

Colorado Department of Education

May 9-12, 2005

Scope of Review: A team from the U.S. Department of Education's (ED) Office of English Language Acquisition, Formula Grant Division reviewed the Colorado Department of Education (CDE) the week of May 9-12, 2005. This was a comprehensive review of CDE's administration of the following program authorized by the No Child Left Behind Act (NCLB): Title III, Part A.

In conducting this comprehensive review, the ED team carried out a number of major activities. In its review of the Title III, Part A program, the ED team analyzed evidence of implementation of the State accountability system, reviewed the effectiveness of the language instruction educational programs and professional development processes established by the State to benefit local educational agencies (LEAs) as well as district level professional development implementation, and reviewed compliance with fiscal and administrative oversight activities required of the State educational agency (SEA). During the onsite review, the ED team visited two districts – the Denver Public School District and the Aurora Public School District. In each of the school districts, the ED team interviewed administrative staff and teaching staff from the schools and the districts. The ED team also conducted a meeting with parents in the Denver Public School District.

Colorado Department of Education participants: Roscoe Davidson – Deputy Commissioner, CDE,
Frank Dávila – Director, English Language Acquisition Unit (ELAU),
Valencia Lopez – Senior Consultant, ELAU
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Bernie Martinez – Director Migrant Education Program, CDE
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U.S. Department of Education, Office of English Language Acquisition participants:
Elizabeth Judd, Education Program Specialist, Program Officer, Colorado
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Previous Monitoring Findings: This is the first on-site monitoring activity for Title III programs.

Summary of Title III, Part A Monitoring Indicators

Monitoring Area 1, Title III, Part A: Accountability			
Indicator Number	Critical element	Status	Page
Indicator 1.1	State Submissions: Follow-up on areas identified through desk audit and document reviews	Finding Further action required	5-6
Indicator 1.2	State Level Activities: Using State level activity funds, the State carries out one or more activities that may include: <ul style="list-style-type: none"> • Professional development • Planning, evaluation, administration and interagency coordination • Promote parental and community participation • Provide recognition 	Findings Further action required	6-9
Indicator 1.3	Required Subgrantee Activities: The LEA/Subgrantee is responsible for increasing the English proficiency of LEP students by providing high quality language instructional programs and providing high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instructional programs), principals, administrators, and other school or CBO personnel	Findings Further action required	6-9
Indicator 1.4	Authorized Subgrantee Activities: The LEA may use the funds by undertaking one or more authorized activities	No Findings at this time	
Indicator 1.5	Activities by Agencies experiencing substantial increases in immigrant children and youth: The subgrantee receiving funds under section 3114 (d) (1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth	No Findings at this time	
Indicator 1.6	SEA review of Local Plans: The SEA ensures that its Districts comply with the provision for submitting an annual application to the SEA	Findings Further action required	9
Indicator 1.7	Monitoring: The SEA conducts monitoring of its subgrantees that is sufficient to ensure compliance with Title III program requirements	Findings Further action required	10-11

Monitoring Area 2, Title III, Part A: Standards, Assessments, Data Collection

Indicator Number	Critical element	Status	Page
Indicator 2.1	English language proficiency standards: State English language proficiency standards have been developed, adopted, disseminated, and implemented	Findings Further action required	12
Indicator 2.2	ELP Assessments: ELP assessments have been administered to all LEP students in the State in grades K-12. Accountability through data collection has been implemented	Recommendation	13
Indicator 2.3	New English language proficiency Assessment: Transition to new ELP assessment or revising the current State ELP assessment	No Findings at this time	
Indicator 2.4	Data Collection: The State established and implemented clear criteria for the administration, scoring, analysis, and reporting components of its ELP assessments, and the State does have a system for monitoring and improving the on-going quality of its assessment systems	Commendation	13
Indicator 2.5	Annual Measurable Achievement Objectives: (AMAOs) AMAOs have been developed and AMAO determinations have been made for Title III-served Districts	Findings Further action required	13-14

Monitoring Area 3, Title III, Part A: Fiduciary Responsibilities			
Element Number	Description	Status	Page
Indicator 3.1	Audits: The SEA ensures that its LEA/Subgrantees are audited annually in accordance with the Single Audit Act, and that all corrective actions required through this process are fully implemented	No Findings at this time	
Indicator 3.2	<p>Allocations and Reallocations: The SEA complies with—</p> <ul style="list-style-type: none"> • The procedures for Title III allocations outlined in Sec. 3114. • The procedures for allocating funds for immigrant children and youth programs as outlined in Sec. 3114(d). <p>The reallocation provisions in Sec. 3114(c)</p>	No Findings at this time	
Indicator 3.3	<p>Reservation of funds: The SEA has a system in place that enables it to account for:</p> <ol style="list-style-type: none"> (1) funds reserved for State administration (2) funds reserved to provide technical assistance and other state level activities (3) the reservation of funds for immigrant activities, and (4) funds that become available for reallocation 	No Findings at this time	
Indicator 3.4	Supplement Not Supplant: The SEA ensures that Title III funds are used only to supplement or increase non-Federal sources used for the education of participating children and not to supplant funds from non-Federal sources	Findings Further action required	15
Indicator 3.5	Equipment and Real Property: The SEA ensures that equipment is procured at a cost that is recognized as ordinary and the equipment is necessary for the performance of the Federal award. Title III funds cannot be used to acquire real property.	No Findings at this time	

Title III, Part A
Monitoring Area: Accountability

Indicator 1.1 State Submissions: Follow-up on areas identified through desk audit and document reviews

Finding (1): The State did not provide evidence of the scientific research basis or effectiveness of professional development used in the participating districts. Reference the biennial report submission (evidence was not submitted during the on-site monitoring visit at the SEA or LEA levels).

Citation:

Section 3115(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligible entity receiving funds under section 3114(a) shall use the funds—

“(2) to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is—

(C) based on scientifically based research demonstrating the effectiveness of the professional development in increasing children’s English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers;

Further action required: The State must provide evidence of the scientific research basis and effectiveness of professional development programs used in Title III participating districts in the State. Please review “acceptable evidence” in the monitoring instrument page 1 of 17 and page 13 of 17.

Recommendation: The State could include a section in the monitoring review that will provide evidence of professional development programs’ effectiveness for reporting purposes in the biennial evaluation report.

Finding (2): The State did not provide evidence that the language instruction educational programs currently being used in the State meet the scientifically research based criteria or that they are proven to be effective in improving the English language proficiency of LEP students. Reference the biennial report submission (evidence was not submitted during the on-site monitoring visit at the SEA or LEA levels).

Citation: *Section 3115 (a) PURPOSES OF SUBGRANTS.*—A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children, by assisting the children to learn English and meet challenging State academic content and student academic achievement standards. In carrying out activities with such funds, the entity shall use approaches and methodologies based on scientifically based research on teaching limited English proficient children and immigrant children and youth

Section 3115(c)(1) Subgrants to Eligible Entities —[are] to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing—

“(A) English proficiency; and

“(B) student academic achievement in the core academic subjects

Further action required: CDE should provide evidence of scientifically research based language instruction educational programs currently being used in Title III-served LEAs in the State and how they are proven to be effective in improving the English proficiency of LEP students. An example of what could be presented could take the form of a synopsis of the research with the program title and the districts in which these programs have been implemented with student performance data demonstrating improvement over time after the implementation of such programs. Include the fiscal year the program was implemented in the district to provide a reference for reviewing the performance data. The State could at a minimum provide the correlation between language instruction educational programs and those subgrantees that have met the Title III annual measurable achievement objectives. Please review “acceptable evidence” in the monitoring instrument page 1 of 17 and page 13 of 17.

Indicator 1.2 - State Level Activities & 1.3 –Required Subgrantee Activities

Finding (1): The State reported that not many Title III-funded districts are taking advantage of the professional development training offered by the State. Most districts have in place a local professional development training that they offer to their teachers. The Department found that the districts reviewed do not have a written plan on file for the participants in their professional development programs.

Citation: Section 3115(c) of NCLB Title III requires each eligible entity to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is designed to improve the instruction and the assessment of limited English proficient students.

Further action required: CDE should describe how the State ensures that the professional development plans submitted in the subgrantee consolidated application meet the Title III requirements for professional development and that these plans are on file for review at each participating district. These plans should contain information regarding the number and type (regular classroom teachers, ESL/BLE teachers, Administrators etc.) of participants, description of how the program is designed to improve instruction and assessment of limited English proficient children; designed to enhance the ability of such teachers to understand and use curricula, assessment

measures, and instruction strategies for limited English proficient children; based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

Finding (2): The CDE should provide greater guidance to subgrantees on how districts are to ensure that teachers who work in language instruction educational programs meet the Title III English fluency criteria and fluency in any other language of instruction criteria. This element should be included in the CDE's monitoring of LEAs for compliance under Title III.

Citation: *Section 3116(c) Teacher English Fluency* —Each eligible entity receiving a subgrant under section 3114 shall include in its plan a certification that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

Further action required: CDE should submit a plan and time line of how it will ensure participating Title III districts are meeting the teacher language fluency requirement. In response to this item, specify the most common process used by subgrantees to determine English fluency (in the forms of oral and written communication) such as a test (e.g. specify name and type of test, or if an interview process, or what other means used; having successfully achieved licensure or completed coursework at a university is insufficient unless some specific measure has been applied through these processes and there is documented results that can be applied for the record of the subgrantee).

Finding (3): Evidence of coordination between Title III and Title II on professional development is not formalized. If formalized, it could better inform the State as to the needs of the field and if there is a duplication of effort. The state agreed in its assurances through the consolidated state application to comply with this assurance as cited in section that follows.

Citation: *Section. 3113(b)(4) State and Specially Qualified Agency Plans* —Describe how the agency will coordinate its programs and activities under this subpart with its other programs and activities under this Act and other Acts, as appropriate;

Further action required: CDE should provide the Department a synopsis and time line of how it will address professional development coordination between Title III and Title II.

Finding (3): The State has not sufficiently ensured that subgrantees comply with the Title III parental notification requirements for both identification purposes and notification of failure to meet the Title III annual measurable achievement objectives. When notification samples were reviewed the Department found these samples to not be the same in required detail concerning reason for identification and need for placement in a language instruction educational program; English proficiency and academic achievement status; methods of instruction and how one will differ from others (if there are multiple programs) or how it will improve the student's English proficiency; how the program or methods used will meet the student's needs in meet age appropriate academic achievement standards for grade promotion and graduation; the expected rate of graduation, the exit requirements and transition rate and parental rights. Only one district met the notification of identification criteria.

In the two districts visited there was no notification example offered for notifying parents that the district failed to meet all of the Title III annual measurable achievement objectives.

Citation: *Section 3302(a)(1-8) Parental Notification* —Each eligible entity using funds provided under this title to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program

Section 3302(b) Parental Notification, Separate Notification —In addition to providing the information required to be provided under subsection (a), each eligible entity that is using funds provided under this title to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

Further action required: CDE should provide the Department a plan and timeline of how it will address the following:

- Parental notification for failure of the LEA to meet Title III annual measurable achievement objectives (specifically provide the Department the timelines State to LEA, LEA to parents)
- Parental notification for identification should be complete and include all the required elements cited in *Section 3302 (a)(1-8)* (provide a synopsis of a plan) for

all participating districts (specifically provide the Department the means used by the State to ensure uniformity in this notification that meets are cited requirements).

Recommendation: The CDE indicated that their eight regional offices provide technical assistance in the implementation of Title III requirements, however the CDE does not evaluate or monitor the technical assistance provided to districts in the serviced regions. It can be concluded that the State may be uninformed as to how effective the regional offices are in providing technical assistance to districts specifically in the areas of parental notification per Section 3302. Technical assistance is the State's responsibility, and the State should ensure that the regional offices that speak with the State's authority are providing the correct information and guidance in all areas and specifically in parental notification. The State should in the coming year document its evaluation of the effectiveness of the technical assistance and guidance provided by regional office representatives in the field. This will be informative for the State and can be helpful when monitoring subgrantees that are served by these regional offices.

Indicator 1.6 – SEA Review of Local Plan

Finding (1): Through this review it was determined that some statutory requirements (using funds for both language instruction educational programs **and** professional development) were not met by subgrantees due to a lack of familiarity with the two primary Federal requirements for subgrantees and a lack clear guidance from the State prior to the review of the subgrantees' application.

Citation: *Section 3114(2)(C)* of NCLB-Title III requires eligible entities desiring a subgrant to submit a plan to the SEA for its approval.

EDGAR 34CFR 76.400(b)(2) State procedures for reviewing an application—The applicant meets the requirements of the Federal statutes and regulations that apply to the program.

EDGAR 34 CFR 76.770 A state shall have procedure to ensure compliance. – Each State shall have procedures for reviewing and approving applications for subgrants and amendments to those applications, for providing technical assistance, for evaluating projects and for performing other administrative responsibilities the State has determined are necessary to ensure compliance with applicable statues and regulations.

Further action required: The State must provide information on how the State will resolve the issues regarding technical assistance to subgrantees ensuring that the applications meet all of the Title III requirements for funding (that all applicants meet all the requirements for eligibility by providing how funds will be used to provide language instruction educational program(s) and professional development which is proven to be effective and scientifically research based as required under Section 3115. A specific issue arose during the on-site visit when it was determined that a district used all of its

Title III funds for teacher salaries and benefits which was inappropriate use of funds under the conditions cited).

Recommendation: CDE should ensure that districts have guidance and sufficient technical assistance to understand and ensure that districts' local plans are in compliance with Title III. CDE should ensure local plans are reviewed and feedback (informing the subgrantee of any deficiencies in the application) is provided in a timely manner to districts to ensure that prior to approval, the LEA meets all requirements under Title III and to ensure compliance which would include the language instruction educational programs and professional development programs are scientifically research based and proven to be effective and that fiduciary responsibilities are met within the proposal (e.g. all Title III funds are not solely used for salaries and benefits).

Indicator 1.7 – Monitoring

Finding (1): CDE shared a draft-monitoring instrument that will be in effect for the school year 2005-2006. It was stated that the priorities would be in the areas of professional development, scientifically based research programs and parental notification requirements. Once the instrument is finalized, it will be distributed to the Districts. The draft reviewed lacks many specific Title III requirements, for example, in the areas of compliance with AMAOs, fiduciary responsibilities and parental notification (not parental involvement).

Citation: *Section 3122(b)(1)* Achievement objectives and accountability (b) Accountability—(1) For States—Each State educational agency receiving a grant under subpart 1 shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a), including making adequate yearly progress for limited English proficient children.

EDGAR 34 CFR 76.770 A state shall have procedures to ensure compliance.

EDGAR 34 CFR 80.40(a) Monitoring by grantees.

Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to ensure compliance and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

Further action required: Please provide a copy of the finalized monitoring plan to be distributed to the districts/regional offices and provide a proposed timeline for monitoring. Also provide a description of the guidance provided the districts/regional offices in order for the districts/regional offices to have the necessary documentation and evidence required for purposes of monitoring. Currently the monitoring instrument is worded in very broad, vague language.

Recommendation: CDE should review the current draft-monitoring plan prior to finalizing to ensure that they have included all statutory requirements under Title III.

Finding (2): The State relies heavily on regional offices to act as the fiscal agent for some consortia and the State has not provided evidence that the State has ensured the fiscal agents' timeliness in allocating funds to the consortia members for implementing language instruction educational programs and professional development in order to meet Title III requirements.

Citation: *EDGAR 34 CFR 76.770* A state shall have procedure to ensure compliance, *34 CFR 80.40* Monitoring and Reporting Program Performance
Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to ensure compliance and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

Further action required: Please provide the Department with an overview of how the State will monitor the fiscal agents for consortia describing how allocation of funds meet the needs of the consortia members in a timely manner that ensure implementation of Title III requirements.

Title III, Part A
Monitoring Area: Standards, Assessments, Data Collection

Indicator 2.1 – English Language Proficiency Standards

Finding (1): The State provided no evidence of approval/adoption (recognized as part of the establishment of standards) by the State of the English language proficiency standards during the on-site visit or in the consolidated state annual performance report. This information has been requested of all eligible entities through the annual performance report, item VI-A.

Citation: *Section 3113(b)(2)* —Each state educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary [that] describe[s] how the agency will establish **standards** and objectives for raising the level of English proficiency that are derived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in Section 1111(b)(1)

Further action required: CDE should provide evidence of State English language proficiency standards having been approved/adopted for implementation.

Finding (2): The State provided a copy of the English language proficiency standards and in reviewing the standards it is unclear how these standards are linked/aligned to the academic content standards.

Citation: *Section 3113(b)(2)* —Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary [that] describe[s] how the agency will establish standards and objectives for raising the level of English proficiency that are derived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards...

Further action required: The State should provide evidence of how the English language proficiency standards and the academic content standards are linked/aligned. Provide evidence of this linking/alignment covering (at a minimum) grades tested (3, 5, 8, once in high school [note the grade for high school in the demonstration] for content achievement is requested.

Indicator 2.2 – English Language Proficiency Assessment

Recommendation: The State is participating in a consortia to develop an aligned English language proficiency assessment (CELA) to be used in the spring of 2006. The State is having the publisher validate the data for annual measurable achievement objectives reporting. The State should consider having an internal evaluation for the test results and consider requesting the publisher demonstrate validity and certification of the data provided. When available, the State should also share a copy or summary of the alignment study done for this instrument with the Department. There should be an indication of the degree of alignment between the State standards and the measurement tool.

Indicator 2.4 – Data Collection

Commendation: The State data collection system is being improved to include information regarding students tested for English language proficiency purposes through the instrument itself and the personal identifier. The intent is to help the State better report on students who have exited language instruction educational programs and are in monitoring status for two consecutive years.

Indicator 2.5 – Annual Measurable Achievement Objectives

Finding (1): The State reported that there are 32 school districts that did not meet the Title III annual measurable achievement objectives however they have not notified these districts. Although the State does have an interagency 60-day notification requirement, it has not provided the Department information regarding the process to make the annual measurable achievement objective determinations or when they will meet the notification of subgrantees requirements as requested in the monitoring instrument.

Citation: *Section 3302 (b) Separate notification* —In addition to providing the information required to be provided under subsection (a), each eligible entity that is using funds provided under this title to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

Further action required: Although the State reported identifying 32 districts not meeting the Title III annual measurable achievement objectives, during the review, the State did not provide evidence of the process the State used to determine which subgrantees met the annual measurable achievement objectives for Title III. The State must provide the Department a description of the annual measurable achievement objectives determination process; describe the steps it will take specifying how the districts will be notified of their failure to meet the Title III annual measurable

achievement objectives for 2004-05; explain when the State will provide this notification to these districts (specified timeline and evidence of the notification being sent to the districts), and describe how it will ensure that the districts meet the timeline specified in Section 3302(b) to notify parents of participating students in their language instruction educational programs (some evidence of the districts notifying the parents), upon being notified by the State.

Title III, Part A
Monitoring Area: Fiduciary Responsibilities

Indicator 3.4 – Supplement not Supplant

Finding (2): In reviewing the subgrantee budgets it was clear that the State has not applied or interpreted correctly “supplement not supplant” criteria in approving district budgets through the subgrantee application process. An example of this was demonstrated during the Department visit of a district. When evidence was reviewed it was noted that the majority (90%+) of the Title III funds were used exclusively for teacher salaries and benefits, the majority of these teachers were tenured prior to the implementation of Title III and were doing similar work.

Citation: *Section 3115(g)* Supplement not supplant—Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

Further action required: CDE should implement a monitoring process to review implementation and fiscal requirements with participating districts. Please provide the Department with an overview of how the State will accomplish this and ensure that Title III funds are used at the subgrantee level for supplementing State and local funds.