight in awarding contracts for the provision of Title I services to participating private school children. NYCDOE has several contracts with third-party providers to provide services to private school children, their teachers and families. The contracts do not contain sufficient detail to determine that the Title I statutory and regulatory requirements will be met. The contracts are for more than one type of service -- for services for private school children, family involvement and professional development but do not break out the specific amount(s) for each type of activity. Nor, do the contracts break out the amount for administration.

Citation: Section 9306(a)(1) and (2) of the ESEA requires an LEA when submitting a consolidated application to ensure that Title I will be administered in accordance with all

applicable rules, regulations, program plans and applications, and the LEA will maintain control of funds provided, and title to any property acquired with Title I funds will be in the LEA and the LEA will administer those funds and property as required by Title I. Contracts must contain enough detail on how the third-party provider will implement Title I requirements with detail sufficient to enable LEAs to determine that the Title I statutory and regulatory requirements will be met.

Section 1120(a)(3) of the ESEA requires that educational services to eligible private school children be equitable in comparison to services for public school children. Section 200.77(f) of the Title I regulations requires that LEAs reserve such funds as necessary to administer Title I programs for both public and private school children, including capital expenses, if any, incurred in providing services to eligible private school children, such as: the purchase and lease of real and personal property; insurance and maintenance costs; transportation; and other comparable goods and services, including non-instructional computer technicians.

Section 9304(a) of the ESEA requires that the SEA ensure that programs authorized under the ESEA are administered in accordance with all applicable statutes, regulations, program plans, and applications.

Further action required: The NYSED must require NYCDOE and all its LEAs that provide services to private school students to ensure that any third parties are providing Title I services to eligible private school children, their teachers, and their families in accordance with all Title I requirements. The NYSED must require its LEAs to have signed contracts or agreements with third-party providers that have technical descriptions of the Title I services with detail sufficient to enable LEAs to determine that the Title I statutory and regulatory requirements will be met as required by section 9306 of the ESEA. Contracts must specify the precise amount for the provider's administrative costs. Contracts for more than one type of service, for example, for services for private school children, and, if applicable, family involvement and/or professional development must detail the specific amount(s) for each type of activity. The NYSED must provide ED with evidence that it has notified NYCDOE that its contracts with the third parties providing services to private school children, their teachers and/or families must include the requirements listed above. The NYSED must provide ED with a copy of the contract from each provider in NYCDOE that meets these requirements. The NYSED must also provide ED with a detailed description of how and when it informed its LEAs of this requirement, what technical assistance it has or will provide to them, and how it will monitor this requirement.

Finding (3): The NYSED has not ensured that its LEAs have exercised proper oversight when reimbursing third party providers for services to private school children as evidenced by the following:

- NYCDOE does not require its third-party providers to submit supporting documentation with invoices when billing for services rendered.

- NYCDOE does not require its third-party providers to submit invoices that break out administrative, instructional, professional development and parental involvement costs.

Citation: Section 9306(a)(5) of the ESEA requires an LEA submitting a consolidated application to use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the LEA.

Section 443 of the General Education Provisions Act (GEPA) requires each recipient of Federal funds, such as an LEA, to keep records which fully disclose the amount and disposition of the funds, the total costs of the activity for which the funds are used as well as other records as will facilitate an effective financial or programmatic audit.

Section 1120(a)(3) of the ESEA requires that funds generated by private school children must be used for instructional activities if the funds generated by public school children from low-income families are used for instructional activities.

Providers must list on their invoices expenditures by categories: instructional activities (paid with funds generated by private school children from low-income families), parental involvement activities (paid from funds reserved for parental involvement), professional development activities (paid from funds reserved for professional development) and administrative costs (paid with funds from the section 200.77(f) reservations). Within each category, the contractors must provide detail sufficient to enable the LEA to determine that the requested invoices are in accordance with Title I requirements and the GEPA. Information could include the name and salary of each teacher, the instructional materials purchased, and the specific administrative costs, such as supervisor's salary, office expenses, travel costs, capital expense type costs, and fees. Invoices that are for more than one type of service, for example, for services for private school children as well as parental involvement activities for their parents must break out the specific costs for instruction and family involvement.

LEAs have the authority under the GEPA to require documentation to support requested expenditures.

Further action required: The NYSED must provide ED with a detailed description of the steps it will take to ensure that its LEAs exercise proper oversight over invoices submitted from third-party providers that are providing Title I services to private school children. The description must address the technical assistance the NYSED will provide to NYCDOE, and how it will monitor its LEAs' oversight of invoices. The NYSED must provide ED with evidence that it has notified NYCDOE that its contracts with the third party providing services to private school children, their teachers and/or families must include the requirements listed above. In addition, the NYSED must provide ED with copies of five NYCDOE invoices from the 2010-2011 school year that meet these requirements.

Finding (4): The NYSED has not ensured that within an LEA, the Title I funds generated by private school students for instruction, professional development and family involvement are spent for those activities as evidenced by the following:

- NYCDOE administrative activities such as salaries for non-public office staff has been charged to funds that were generated for instruction.
- NYCDOE Title I funds generated for professional development are being used for professional development for Title I NYCDOE staff and the employees of the contractor, rather than for professional development activities for the private school teachers of participating children.
- SCSD has funded a technician that manages the Title I computer network that is located at the private school. The technician's salary has been charged to instruction rather than administration.
- NYCDOE has consulted with private school officials to determine the amount of Title I funding from carryover that will be allocated for instruction, professional development and parental involvement. Title I funds generated for those purposes must be used for those purposes.

Citation: Section 1120(a)(4) of the ESEA requires that Title I expenditures for other benefits to eligible private school students be equal to the proportion of funds allocated to participating public school attendance areas based on the number of private school students from low-income families. Funds generated by private school students must only be used for instructional costs associated with providing Title I services to eligible private school students.

Section 1120(a)(1) of the ESEA requires that an LEA provide teachers and families of private school participants equitable services from the funds reserved by the LEA under Sections 1118 and 1119 of the ESEA.

Section 200.65(a)(2) of the Title I regulations states that the amount of funds available to provide equitable services to private school teachers and families must be proportionate to the number of private school children from low-income families residing in participating public school attendance areas.

In order for the equitable services requirements for teachers and families to be met by an LEA, the funds generated from sections 1118 and 1119 of the ESEA must be used for professional development activities for private school teachers of participating students and parent involvement activities for families of participants. There is no authority under Title I to use these funds for instruction, or to use funds generated for instruction for private school students for professional development or parental involvement. If a contractor provides professional development activities for its employees, the cost of those activities must come from the LEA's administration and may not be charged to the professional development funds generated by low-income private school children.

The LEA must design professional development activities for the private school teachers of Title I participants. These activities must increase the private school teachers' knowledge and skills on how to better meet the needs of their Title I children.

Further action required: The NYSED must require all LEAs serving private school students to ensure that funds reserved for instruction, parental involvement, and professional development are used for those purposes only. The NYSED must require that costs the LEA or contractor incurs to administer the program, including but not limited to salaries and fringe benefits for staff, such as directors, area supervisors, and support staff, office rent and utilities, office equipment and supplies, postage and mailings, telephone, travel, special capital expenses, escort time, professional development for Title I teachers and supervisors who are employees of the contractor, and the contractor's fee (profit) are charged to administration. The NYSED must require NYCDOE and any other LEA that is allowing funds generated for instructional services to be used for other activities to cease this practice immediately, and must provide evidence to ED that it has notified NYCDOE. The NYSED must provide ED with a detailed description of how and when it informed its LEAs of this requirement. This description must include any documents such as letters to LEAs and/or agendas for technical assistance meetings. The NYSED must also provide ED with information on procedures it will use to ensure the correct implementation of this requirement.

Finding (5): The NYSED has not ensured that paraprofessionals who provide services to eligible private school students and are employed by an LEA with Title I funds are under the direct supervision of a highly qualified public school teacher. UCSD staff indicated that, in one of the private schools, Title I services are being provided by a paraprofessional who is not being supervised by a highly qualified public school teacher.

Citation: Sections 1119(g)(2)(G) and (g)(3)(A) of the ESEA require that paraprofessionals who provide instructional support must work under the direct supervision of a public school teacher. A paraprofessional works under the direct supervision of a teacher if (1) the teacher prepares the lessons and plans the instructional support activities that the paraprofessional carries out, and (2) the paraprofessional works in close and frequent proximity to the teacher. As a result, a Title I program for private school participants staffed entirely by paraprofessionals is not permitted.

Further action required: The NYSED must provide ED with evidence that it has provided guidance on paraprofessionals to its LEAs serving private school children. The NYSED must provide ED with a detailed description of how and when it informed its LEAs of this requirement. This documentation may include letters to LEAs or agendas for technical assistance meetings. The NYSED must also provide ED with a description of how it will ensure the correct implementation of this requirement. In addition, the NYSED must provide ED with evidence that UCSD has complied with this requirement for the 2010-2011 school year.

**Title I, Part D
Summary of Monitoring Indicators**

Neglected, Delinquent or At-Risk of Dropping-Out Program			
Indicator Number	Description	Status	Page
1.1	The SEA has implemented all required components as identified in its Title I, Part D (N/D) plan.	Met Requirements	N/A
1.2	The SEA ensures that State agency (SA) plans for services to eligible N/D students meet all requirements.	Met Requirements	N/A
1.3	The SEA ensures that local educational agency (LEA) plans for services to eligible N/D students meet all requirements.	Met Requirements	N/A
2.1	The SEA ensures that institution-wide programs developed by the SA under Subpart 1 use the flexibility provided to them by law to improve the academic achievement of all students in the school.	Met Requirements	N/A
3.1	The SEA ensures each SA has reserved not less than 15 percent and not more than 30 percent of the amount it receives under Subpart 1 for transition services.	Met Requirements	N/A
3.2	The SEA conducts monitoring of its subgrantees sufficient to ensure compliance with Title I, Part D program requirements.	Met Requirements	N/A

**McKinney-Vento Homeless Education Program
Summary of Monitoring Indicators**

McKinney-Vento Homeless Education Program			
Indicator Number	Description	Status	Page
Indicator 1.1	The SEA collects and reports to ED assessment data from LEAs on the educational needs of homeless children and youth.	Met Requirements	N/A
Indicator 2.1	The SEA implements procedures to address the identification, enrollment and retention of homeless students.	Findings	21
Indicator 2.2	The SEA provides, or provides for, technical assistance for LEAs to ensure appropriate implementation of the statute.	Met Requirements	N/A
Indicator 3.1	The SEA ensures that LEA subgrant plans for services to eligible homeless students meet all requirements.	Met Requirements	N/A
Indicator 3.2	The SEA ensures that the LEA complies with providing comparable Title I, Part A services to homeless students attending non-Title I schools.	Met Requirements	N/A
Indicator 3.3	The SEA has a system for ensuring the prompt resolution of disputes.	Finding	23
Indicator 3.4	The SEA conducts monitoring of LEAs with and without subgrants, sufficient to ensure compliance with McKinney-Vento program requirements.	Met Requirements	N/A

McKinney-Vento Homeless Education Program

Indicator 2.1: The SEA implements procedures to address the identification, enrollment and retention of homeless students through coordinating and collaborating with other program offices and State agencies.

Finding (1): The NYSED has not ensured that SSCSD review its policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State. The SSCSD requires that lengthy written affidavits of homelessness are required from parents which constitutes a barrier to enrollment and may put the doubled-up family as well as the host family at risk for eviction. Although a policy memo from the NYSED regarding shared housing was sent to all districts in Fall 2009 stating that the use of an affidavit to substantiate homelessness should not be used, SSCSD had an affidavit in their procedures and policy manual called Guide to Enrollment and Possible Exclusion of Homeless Students which required families to submit documentation to substantiate that they were in fact sharing the housing of a resident in the district. To avoid potential FERPA issues, the district’s administrative regulations state that the LEA should not

contact the landlord to verify a student’s housing status; however the administrative regulations also stated that if there is a doubt about “the bonafides of a doubled up living arrangement or whether a doubled up family should be treated as homeless, one should consult with counsel”.

Citation: Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act requires that the SEA develop, review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State. Additionally, the McKinney-Vento Homeless Assistance Act requires immediate enrollment of a homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as proof of residency, or other documentation.

Further action required: ED requires that the NYSED state in writing to the SSCSD that it must discontinue the requirement of written affidavits of homelessness for students eligible for McKinney-Vento services as well as any other residency verification practices that may constitute a barrier to enrollment for homeless children and youth. Furthermore, until the *Guide to Enrollment and Possible Exclusion of Homeless Students* has been revised to be in conformance with SEA policy for implementing the McKinney-Vento Act, the NYSED should consider placing conditions on renewing or continuing a subgrant for the SSCSD. The NYSED must provide ED with its written letter to SSCSD stating that it has discontinued the requirement of written affidavits of homelessness for students eligible for McKinney-Vento services. In addition the NYSED must submit to ED a revised copy of its *Guide to Enrollment and Possible Exclusion of Homeless Students*.

Finding (2): The NYSED has not ensured that transportation is being provided at the request of a parent, guardian, or unaccompanied homeless youth to the school of origin. The SSCSD is using the homeless reservation from Title I funds for transportation to and from school which is supplanting the State and local responsibility to pay for transportation to the school of origin while a student is homeless.

Citation: Section 722 (g)(1)(J)(iii) of Subtitle B, Title VII of the McKinney-Vento Homeless Assistance Act (Education for Homeless Children and Youths) requires the SEAs and LEAs in the State to ensure that transportation is provided at the request of a parent, guardian, or unaccompanied homeless youth to the school of origin.

Further action required: The NYSED must inform all LEAs in the State that transportation for homeless children and youth may not be paid for using Federal funds other than those provided under Section 723(d) of Subtitle B, Title VII of the McKinney-Vento Homeless Assistance Act. The NYSED must provide ED with documentation that it has required the SSCSD to immediately cease using Title I funds for such purposes.

Indicator 3.3: The SEA has a system for ensuring the prompt resolution of disputes.

Finding: The NYSED has not ensured that its LEAs have procedures for the prompt resolution of disputes and a process to direct LEAs on how to resolve enrollment disputes consistent with LEA requirements stated in section 722(g)(3)(E). Local liaisons and the Office of State coordinator are not directly involved at key points in the homeless enrollment dispute resolution process. There is still confusion between the technical assistance provided by the State coordinator and contractor, NYSTEACHS, and other offices at the SEA concerning the immediate enrollment of students whose families are doubled-up when they have initiated an enrollment dispute.

Citation: Section 722(g)(1)(C) of Subtitle B, Title VII of the McKinney-Vento Homeless Assistance Act (Education for Homeless Children and Youths) requires that SEAs have procedures for the prompt resolution of disputes and a process to direct LEAs on how to resolve enrollment disputes consistent with LEA requirements stated in section 722(g)(3)(E). Section 722 (g)(3)(E) further stipulates that if a dispute arises over school selection or enrollment in a school, the child or youth shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute, and transported if requested by the parent, guardian or homeless unaccompanied youth. In addition, section 722(g)(3)(E) (iii) requires the child, youth, parent, or guardian be referred to the LEA liaison to carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible.

Further action required: Whereas this is a recurring finding from the 2009 review, ED requires the NYSED to investigate the SEA-level disputes that have occurred since the 2008-2009 school year and the number of disputants who were not immediately enrolled in the LEA in which they initiated the dispute, the number who were not provided transportation for the duration of the dispute, and the number who were denied enrollment in the LEA as an outcome of the dispute resolution process. If any of these points of investigation involve non-compliant procedures or outcomes that are disproportionately unfavorable to the disputants, the NYSED must revise its dispute resolution policy and guidance to all LEAs informing them of steps it will take to ensure compliance and equitable outcomes for students who report that they are experiencing homelessness and submit these revised policies and guidance documents to ED. The NYSED must also submit to ED the number of disputants who were not immediately enrolled in the LEA in which they initiated the dispute, the number who were not provided transportation for the duration of the dispute, and the number who were denied enrollment in the LEA as an outcome of the dispute resolution process.