

# Kentucky Consolidated Performance Review Report FY 2020

*Final Report –  
January 29, 2021*

**Commendations**  
**1**

**Met Requirements**  
**26**

**Recommendations**  
**9**

**Action Required**  
**11**



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Office of Elementary and Secondary Education  
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Washington, DC 20202

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## GENERAL INFORMATION

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### OVERVIEW OF THE CONSOLIDATED PERFORMANCE REVIEW

The Office of Elementary and Secondary Education (OESE) established the consolidated performance review process to conduct oversight of and provide assistance to State educational agencies (SEAs) as they administer K-12 formula grant programs. The goals of the consolidated performance review process are to conduct a review of key programs through a single, streamlined process that results in improved and strengthened partnerships between the Department and States, and encourages States to develop and effectively implement integrated and coherent consolidated State plans. To accomplish these goals, the consolidated performance review process is organized into cross-cutting sections that review fiscal and programmatic requirements across OESE programs, and program-specific sections, that consider how the SEA implements specific programs.

This Consolidated Performance Review Report summarizes the findings from the review of the Kentucky Department of Education (KDE) that occurred on August 17-21, 2020. The review covered<sup>1</sup>:

- Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), Improving Basic Programs Operated by Local Educational Agencies (LEAs);
- Title I, Part B of the ESEA, State Assessment Grants;
- Title I, Part C of the ESEA, Education of Migratory Children;
- Title II, Part A of the ESEA, Effective Instruction State Grants;
- Title III, Part A of the ESEA, the State Formula Grant Program for English Language Acquisition and Language Enhancement;
- Title IV, Part B of the ESEA, Nita M. Lowey 21st Century Community Learning Centers; and,
- Title V, Part B, Subpart 2 of the ESEA, Rural and Low-Income Schools.

Additionally, OESE piloted monitoring questions related to KDE's administration of CARES Act funds, including Elementary and Secondary School Emergency Relief (ESSER) funds and Governor's Emergency Education Relief (GEER) funds. As a pilot, OESE will not provide KDE ratings through this report. However, OESE will use the information KDE provided to continue to support KDE in the implementation of the ESSER and GEER grants. The information KDE provided regarding initial implementation of CARES Act funds helped further inform OESE's efforts to support SEAs and other entities in administering CARES Act funds. OESE appreciates KDE's ongoing collaboration with implementing the CARES Act funds.

The report is based on information provided through the review process and other relevant qualitative and quantitative data. The primary goal of this review was to ensure that implementation of the programs is consistent with the fiscal, administrative, and program requirements contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance: 2 Code of Federal Regulations (C.F.R.) Part 200), the Education Department General Administrative Requirements (EDGAR), and the ESEA. The review addressed the

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<sup>1</sup> OESE reviewed KDE's process for including Title I, Part D of the ESEA, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk, and Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act in the financial management and cross-cutting domain, and in KDE's subrecipient risk assessment and monitoring processes, but OESE did not review these programs for compliance with program-specific requirements.

administration of fiscal and programmatic components through two domains: (1) financial management and cross-cutting requirements and (2) program-specific requirements.

### **NAVIGATING THE CONSOLIDATED PERFORMANCE REVIEW REPORT**

This report contains five sections. Section I contains a snapshot of information pertinent to the grant activities for the respective State. Section II is a summary of the State's performance on each indicator reviewed for each covered program. For each indicator, the Department assigns one of four ratings. "Met requirements with commendation" represents high-quality implementation where the grantee is exceeding expectations; "met requirements" indicates that no instances of noncompliance were identified; "met requirements with recommendations" indicates there are quality implementation concerns and some improvements could be made to ensure the grantee continues to meet expectations; and "action required" indicates there are significant compliance or quality concerns that require urgent attention by the SEA and will be revisited until the State has remedied the issue.

Section III highlights the areas where the State has exceeded requirements and is commended on the grant administration and fiscal management (*i.e.*, those areas categorized as "met requirements with commendation").

Section IV identifies those areas where the Department has significant compliance and quality concerns and for which corrective action is required. For those issues, the report outlines the current practice, the nature of noncompliance, and the required action.

Section V identifies those areas where the Department has quality implementation concerns related to grant administration and fiscal management (*i.e.*, those areas categorized as quality concerns, "met requirements with recommendations"). In these instances, the Department is determining that the State is currently complying with requirements but that improvements could be made to improve the efficiency or effectiveness of operations. Identified issues are grouped according to relevant area and requirement, with citations provided. For each issue listed, the Department will provide a recommendation for improvement but is not requiring the State to take any further action.

## Overview of Visit



### COVERED GRANT PROGRAMS OF THIS REVIEW

Title I, Part A; Title I, Part B; Title I, Part C; Title II, Part A; Title III, Part A; Title IV, Part B; Title V, Part B, Subpart 2



### FEDERAL FUNDING<sup>2</sup>

Title I, Part A	\$272,172,533
Title I, Part B	\$5,836,233
Title I, Part C	\$8,114,592
Title II, Part A	\$32,703,532
Title III, Part A	\$4,449,412
Title IV, Part B	\$17,405,012
Title V, Part B, Subpart 2	\$5,436,053

### Dates of Review

SEA: August 17, 2020 – August 21, 2020; Subrecipients: August 21 & 24-26, 2020 & September 2-3 & 9, 2020.

### ED Reviewers

Fatimah Abdullahi (Office of School Support and Accountability)  
 Dan Behrend (Management Support Office)  
 Brenda Calderon (Office of School Support and Accountability)  
 Adyel Duran (Office of School Support and Accountability)  
 Jessenia Guerra (Office of Migrant Education)  
 Fariba Hamedani (Office of School Support and Accountability)  
 Alice Kinney (Rural Education Achievement Program)  
 Debra Little (Office of School Support and Accountability)  
 Miriam Lund (Office of School Support and Accountability)  
 John McLaughlin (Office of School Support and Accountability)  
 Michael Meltzer (Office of Migrant Education)  
 Patricia Meyertholen (Office of Migrant Education)  
 Shane Morrissey (Management Support Office)  
 Leslie Poynter (Rural Education Achievement Program)  
 Scott Richardson (Office of School Support and Accountability)  
 Collette Roney (Office of School Support and Accountability)  
 Victoria Rosenboom (Office of School Support and Accountability)  
 Eric Schulz (Rural Education Achievement Program)  
 Melissa Siry (Office of School Support and Achievement)

<sup>2</sup> FY 2020 funds included above (<https://www2.ed.gov/about/overview/budget/statetables/index.html>) are from OESE administered programs that allocate funds to States using a statutory formula. The totals do not reflect all Department funds that flow to a State. States and other entities may also receive funds from grants that are awarded on a competitive basis.

## Subrecipients Participating in the Desk Review

Boys and Girls Club – KYANA  
 Family and Children’s Place  
 Jefferson County Public Schools  
 Montgomery County Public Schools  
 Pulaski County Schools  
 Shelby County Public Schools  
 Western Region – Kentucky Migrant Regional Service Center

## Current Grant Conditions

Title I, Part A:	KDE must demonstrate that its standards and assessment system meets all requirements in the ESEA <sup>3</sup> . KDE must demonstrate that its English language proficiency (ELP) standards and assessments meet all requirements in the ESEA <sup>4</sup> .
Title I, Part C:	None
Title II, Part A:	None
Title III, Part A:	None
Title IV, Part B:	None
Title V, Part B, Subpart 2:	None

<sup>3</sup> This condition is available at: <https://oese.ed.gov/files/2020/04/Kentucky-8.pdf>

<sup>4</sup> This condition is available at: <https://oese.ed.gov/files/2020/04/Kentucky.pdf>

## SECTION II

# Summary Status of Fiscal & Program Monitoring Indicators

### STATUS KEY



**Met requirements with commendation**

High quality implementation & compliance



**Met requirements**

No instances of noncompliance identified



**Met requirements with recommendation**

Satisfactory compliance with quality concerns



**Action required**

Significant compliance & quality concerns

### FINANCIAL MANAGEMENT & CROSS-CUTTING














Topic	Status
Accounting Systems and Fiscal Controls	● ● ○ ○
Cash Management and Payment Systems	● ● ● ○
Period of Availability and Carryover	● ● ● ○
Internal Controls	● ○ ○ ○
Audit Requirements	● ● ● ○
Records and Information Management	● ● ● ○
Equipment and Supplies Management	● ● ● ○
Personnel	● ● ● ○
Procurement	● ○ ○ ○
Indirect Costs	● ● ● ○
Charter School Authorization and Oversight	● ● ● ○

### CROSS-CUTTING FINANCIAL AND PROGRAMMATIC






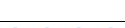


Topic	Status
Allocations	● ○ ○ ○
Local Applications and Plans	● ○ ○ ○
Risk Assessment (External)	● ● ● ○
Subrecipient Monitoring	● ● ● ○
Supplement, Not Supplant (SNS)	● ● ● ○
Maintenance of Effort (MOE)	● ● ● ○
Comparability	● ● ● ●
Equitable Services	● ○ ○ ○

Data Quality	
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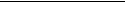
### TITLE I, PART A & TITLE I, PART B

Topic	Status
State Assessment Requirements	
Statewide Accountability System	
Identification of Schools	
Support for School Improvement	
1003 School Improvement	
State and Local Report Cards	
Schoolwide Programs	
Targeted Assistance Programs	
Parent and Family Engagement	
Direct Student Services	
Optional Public School Transfer	
Educational Stability for Students in Foster Care	
Other Title I Requirements	

### TITLE I, PART C

Topic	Status
State Context	
Identification and Recruitment	
Parental Involvement	
Provision of Services	
Program Evaluation	
Data Quality	
Transfer of Student Records: General	
Use of Migrant Student Information Exchange (MSIX)	

### TITLE II, PART A

Topic	Status
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders	

### TITLE III, PART A

Topic	Status
Language Instruction for English Learners and Immigrant Students	

**TITLE IV, PART B**

Topic	Status
Award Competition: SEA complies with the legislative requirements to award subgrants to eligible entities on a competitive basis	● ● ● ○
SEA uses Standards, Assessments, Monitoring and Evaluation to Hold Subgrantees Accountable	● ● ○ ○
SEA Complies with the Allocation Requirements for State Administration and Technical Assistance	● ● ● ○

**TITLE V, PART B, SUBPART 2**

Topic	Status
Goals and Objectives	● ● ○ ○

# Met Requirements with Commendation

## Cross-Cutting Financial & Programmatic

### COMPARABILITY

### REQUIREMENT SUMMARY

The SEA may only provide Title I, Part A funds to an LEA if State and local funds will be used in schools served by Title I funds to provide services that, on the whole, are at least comparable to services in schools that are not receiving Title I funds.

ESEA § 1118(c)

### COMMENDATION

The Department commends KDE for its excellent work to ensure that LEAs accurately assess comparability annually in November. KDE provides a user-friendly spreadsheet to LEAs for demonstrating comparability. This spreadsheet includes features (*i.e.*, macros) that automatically generate the necessary tabs for each LEA based on the information entered in the initial tab. If an LEA provides information in the initial tab that demonstrates it is not required to make comparability determinations (*e.g.*, single-school LEA, one school in each grade span in the LEA), then no additional tabs are generated and the LEA has completed all the necessary information for this report. If an LEA provides information in the initial tab that demonstrates that it is required to make comparability determinations, then a feature generates additional tabs based on the grade spans and size groupings (*i.e.*, large schools that are twice the size of small schools in the grade span are separated) of schools as entered by the LEA. The LEA then provides the necessary information (*i.e.*, school names, grade span, student enrollment, and full-time equivalency staff) for each school in the newly generated tabs and comparability is automatically computed. KDE has developed clear and partially automated procedures in the spreadsheet that reduce the likelihood of error on the LEA's part when entering in the necessary information.

Additionally, KDE provides ample, clear instructions to all LEAs on its website<sup>5</sup> as well as a training video on how to complete and return the completed report. KDE staff reviews these reports using the checklist provided on its website and demonstrated that it works with LEAs to correct any issues that arise. KDE demonstrated that zero LEAs in the last three years have failed to meet the comparability requirements.

<sup>5</sup> <https://education.ky.gov/federal/progs/tia/Pages/Title%20I%20Part%20A%20Documents%20and%20Resources.aspx>

## Action Required

### Financial Management & Cross-Cutting

#### INTERNAL CONTROLS

#### REQUIREMENT SUMMARY

Description: An SEA and its LEAs must establish and maintain a system of effective internal controls over Federal awards that provides reasonable assurance that the SEA is managing Federal awards in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards. These internal controls should be in accordance with guidance stated in the "Standards of Internal Control in the Federal Government" (GAO Green Book) or the "Internal Controls Integrated Framework" (Treadway Commission).

Uniform Guidance 2 C.F.R. § 200.303

#### ISSUE

Under 2 C.F.R. § 200.303, an SEA must establish and maintain effective internal control over a Federal award that provides reasonable assurance that the SEA is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award (2 C.F.R. § 200.303(a)). An SEA's internal controls should be in compliance with guidance contained in the "Standards for Internal Control in the Federal Government" (GAO Green Book) or the "Internal Control Integrated Framework" (Treadway Commission/COSO). Important elements of sufficient internal controls under both of these frameworks are an internal risk identification and assessment process, and a process for monitoring the operation of an organization's internal controls.

KDE is in the process of developing an internal risk assessment and internal controls plan aligned with the framework outlined in the GAO Greenbook.

In advance of the desk review, KDE provided examples of the policies and procedures it implemented to establish effective internal control over Federal awards, including a February 2020 Commonwealth of Kentucky Employee Handbook and explanation of the segregation of duties for KDE's Purchase Requisition Process. Following the desk review, KDE provided a table that organized policies and procedures from KDE and the State of Kentucky to align with the components and principles discussed in the GAO Green Book. The table generated by KDE demonstrates that KDE has a number of existing policies and procedures in place to implement internal control. However, the compilation also demonstrates that KDE's policies and procedures are decentralized, and KDE should continue to work to design, implement, and operate the components of its internal control to operate together in an integrated manner. For example, while KDE identified consolidated monitoring and its continuous

improvement process for school improvement as monitoring activities to monitor the internal control system and evaluate the results, those processes focus on monitoring of subrecipients, and identify a possible gap in KDE's internal monitoring and evaluation of its own internal control system.

The five components of internal control (*i.e.*, control environment, risk assessment, control activities, information and communication, and monitoring) must be effectively designed, implemented, and operating, and operating together in an integrated manner, for an internal control system to be effective (*see e.g.*, *GAO Green Book*, pages 7, 15). If a principle or component is not effective, or the components are not operating together in an integrated manner, then an internal control system cannot be effective (pages 15, 17). Without designing, implementing, operating, and operating in an integrated manner, KDE's internal control may not be effective. While KDE provided specific policies and procedures demonstrating that it established a system of internal controls over Federal awards that provides reasonable assurance that the SEA is managing Federal awards in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards, KDE had not compiled those policies and procedures to organize and evaluate its internal controls from a systemic level, and therefore was not fully in compliance with 2 C.F.R. § 200.303.

Additionally, KDE provided evidence that it has been in the process of developing an internal risk assessment for offices overseeing its OESE programs. However, that risk assessment had not been fully implemented by the time of the OESE consolidated performance review. Without a formal risk assessment process in place, there is a risk that KDE will be unable to sufficiently identify risks to agency operations, develop targeted strategies to mitigate identified risks, or make timely determinations regarding the ability of the controls that are already in place to protect against identified risk.

## **REQUIRED ACTION**

Within 60 business days of receiving this report, KDE must provide:

- (1) Documentation of a regular process (*e.g.*, quarterly, annually, biannually, etc.) for identifying internal risks. This documentation should include:
  - a. The types of risk that will be evaluated and the indicators to be used in the assessment;
  - b. The process for establishing risk tolerances for different categories or types of risk;
  - c. The process used to complete the risk assessment (including identification of responsible individuals); and
  - d. The process used to respond to identified risks affecting the operation or performance of the organization.
- (2) Documentation of KDE's internal controls framework; and
- (3) Documentation of a regular process (*e.g.*, quarterly, annually, biannually, etc.) for evaluating the performance and/or effectiveness of the agency's internal controls framework. This documentation should include a description of the process and its frequency, identify the staff responsible for performing such an evaluation, and include copies of any tools or checklists that will be used to accomplish the evaluations. While KDE cannot rely solely on external auditors to

complete evaluations of internal controls, the process developed can be complementary in scope to the work performed by the external entities.

Additionally, while OESE focused on its programs during the review, OESE recommends that KDE consider how to conduct a risk assessment that includes all KDE offices administering Federal programs.

## PROCUREMENT

## REQUIREMENT SUMMARY

An SEA shall ensure that all relevant State procurement procedures are followed when procuring goods and services using Federal funds. An SEA must also maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specification of their contracts.

Uniform Guidance 2 C.F.R. § 200.317, 2 C.F.R. § 200.323, 2 C.F.R. § 200.327

## ISSUE

Under 2 C.F.R. § 200.214 non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. The requirements in 2 C.F.R. part 180 include contracts awarded by recipients and subrecipients of Federal grants, where the amount of the contract is expected to equal or exceed \$25,000.

KDE provided a State policy (FAP 111-59-00: FEDERAL DEBARMENT), which requires that State agencies initiating a procurement of \$100,000 or more, any amount of which is federally funded, shall ensure that the successful vendor is not debarred from doing business with Federal agencies prior to awarding the contract. Due to the difference in the dollar threshold for review under 2 C.F.R. part 180 and FAP 111-59-00, it is possible that KDE and its subrecipients are not verifying whether vendors are suspended, debarred, or otherwise excluded from or ineligible for Federal programs prior to awarding contracts that would be considered covered transactions under 2 C.F.R. part 180.

Additionally, the subrecipients of Federal funds that pass through KDE must comply with the Uniform Guidance procurement standards (see 2 C.F.R. §§ 200.318-200.327). KDE, as a pass-through entity, must monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward (2 C.F.R. § 200.332(d)). During our review of subrecipient procurement procedures, we noted that not all subrecipients included all of the Uniform Guidance requirements in their written procedures. By way of example, some subrecipients did not include requirements related to reviewing for suspension and debarment (see 2 C.F.R. § 200.318(h)) or the requirement that the subrecipient's contracts must include applicable provisions in Appendix II to Part 200 (see 2 C.F.R. § 200.327).

**REQUIRED ACTION**

Within 60 business days of receiving this report, KDE must provide evidence that:

- (1) It has updated its internal procedures to accurately reflect the threshold established under 2 C.F.R. part 180 and provided guidance to subrecipients to ensure compliance with 2 C.F.R. § 200.214;
- (2) It has provided guidance to subrecipients of the need to comply with the requirements in 2 C.F.R. §§ 200.318-200.327 when using Federal funds in procurements, and the process KDE will use to ensure LEAs include the requirements in their procurement procedures; and
- (3) It has included questions in its monitoring protocols to ensure that LEAs include the requirements in 2 C.F.R. §§ 200.318-200.327 when using Federal funds in procurements.

# Cross-Cutting Financial & Programmatic

## ALLOCATIONS

## REQUIREMENT SUMMARY

SEAs shall ensure that, when subawarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for subawarding funds and the amounts to be subawarded to individual subrecipients).

ESEA §§ 1003, 1003A, 1004(a)(1), 1113, 1124, 1124A, 1125, 1125A, 1126(b), 1201, 1202, 1203, 2101, 2102, 3111, 3114, 3115, 5221(b)(3), 5222, 8201, 8203, 8305

Title I Regulations 34 C.F.R §§ 200.72-200.75 and § 200.100

EDGAR 34 C.F.R. §§ 76.50-51, § 76.300, and § 76.789

Uniform Guidance 2 C.F.R. § 200.332(a)

## ISSUE

Under Uniform Guidance 2 C.F.R. § 200.332(a), an SEA is required to ensure that every sub-award grant award notification (GAN) includes the following information at the time of the issuance of the subaward:

- (i) Subrecipient name (which must match the name associated with its unique entity identifier);
- (ii) Subrecipient's unique entity identifier;
- (iii) Federal award identification number (FAIN);
- (iv) Federal Award Date (see the definition of Federal award date in 2 C.F.R § 200.1) of award to the recipient by the Federal agency;
- (v) Subaward period of performance start and end date;
- (vi) Subaward budget period start and end date;
- (vii) Amount of Federal funds obligated through the award notice;
- (viii) Total amount of Federal funds obligated to the subrecipient by the SEA;
- (ix) Total amount of the Federal award committed to the subrecipient by the pass-through entity (*i.e.*, the SEA);
- (x) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
- (xi) Name of Federal awarding agency, pass-through entity (*i.e.*, the SEA), and contact information for awarding official of the SEA;
- (xii) Assistance Listings number (formerly known as Catalog of Federal Domestic Assistance (CFDA) number) and Title; the SEA must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;
- (xiii) Identification of whether the award is R&D; and

- (xiv) Indirect cost rate for the Federal award (including if the de minimis rate is charged) per 2 C.F.R. § 200.414.

KDE provided samples of its subrecipient grant award notices (GANs). The initial review of these documents found that, although the sample GANs included most of the information required under the Uniform Guidance, there were several missing items on Federal GANs. These items included

- Federal award date;
- Notice that the award originated from the Department;
- Identification of whether the award is research and development
- Indirect cost rate for the award; and
- Specific to Title IV, Part B: 21st Century Community Learning Center program, the total amount of Federal funds obligated to the sub-recipient including the current obligation.

However, subsequent the review but prior to the release of this report, KDE updated its GAN template to include all requirements. Therefore, no further action is required.

Additionally, under section 8203(b) of the ESEA, an SEA is required to, in collaboration with LEAs in the State, establish procedures for responding to requests from LEAs to consolidate administrative funds of ESEA programs and for establishing limitations on the amount of funds under those programs that may be used for administration on a consolidated basis. The SEA indicated that it does not have written procedures for responding to these requests specifically or for establishing limitations on the amount of funds that may be used for administration on a consolidated basis.

#### **REQUIRED ACTION**

Within 60 business days of receipt of this report, KDE must provide a plan and a timeline detailing how it will establish procedures for responding to requests from LEAs to consolidate administrative funds and establish limitations on the amount of funds that may be used for administration on a consolidated basis in accordance with ESEA section 8203(b).

## LOCAL APPLICATIONS AND PLANS

## REQUIREMENT SUMMARY

To receive a subgrant under any covered programs as defined in section 8101(11), an LEA must have on file with the SEA a local program plan or application for each program or a consolidated local plan or application. An SEA shall ensure that all LEAs engage in timely and meaningful consultation with required stakeholders regarding LEA plans. Certain LEAs must also consult with appropriate officials from Indian tribes or tribal organizations approved by the tribes located in the area served by the LEA.

ESEA §§ 1112, 1113, 2101, 2102, 3111, 3114, 3115, 8305, 8306, 8452, 8538

EDGAR 34 C.F.R. § 76.530

Uniform Guidance 2 C.F.R. §§ 200.403-408, 2 C.F.R. §§ 200.420-476

## ISSUE

Section 8306 of the ESEA requires an LEA applying for ESEA program funds through a consolidated local plan or application to provide specific assurances. While KDE collects from each LEA a set of assurances that includes most of the general assurances included in ESEA section 8306, KDE does not include an assurance that the LEA will administer the covered programs in accordance with all applicable statutes and regulations (ESEA section 8306(a)(1)).

## REQUIRED ACTION

Within 60 business days of receiving this report, KDE must submit a revised assurances template for collecting all required assurances in ESEA section 8306 as part of its next subaward grant cycle (i.e., for the 2021-2022 school year).

## EQUITABLE SERVICES

## REQUIREMENT SUMMARY

An SEA shall ensure that LEAs use Federal funds to provide benefits to eligible children enrolled in private schools and to ensure that teachers and families of participating private school children participate on an equitable basis.

ESEA §§ 1117, 8501

EDGAR 34 C.F.R. § 299.6, 34 C.F.R. § 299.9, 34 C.F.R. §§ 200.62-67, 34 C.F.R. § 76.661

## ISSUE

ESEA section 1117(a)(4) requires that expenditures for Title I educational services and other benefits to eligible private school children must be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools and that the LEA determine the Title I equitable services proportional share based on the LEA's total Title I allocation prior to any allowable expenditures or transfers by the LEA. KDE has not ensured that its LEAs fully comply with this requirement with respect to funds needed to administer equitable services.

An LEA must determine the amount of funds necessary for administering equitable services separately from the amount of funds needed for the administration of the Title I program for students in public schools. After an LEA has determined the proportional share of Title I funds to be used in the provision of equitable services consistent with ESEA section 1117, to pay for administering its Title I program for private school students with Title I funds, the LEA must reserve an amount from the Title I proportional share that is reasonable and necessary for the LEA's administration of equitable services (2 C.F.R. §§ 200.403(a) and 200.404).

The Jefferson County Public School's (JCPS's) Title I director spends a portion of time administering Title I equitable services. JCPS, however, paid the director's salary entirely from its reservation of funds for administering Title I in public schools rather than paying for the portion of the director's time spent on the administration of Title I equitable services from the equitable services proportional share. This means that JCPS inadvertently used funds designated to administer the Title I program for students in public schools to administer its program for private school students.

## REQUIRED ACTION

Within 60 business days of receipt of this report, KDE must provide to the Department:

- (1) Evidence that it has provided updated guidance to LEAs (e.g., an updated Equitable Services Consultation Packet) to ensure that LEAs discuss administrative costs during consultation with private school officials during the design and development of the LEA's Title I program for the 2021-2022 school year.
- (2) Consistent with the cost principles in 2 C.F.R. Part 200 referenced above, documentation that JCPS has discussed with private school officials the amount from the Title I equitable services proportional share that JCPS would have reserved to administer equitable services during the

2020-2021 school year if it had made this reservation correctly and evidence that JCPS intends to make a downward adjustment in that amount to the 2021-2022 school year Title I equitable services proportional share. For example, when Title I funds are used to administer equitable services, it would be consistent with 2 C.F.R. Part 200 for an LEA to charge the equitable services proportional share for administration at the same rate as the LEA charges its public school share for administration.

## Title I, Parts A and B

### STATE ASSESSMENT REQUIREMENTS

### REQUIREMENT SUMMARY

An SEA must administer required statewide assessments and report on participation and achievement for those assessments. An SEA must also use State Assessment Grant funds only for allowable uses of funds consistent with sections 1201(a)(1) and (a)(2).

ESEA § 1201(a), § 1111(b)(2)(B)

EDGAR 34 C.F.R. §§ 200.1-200.10

### ISSUES

KDE allows student exemptions from administrations of its statewide assessments administered for ESEA Title I purposes for “extraordinary circumstances” other than significant medical emergencies. Section 1111(b)(2)(B)(vii) of the ESEA requires that a State’s assessment system provide for the participation in such assessments of all students.

KDE reported statewide assessment participation rates for the 2018-2019 school year of less than 95 percent for English learners (94.3 percent in mathematics, 94.3 percent in reading/language arts, and 94.9 percent in science) and migratory students (93.0 percent in mathematics, 93.0 percent in reading/language arts, and 94.4 percent in science). During the review, KDE discussed certain steps it is taking to increase participation rates for these subgroups.

### REQUIRED ACTION

Within 60 days business days of receiving this report, KDE must submit evidence that, for its administration of statewide assessments for ESEA Title I purposes in the 2020-2021 school year and all future years, KDE will allow student exemptions from administrations of such assessments only for significant medical emergencies and not for “extraordinary circumstances,” consistent with ESEA section 1111(b)(2)(B)(vii). KDE must also submit evidence that it has communicated its new policy regarding exemptions to LEAs and schools.

### RECOMMENDATION

The Department recommends KDE continue to take steps to increase assessment participation rates for its English learner and migratory student subgroups.

## STATE AND LOCAL REPORT CARDS

### REQUIREMENT SUMMARY

An SEA and its LEAs are required to prepare and annually disseminate report cards that include all required elements to the public in a timely manner. In preparing and disseminating report cards, an SEA and its LEAs must also follow student subgroup disaggregation reporting requirements.

ESEA § 1003(i), § 1111(g)(2)(N), § 1111(h), §§ 8101 (23) and (25)

EDGAR 34 C.F.R. § 200.11

### ISSUE

ESEA section 1111(c)(3)(A)(iii) requires a State to describe a minimum number of students for purposes of any Title I, Part A requirement and ensure the minimum number is sufficient to not reveal any personally identifiable information. In addition, under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), educational agencies and institutions are generally prohibited from disclosing personally identifiable information (PII) from students' education records without prior written consent. FERPA's definition of personally identifiable information includes information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty (34 C.F.R. § 99.3). This means that a State must assess the level of disclosure risk for each proposed data release and evaluate that risk to ensure that the students' personally identifiable information is not disclosed. (See also A-10 in the Department's [\*Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act, Non-Regulatory Informational Document, September 2019\*](#). In its ESEA State plan, KDE defined the minimum number of students for purposes of public reporting as 10. In KDE's State and local report cards, Department staff found KDE reported data for specific data elements if the total number of students or students in a subgroup was 10 or more. However, in some cases where such data were disaggregated, the disaggregated data included fewer than 10 students.<sup>6</sup> For example, KDE reported the performance of 13.3 percent of 15 students in a subgroup (which means that only 2 of the 15 students met the metric being reported). (See mathematics results for KDE's report card for Shelby County High School for 2018-2019.) The disclosure avoidance methods used by Kentucky are not sufficient to protect data from reidentification.

<sup>6</sup> Though reporting on small groups of students (also called "small cell values" or "small cell sizes") in public reports does not always disclose PII, the smaller the cell size, the greater the likelihood that someone can identify an individual within that cell, and thus the greater the risk of disclosure. Many statisticians consider a cell size of 3 to be the absolute minimum needed to prevent disclosure<sup>[1]</sup>, though larger minimums (e.g., 5 or 10) may be used to further mitigate disclosure risk. (Reference: Subcommittee on Disclosure Limitation Methodology (1994), revised by Subcommittee on Disclosure-Avoidance Techniques (2005). Statistical Policy Working Paper No. 22, Second Version: Report on Statistical Disclosure Limitation Methodology. Federal Committee on Statistical Methodology, Statistical Policy Office, Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, Washington, DC. Available at <https://www.hhs.gov/sites/default/files/spwp22.pdf>.)

In addition, the review found KDE's State and local report cards for the 2018-2019 and 2019-2020 school years did not include all required information, specifically they do not include the following:

- ESEA section 1111(h)(1)(C)(iv) – the number and percentage of English learners achieving English language proficiency.
- ESEA section 1111(h)(1)(C)(viii)(II) – the number of students enrolled in preschool programs.
- ESEA section 1111(h)(1)(C)(viii)(II) – the percentage of students enrolled in accelerated coursework to earn postsecondary credit while still in high school.<sup>7</sup> KDE's State and local report cards only include the number of students enrolled in accelerated coursework to earn postsecondary credit while still in high school.
- ESEA section 1111(h)(1)(C)(ix) – for State and local report cards, the professional qualifications of teachers in the State, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, on the number and percentage of (1) inexperienced teachers, principals, and other school leaders, (2) teachers teaching with emergency or provisional credentials, and (3) teachers who are not teaching in the subject or field for which the teacher is certified or licensed. However, following the review but prior to the release of this report, KDE updated its State and local report cards for 2019-2020 to include these data.
- ESEA section 1111(h)(1)(C)(xi) – the percentage of students who take an alternate assessment. KDE's State and local report cards only include the number of students who take an alternate assessment.

## REQUIRED ACTION

Within 60 business days of receiving this report, KDE must:

- Submit revised business rules KDE will use to apply its minimum subgroup size for reporting to ensure it is sufficient to not reveal any personally identifiable information and evidence that KDE has applied these revised business rules to update its 2018-2019 report cards. To address this required action, the Department staff in the Office of Elementary and Secondary Education and also the Student Privacy Policy Office are available to KDE for technical assistance and providing examples of potential options (e.g., combining categories, top and bottom coding, and/or applying a minimum number of students to individual cells).
- Update its State and local report cards to include the missing data for the 2019-2020 school year and provide the Department screenshots of or links to webpages on its State report card that show the updated information on KDE's State report cards and for a sample LEA.

## RECOMMENDATION

To meet the requirements in ESEA section 1111(h)(1)(C)(x), KDE reports its per-pupil expenditure data by listing a Federal amount, a State and local amount, and a total. Because KDE includes construction, capital outlay, and debt service in the total, the total differs from the sum of the Federal amount and State and local amount. As a result, KDE's presentation of its per-pupil expenditure data is presented in way that may be difficult for stakeholders to understand. The Department recommends that KDE revise its presentation of per-pupil expenditure data to more clearly present the total and/or

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<sup>7</sup> For more information on how to calculate the percentage of students enrolled in accelerated coursework to earn postsecondary credit while still in high school, please see question F-4 in the Department's informational document *Opportunities and Responsibilities for State and Local Report Cards (March 28, 2019)* at <https://oese.ed.gov/files/2020/03/report-card-guidance-final.pdf>

include an explanation of why the reported total differs from the sum of the Federal amount and State and local amount.

## EDUCATIONAL STABILITY FOR STUDENTS IN FOSTER CARE

### REQUIREMENT SUMMARY

An SEA must collaborate with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care and ensure LEAs receiving a Title I, Part A subgrant collaborates with the State or local child welfare agency to develop and implement procedures governing transportation for children in foster care.

ESEA § 1111(g)(1)(E) and §§ 1112(c)(5)(A)-(B)

### ISSUE

ESEA section 1111(g)(1)(E) requires an SEA, in collaboration with the State child welfare agency, to ensure that, when a student enters the foster care system or experiences a change in foster care placement, the student will remain in his or her school of origin unless a determination is made that it would be in the student's best interest to enroll in a new school. Further, ESEA section 1112(c)(5)(B) requires each LEA receiving a Title I subgrant to ensure that it develops and implements, in collaboration with the relevant local child welfare agency, procedures for providing, arranging, and funding transportation to maintain students in foster care in their school of origin when in their best interest.

Under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, the SEA is responsible for monitoring subrecipient activities as necessary to ensure that the subaward is used in compliance with Federal statutes and regulations. (*See* 2 C.F.R. § 200.332(d)). KDE provided evidence that it requires each LEA receiving a Title I subgrant to provide an assurance that it will collaborate with the local child welfare agency to develop written transportation procedures. Further, KDE's monitoring tool includes the following item: "The district collaborate[s] with the child welfare agency to develop and implement clear written procedures for how transportation will be provided, arranged, and funded for the duration of a child's time in foster care. [See ESSA 1112(c)(5).]" Nonetheless, neither of the LEAs that met with the Department during our monitoring activities noted that they had written transportation agreements with the relevant child welfare agencies. One of the LEAs stated that up to 10 percent of its foster care students do not attend their school of origin due to a lack of established written transportation procedures with their partner child welfare agency.

### REQUIRED ACTION

Within 60 business days of receiving this report, KDE must submit to the Department a plan and timeline detailing how it will ensure that LEAs receiving a Title I subgrant have written transportation procedures to govern how transportation will be provided, arranged, and funded for students in foster care.

**RECOMMENDATION**

KDE could ensure that LEAs have written transportation agreements in place with their child welfare agency partners by requiring LEAs to submit the written agreements along with their applications to KDE.

## OTHER TITLE I REQUIREMENTS

## REQUIREMENT SUMMARY

Any State that receives support under Title I, Part A must describe how low-income and minority children are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers and must evaluate and publicly report the progress of the SEA with regard to such description and ensure that LEAs identify and address any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers.

ESEA § 1111(g), § 1112, § 1119, § 1603

## ISSUE

As required under ESEA section 1111(g)(1)(B), KDE publicly reported data and evaluated its progress toward ensuring that low-income and minority children in Title I schools are not served at disproportionate rates by ineffective, out-of-field, and inexperienced teachers. However, during the review, KDE explained that the data used for these purposes are inaccurate as a result of certain challenges in collecting and reviewing the data. For example, KDE's reported data show that about 20-22 percent of students in Kentucky are served by out-of-field teachers. KDE has indicated the rate of out-of-field teachers was elevated because of the data inaccuracies. Although KDE described its use of tools, including its statewide data system, Infinite Campus, to ensure data quality at the point of data entry (e.g., KDE data standards, data dictionary, and timelines) and for data review processes (e.g., quality assurance reports), KDE did not apply its processes for ensuring data quality at the point of data entry or for data quality review for its educator equity data required under ESEA section 1111(g)(1)(B) and 1111(h)(1)(C)(ix) for 2018-2019. The lack of application of these data quality controls resulted in the entry of substantially inaccurate educator equity data for schools and LEAs statewide, failure to correct the data during data review, and statewide public reporting of the inaccurate data. The inaccurate educator equity also appear to be the rates of out-of-field and inexperience teachers described in Kentucky's approved ESEA State plan. Since the review, KDE has published accurate data for SY2019-2020, illustrating that KDE has addressed its data quality issues. Therefore, no further action is required in regard to KDE's data quality process for these data.

In addition, KDE did not adequately document how it ensures each LEA receiving a Title I subgrant identifies and addresses disparities resulting in low-income and minority students having disproportionate access to ineffective, out-of-field, and inexperienced teachers. KDE's LEA assurances require LEAs to "ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers." KDE also provided a screenshot of its Equitable Access Webpage, which includes a self-guided tool for school teams to discuss equitable access. However, KDE did not provide documentation or descriptions that demonstrated implementation of activities to specifically address this requirement.

**REQUIRED ACTION**

Within 60 business days of receiving this report, KDE must submit to the Department evidence of how KDE will ensure that each LEA receiving a Title I subgrant identifies and addresses disparities resulting in low-income and minority students having disproportionate access to ineffective, out-of-field, and inexperienced teachers.

**RECOMMENDATIONS**

The Department recommends KDE:

- (1) Update its KDE Title I Handbook to include requirements in ESEA section 1112(b)(2), which requires each LEA plan to describe how low-income and minority children enrolled in schools assisted under this part are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and the measures the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such description.
- (2) Amend Kentucky's approved ESEA State plan to update data included in its description of the rates at which low-income and minority children in Title I schools are not served at disproportionate rates by ineffective, out-of-field, and inexperienced teachers.

## Title II, Part A

### PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS

#### REQUIREMENT SUMMARY

SEAs and LEAs may use Title II, Part A funds for a variety of allowable activities, including evidence-based professional development, recruitment and retention, and class size reduction. Activities must meet the purpose of Title II, Part A, which is to enhance instruction in order to improve student achievement. In carrying out activities, SEAs and LEAs must use data and engage in ongoing consultation with key stakeholders to continually improve the implementation of funded activities. LEAs must also prioritize Title II, Part A funds to schools that are implementing comprehensive support and improvement activities and targeted support and improvement activities and that have the highest percentage of children in poverty and children who are neglected or delinquent.

ESEA § 2101(c)(4)(B), § 2101(d)(2)(D), § 2101(d)(2)(K), § 2102(b)(2)(C), § 2102(b)(2)(D), § 2102(b)(3), § 2103(b)(3), and § 8101(42).

#### ISSUE

ESEA section 2103(b)(3)(D) permits LEAs to use Title II, Part A (Title II) funds to reduce class size by recruiting and hiring effective teachers. This requirement presumes that LEAs will not use Title II funds to hire or pay teachers for the purpose of class size reduction unless the LEA has previously determined that the class size reduction teachers are effective. Though KDE notes that “schools that utilize funds for class size reduction for multiple years are required to upload documentation into the application library providing evidence of effectiveness,” this method does not identify ineffective teachers until after the LEA has expended the Title II funds for the purpose of class size reduction. As a result, LEAs in Kentucky are at risk of using program funds to pay ineffective class size reduction teachers, which would be an unallowable Title II expenditure. KDE provided no evidence to show that it ensures that teachers recruited or paid with Title II funds for purposes of class size reduction have been determined to be effective before program funds are used.

#### REQUIRED ACTION

Within 60 business days of receiving this report, KDE must submit to the Department a plan and a timeline for how the State will ensure that LEAs do not use Title II funds to hire or pay teachers for the purpose of class size reduction unless the LEA has previously determined that the class size reduction teachers are effective, as required by ESEA section 2103(b)(3)(D).

#### RECOMMENDATION

KDE could address the requirement above by including as part of the LEA application for funds an assurance that any teachers that an LEA proposes to hire or pay for purposes of class size reduction have

previously been determined to be effective. KDE may also wish to include an additional check on this requirement as part of its subgrantee monitoring procedures.

## Title III, Part A

### LANGUAGE INSTRUCTION FOR ENGLISH LEARNERS AND IMMIGRANT STUDENTS: STANDARDIZED STATEWIDE ENTRANCE AND EXIT PROCEDURES

### REQUIREMENT SUMMARY

States are required to have standardized statewide entrance and exit procedures. An SEA is required to assess English learners annually for English language proficiency from grades Kindergarten through 12 with an ELP assessment. Furthermore, pursuant to the purposes of the Title III program and the definition of "English learner," Title III funds are intended for students who, due to their English language difficulties, need support to meet the same challenging State academic standards that all children are expected to meet.

ESEA §§ 1111(b)(2)(G), 3102(1)-(2), 3113(b)(2), 8101(20)

34 C.F.R. § 200.5(a)(2)

### ISSUE

KDE requires all kindergarten students whose home language survey (HLS) indicates a language other than English is spoken at home to be administered the Kindergarten WIDA ACCESS Placement Test (W-APT) screener and then be classified as an English Learner (EL), regardless of their score on the W-APT and whether they are proficient in English. Furthermore, kindergarten students cannot exit from EL status even if they score proficient on the statewide English language proficiency assessment administered by the end of the school year (the Kindergarten ACCESS for ELLs (K-ACCESS)), which is the statewide assessment that the State uses to provide a valid and reliable score of the student's proficiency level in English for exit purposes. KDE's policies preclude such students from exiting until they score proficient on the ELP assessment (ACCESS for ELLs 2.0) at the end of first grade. Therefore, students identified as ELs in kindergarten must remain in EL status for at least two years until the end of first grade when they may exit by scoring proficient on the ACCESS for ELLs 2.0. This categorical approach by KDE to classifying kindergarten students as ELs and keeping them in that status for two years raises several legal issues and concerns.

The first issue is that LEAs could be over-identifying ELs and using Title III, Part A (Title III) funds for services to students who do not need those services to successfully achieve in classrooms where the language of instruction is English, both as kindergarten and first grade students. The ESEA defines "English learner" as students whose "difficulties in speaking, reading, writing, or understanding the English language" denies them the ability to meet State standards or achieve in the classroom. (ESEA section 8101(20)). The purposes of the Title III program include helping to ensure that ELs attain English proficiency, develop academic achievement in English, and meet State academic standards. (ESEA section 3102(1) and (2)). To the extent that LEAs are using Title III funds for students who do not meet the EL definition (*e.g.*, students who are bilingual based on the HLS but do not lack proficiency in English as shown on the either the W-APT or the K-ACCESS), this would constitute a misuse of Title III funds. This practice and policy do not appear to be based on evidence that all students classified on the basis of the HLS in this way are in fact ELs.

The second, related concern is that including students who otherwise would not be considered as ELs in the subgroup distorts the counting of ELs for funding at both the LEA level and within-LEA level. Specifically, not evaluating whether ELs should be exited prior to the end of first grade may lead to including students who should not be ELs in the count of ELs for purposes of in-State allocations of Title III funds. In addition, the LEAs and schools may be providing services with Title III funds to students who do not need the services, thereby diminishing the amount of LEA funds available for ELs in the school with greater needs for those services.

#### **REQUIRED ACTION**

Within 60 business days of receipt of this report, KDE must submit evidence that its LEAs are exclusively serving with Title III funds students who meet the definition of EL in ESEA section 8101(20), and that the allocation of Title III funds will be made on the basis of counts of only students who meet the definition of an EL in ESEA section 8101(20).

# Met Requirements with Recommendation

## Financial Management & Cross Cutting

### ACCOUNTING SYSTEMS AND FISCAL CONTROLS

### REQUIREMENT SUMMARY

An SEA and its subgrantees must use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for Federal funds. In general, an SEA must expend and account for Federal funds in accordance with State laws and procedures for expending and accounting for State funds. In addition, State and LEA accounting systems must satisfy Federal requirements regarding the ability to track the use of funds and permit the disclosure of financial results. SEAs and LEAs also must have written procedures for determining cost allowability and must maintain effective control over all funds.

EDGAR 34 C.F.R. § 76.702

Uniform Guidance 2 C.F.R. § 200.302

### ISSUE

KDE uses several systems and procedures to account for Federal funds. At the local level, LEAs in Kentucky use MUNIS to account for local, State, and Federal funds, using standardized accounting codes and procedures established by KDE. Among other functions, LEAs use MUNIS to create and submit to KDE quarterly reports and reports that accompany LEAs requests to draw down funds. KDE has a documented Federal Cash Request procedure that LEAs use to submit requests to draw down Federal funds, and which KDE uses to record payments and account for Federal funds. LEAs submit Federal Cash Requests to KDE through email. KDE uses Microsoft Excel to manually account for the Federal Cash Requests. KDE then makes payments to LEAs using the eMARS system.

### RECOMMENDATION

The Department recommends that KDE consider whether the Federal Cash Request process could be further improved through an automated platform, which could further improve efficiency and safeguard against risk through automated controls. KDE could also explore whether such a platform could be integrated with other platforms used by the LEAs and KDE (e.g., MUNIS, eMARS). Automated control activities tend to be more reliable because they are less susceptible to human error and are typically more efficient. Automated tools also allow for ongoing monitoring, which can increase objectivity and efficiency by electronically compiling evaluations of controls and transactions.

## Title I, Part A

### STATEWIDE ACCOUNTABILITY SYSTEM

### REQUIREMENT SUMMARY

An SEA must measure, on an annual basis, all required indicators for all students and each subgroup of students. For purposes of the academic achievement indicator, the SEA must ensure that at least 95 percent of all students and each subgroup of students are assessed annually on the State's reading/language arts and mathematics assessments. A State must establish a system of annual, meaningful differentiation of all public schools in the State based on all indicators in the State's accountability system for all students and for each subgroup of students.

ESEA § 1111(b)(3), §§ 1111(c)(4)(A)-(C), § 1111(c)(4)(E), § 1111(c)(4)(F), § 8101(23), and § 8101(25)

### ISSUE

For purposes of calculating a four-year adjusted cohort graduation rate (ACGR) and any extended-year ACGR, the ESEA requires a school or LEA to have written confirmation that a student has transferred, emigrated to another country, transferred to a prison or juvenile facility, or died before such student can be removed from an ACGR cohort. (ESEA section 8101(23)(B) and (25)(B)). Unless a school or LEA can confirm in writing that a student has transferred out, emigrated to another country, transferred to a prison or juvenile facility, or died, the school or LEA must continue to consider that student to be in the adjusted cohort for purposes of calculating the four-year or extended-year graduation rate. KDE's guidance to LEAs indicates that written confirmation is required for a valid cohort removal. In the case of a student who moved to another public school within the State, that transfer would be officially documented and recorded in the State's data system; thus, a record from the State's data system meets the requirement for official written documentation. However, for other valid cohort removals (*i.e.*, transfers to another private school in the State, homeschooling, or a public school in another State; emigrates to another country; transfers to prison or juvenile facility; or student is deceased), KDE does not provide specific guidance about the types of written documentation necessary that schools or LEAs must retain outside of its State student-level data system (*i.e.*, Infinite Campus). This verification is done through audits.

### RECOMMENDATION

The Department recommends that KDE issues procedures and/or guidance documents to its LEAs regarding the process for retaining written documentation necessary for a valid cohort removal consistent with the requirements in ESEA section 8101(23) and (25).

## SUPPORT FOR SCHOOL IMPROVEMENT

### REQUIREMENT SUMMARY

Upon receiving notification from the State, an LEA shall, for each school identified by the State and in partnership with stakeholders, develop and implement a comprehensive support and improvement plan. The SEA shall notify an LEA of any school served by the LEA that is identified for targeted support and improvement, and the LEA shall notify such identified schools.

An SEA must establish statewide exit criteria for schools identified for comprehensive support and improvement and additional targeted support and improvement. Periodically, an SEA must review resource allocation to support school improvement in each LEA serving a significant number or a significant percentage of schools identified for Comprehensive or Targeted support and improvement and must provide technical assistance to each LEA serving a significant number of schools identified for Comprehensive or Targeted support and improvement.

ESEA §§ 1003(b)-(f), 1111(d)(1)-(2), and 1111(d)(3)(A)

### ISSUE

ESEA section 1111(d)(1)(B) requires that for each school identified by the State for comprehensive support and improvement, the LEA locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes that is informed by all indicators in the State’s system of annual meaningful differentiation. KDE submitted sample plans, based on templates developed by KDE. However, because the Progress in Achieving English Language Proficiency (ELP) indicator is included in the calculation of the Other Academic indicator (*i.e.*, “Student Growth”) for elementary and middle schools and included in the calculation of the School Quality and Student Success indicator (*i.e.*, “Transition Readiness”) for high schools, the Progress in Achieving ELP indicator may not necessarily be used to inform the comprehensive support and improvement plan.

Similarly, ESEA section 1111(d)(2)(B) requires that each school notified as a targeted support and improvement school must develop and implement a targeted support and improvement plan based on all indicators in the State’s system of annual meaningful differentiation for each subgroup of students that was the subject of the notification. For the same reasons described above, the Progress in Achieving ELP indicator may not necessarily be used to inform the targeted support and improvement plan.

### RECOMMENDATION

The Department recommends that KDE either revise its template for comprehensive support and improvement plans to more clearly differentiate the Progress in Achieving ELP indicator from the Other Academic and School Quality and Student Success indicators or develop procedures to ensure that these plans are informed by this indicator, when applicable.

## SCHOOLWIDE PROGRAMS

## REQUIREMENT SUMMARY

A Title I schoolwide program is a comprehensive reform strategy designed to upgrade the educational program of a Title I school in order to improve the achievement of the lowest-achieving students. An LEA may operate a schoolwide program in a Title I school with 40 percent or more of its students living in poverty. In addition, an SEA has discretion to grant a waiver to allow an LEA to operate a schoolwide program without meeting the 40 percent poverty threshold if the SEA has determined that a schoolwide program will best serve the needs of low-achieving students in the school.

A school implementing a Title I schoolwide program must conduct a comprehensive needs assessment of the entire school, prepare a comprehensive schoolwide plan, and regularly review the schoolwide plan. To better leverage all available funding, a schoolwide program school has the flexibility to consolidate funds from Title I and other Federal educational programs with State and local funds. To support the effective implementation of schoolwide programs, States must eliminate or modify State and local fiscal accounting requirements so that LEAs can consolidate funds under schoolwide programs.

ESEA § 1114

Title I Regulations 34 C.F.R. §§ 200.25-200.29

## ISSUE

The actions, such as providing technical assistance, taken by KDE to remove or eliminate barriers to schools consolidating funds in a schoolwide program appear to be limited to brief discussion in KDE's Title I handbook and brief mention in webinars. There are no schools in Kentucky consolidating funds and both LEAs that participated in the review were not familiar with the flexibility.

## RECOMMENDATION

To improve understanding of the option to consolidate funds for Title I schools operating schoolwide programs, the Department recommends that KDE ensure that information about this flexibility is provided to LEAs and schools in ways that enable them to make more informed decisions about whether to consolidating funds in a schoolwide program.

## TARGETED ASSISTANCE PROGRAMS

### REQUIREMENT SUMMARY

A Title I targeted assistance program is a strategy in schools receiving funding under Title I Part A that serve eligible children identified as having the greatest need for special assistance in order for those children to meet the challenging State academic standards.

A school implementing a Title I targeted assistance program must serve participating students by using resources to help eligible children meet the challenging State academic standards, use methods to strengthen the academic program to the school, and coordinate with and support the regular education program.

ESEA § 1115

### ISSUE

ESEA section 1115(d)(2) authorizes Title I staff to assume limited duties beyond classroom instruction or that do not benefit participating children that are assigned to similar personnel, provided the time Title I staff spend on such duties is the same proportion of total work time assigned to similar non-Title I staff. Although KDE demonstrated it communicates this requirement for paraprofessionals to LEAs and schools in its KDE Title I Handbook, it does not do so for all Title I staff, including teachers.

### RECOMMENDATION

The Department recommends KDE update its KDE Title I Handbook to clearly communicate that the requirement applies to all Title I staff, including teachers.

## Title I, Part C

### STATE CONTEXT – ALLOCATIONS – SUBGRANT FORMULA

### REQUIREMENT SUMMARY

SEAs shall ensure that, when subawarding funds to local operating agencies (LOAs), it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for subawarding funds and the amounts to be subawarded to individual subrecipients). In determining the amount of any subgrants to LOAs, the SEA must take into account the numbers and needs of migratory children, the priority for service requirement in ESEA section 1304(d), and the availability of funds from other Federal, State, and local programs.

ESEA § 1304(b)(5), § 8305

Title I Regulations 34 C.F.R § 200.100

EDGAR 34 C.F.R. §§ 76.50-51, 34 C.F.R. § 76.300, 34 C.F.R. § 76.789

Uniform Guidance 2 C.F.R. § 200.332(a)

### ISSUE

KDE has the sole responsibility to determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the priority for services requirement in ESEA section 1304(d), and the availability of funds from other Federal, State, and local programs.

KDE's subgrant formula for Title I, Part C accounts for the four required variables referenced above. However, during discussions about the subgrant formula, KDE questioned whether it should consider modifying the weights associated with each variable to more effectively distribute Title I, Part C funds.

### RECOMMENDATION

The Department recommends KDE consider information such as: the results of its statewide comprehensive needs assessment, the numbers and needs of its migratory children who meet the priority for services definition, and the minimum costs necessary for operating a local project as it reconsiders the weights of specific variables. The Department is available to provide technical assistance as needed to support KDE's efforts.

## IDENTIFICATION AND RECRUITMENT – CERTIFICATE OF ELIGIBILITY

## REQUIREMENT SUMMARY

An SEA must identify all eligible migratory children on a Statewide basis, including preschool migratory children and those who have dropped out of school. An SEA must use the national Certificate of Eligibility (COE) to document its determinations of eligibility (34 C.F.R. § 200.89(c)). An SEA must establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children, that includes annual prospective re-interviews (34 C.F.R. § 200.89(b) and (d)). An SEA must report the number of eligible migratory children residing in the State on an annual basis (ESEA section 1304(c)(8)).

ESEA § 1304(c)(8), § 1309(2)-(5)

EDGAR 34 C.F.R. § 76.740

Title I Regulations 34 C.F.R. §§ 200.89(b)-(d)

## ISSUE

KDE added a FERPA release to its State Certificate of Eligibility (COE). A FERPA release is not part of the national COE requirements. As explained on page 13 of the national COE instructions (OMB control 1810-0662, exp. 6/30/2023), if a State chooses to include other statements on its COE that require, for example, a parent/guardian signature (*e.g.*, a FERPA release), the State must include those statements separately from the Interviewee signature. States are strongly encouraged to seek and receive approval from its legal counsel for any additional statements added to the Interviewee Signature section of the COE to ensure compliance with applicable Federal, State, and local laws and policies.

## RECOMMENDATION

The Department recommends KDE consult with its program attorneys to determine the sufficiency of the FERPA release statement on its COE. Specifically, whether it meets the minimum requirements in 34 C.F.R. § 99.30(b)(2) and whether the language is sufficiently explicit for parents to understand their nature of the consent. 34 C.F.R. § 99.30(b) requires that written consent: 1) Specify the records that may be disclosed; (2) State the purpose of the disclosure; and (3) Identify the party or class of parties to whom the disclosure may be made. A consent can be written broadly, but the parent needs to understand what they are signing. Please note that FERPA allows for specific exceptions to parental consent. For example, parents do not have to consent to the disclosure of education records: 1) to the State Department of Education for most reasons they would be disclosed— *e.g.*, COEs and the minimum data elements the State is required to submit to the Migrant Student Information Exchange (MSIX) or 2) for education records to be transferred to a new school. For more information about FERPA, please see the resources available on the Department’s Student Privacy Policy Office (SPPO) webpage here: <https://studentprivacy.ed.gov/> or contact SPPO directly for further assistance with FERPA-related matters.

## Title IV, Part B - Nita M. Lowey 21st Century Community Learning Centers Grant

### SEA USES STANDARDS, ASSESSMENTS, MONITORING AND EVALUATION TO HOLD SUBGRANTEES ACCOUNTABLE

#### II.1: Does The SEA Conduct A Subgrantee Risk Review To Inform Monitoring Strategies?

### REQUIREMENT SUMMARY

The SEA monitors for oversight of the operations of the Federal award supported activities. The SEA also monitors its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved; a part of this work involves conducting an annual risk review to inform the State's monitoring strategies.

ESEA § 4202 (C) (3) (A)

Uniform Guidance 2 C.F.R. § 200.328(a); 2 C.F.R. § 200.332(b)-(d)

### ISSUE

Throughout the monitoring review, the KDE provided several pieces of documentation to illustrate the processes for monitoring subgrantees. The KDE 21st CCLC program uses its own tool for risk analysis. KDE introduced the "21st CCLC Risk Assessment EXCEL" document as the risk assessment that is used to identify subgrantee needs for compliance. KDE staff explained the ways in which staff update the information for each subgrantee according to 58 program elements that are tracked for Federal and State compliance. KDE also described its consideration of additional risk indicators, such as drawdown performance and data timeliness, that are not included in the risk analysis or documented in any formal method. While the risk assessment focuses on program elements to be observed during the monitoring process, the risk assessment results do not inform KDE's subgrantee monitoring schedule or strategies.

### RECOMMENDATION

The Department recommends that KDE revises its 21st CCLC program risk analysis tool and work towards a consistent, formalized risk review process that informs subgrantee monitoring strategies. While the program elements identified in the current risk assessment are important for the ultimate subgrantee compliance, KDE can incorporate all the additional, currently considered factors of subgrantee performance into a formal process of analysis that determines the appropriate interventions. A comprehensive risk analysis will be especially important in years three through five of the subawards in which subgrantees are not schedule for monitoring reviews.

## **SEA USES STANDARDS, ASSESSMENTS, MONITORING AND EVALUATION TO HOLD SUBGRANTEES ACCOUNTABLE**

### **II.2 Does The SEA Conduct Regular, Systematic Reviews Of Subgrantees To Monitor For Compliance With Federal Statutes And Regulations, Applicable State Rules And Policies?**

#### **REQUIREMENT SUMMARY**

The SEA conducts regular, systematic reviews of subgrantees to monitor for compliance with Federal statutes and regulations, applicable State rules and policies.

ESEA § 4202(C)(3)(A)

EDGAR 34 C.F.R. § 76.770

Uniform Guidance 2 C.F.R. § 200.329(a); 2 C.F.R. § 200.332(b)-(d)

#### **ISSUE**

During the monitoring review, KDE shared the tools, procedures and guidance that constitute its overall system for monitoring subgrantees. KDE described a fixed monitoring schedule for the five-year life of the subawards. In year one, all subgrantees receive formal technical assistance that focuses on program start-up and State and Federal grant compliance. In the fall of year two, all subgrantees receive onsite compliance monitoring visits. In year three, subgrantees are monitored by their continuation progress reports. And in years four and five, KDE continues to monitor through reviewing reimbursement requests, data reports and center profiles. KDE explained that it meets ongoing compliance monitoring needs as the need arises in years three-five.

#### **RECOMMENDATION**

The Department recommends that KDE consider monitoring subgrantees throughout the subgrantees performance period using a variety of review methods.

## **SEA USES STANDARDS, ASSESSMENTS, MONITORING AND EVALUATION TO HOLD SUBGRANTEES ACCOUNTABLE**

### **II.4: Does The SEA Monitor That The Subgrantees' Students Travel Safely To And From Centers?**

#### **REQUIREMENT SUMMARY**

The SEA monitors how the students participating in the program implemented by the community learning center or school travels safely to and from the center and home.

ESEA § 4204(b)(2)(A)(ii)

#### **ISSUE**

KDE submitted its “Monitoring Onsite Visit Tool” as part of its documentation. Within the tool’s “Safety” section on page four, item 40 confirms that subgrantees have “established procedures for student pickups. This process is closely monitored and communicated to all staff, students and parents.”

#### **RECOMMENDATION**

The Department recommends that KDE revise its monitoring tool and subgrantee expectations to include safety procedures for youth arriving to programs in addition to family pickups at the end of the day as student arrivals at the programs can be just as dangerous as departures.

## **SEA USES STANDARDS, ASSESSMENTS, MONITORING AND EVALUATION TO HOLD SUBGRANTEES ACCOUNTABLE**

### **II.8 Does The SEA Monitor That The Subgrantees Follow Measures Of Effectiveness?**

#### **REQUIREMENT SUMMARY**

The SEA monitors that the subgrantees are following the Measures of Effectiveness. The SEA evaluates the effectiveness of programs and activities using performance indicators and performance measures and student success and improvement are tracked over time.

ESEA § 4203(a)(14)(A); § 4204(B)(2)(C); § 4205(b)(1)(A) - (E)

#### **ISSUE**

KDE submitted its “Monitoring Onsite Visit Tool” as part of its documentation. Within the tool’s “Program Operations” section on page two, KDE analyzes the following items that are related to the Measures of Effectiveness (ESEA section 4205(b)(1)).

8. The program maintains lesson plans that are aligned to school day curriculum maps and State standards.
9. Staff communicate regularly and effectively with the principal and school day teachers to make linkages to the school day and identify students needing additional academic support
10. In addition to homework help, 50 percent of programming provides remediation/acceleration each day. (Including transition readiness, novice reduction, and K-3 reading.)
11. Fifty percent of programming includes enrichments such as STEM, social, emotional, physical, and other various activities.

While these activities align to the regular academic program, they could be strengthened with a focus on data and clear metrics.

#### **RECOMMENDATION**

The Department recommends that KDE revise its monitoring tool and review strategies to include more, explicit information on the Measures of Effectiveness. KDE is encouraged to incorporate the following aspects that contribute to maximum effectiveness of 21st CCLC programming as described in 4205(b)1.

Ensuring that programming is based on

- Program need data;
- Established performance measures; and
- Evidence-based research that the program will help meet standards.

## **SEA USES STANDARDS, ASSESSMENTS, MONITORING AND EVALUATION TO HOLD SUBGRANTEES ACCOUNTABLE**

### **II.15 Does The SEA Use The Results Of Its Statewide Evaluations To Refine, Improve, And Strengthen The Program And To Refine State Performance Measures?**

#### **REQUIREMENT SUMMARY**

The SEA uses the results of its statewide evaluations to refine, improve, and strengthen the program and to refine State performance measures.

ESEA § 4203(a)(6); § 4205(b)(2)(B)(i)

#### **ISSUE**

KDE produces annual statewide evaluations and posts the aggregate reports at the 21st CCLC program webpage. During the review, KDE described how it presents the program data results and trends to its statewide advisory council and shared the PowerPoint slides from advisory meetings. While KDE explained how it integrates feedback in program improvement efforts, KDE does not document the feedback from advisory meetings or the process by which they use the feedback to strengthen the State program and revise performance measures.

#### **RECOMMENDATION**

The Department recommends that KDE expand its strategies for using statewide evaluation results. KDE can incorporate State recommendations for program improvement as part of its annual evaluations and reflect on its success at meeting the needs and interests of subgrantees. The Department also encourages KDE to document feedback from stakeholders and formalize a process for incorporating feedback into its various program elements.

## **SEA USES STANDARDS, ASSESSMENTS, MONITORING AND EVALUATION TO HOLD SUBGRANTEES ACCOUNTABLE**

### **II.20 Does The SEA Provide Subgrantees With Technical Assistance That Increases Programs' Organizational Capacity?**

#### **REQUIREMENT SUMMARY**

The SEA provides subgrantees with technical assistance that increases programs' organizational capacity.

ESEA § 4202(c)(3)(B); § 4202(c)(3)(D); § 4203(a)(6)

Uniform Guidance 2 C.F.R. § 200.332(e)

#### **ISSUE**

KDE demonstrated the methods by which it provides statewide technical assistance directly to its subgrantees during the first year of their subawards. KDE detailed a system that is used to ensure that all subgrantees receive the program supports to be compliant with State and Federal laws and prepared for upcoming KDE monitoring activities that occur in the second years of subawards. KDE explained that it provides ongoing technical assistance throughout the five years of subawards through an informal process in which KDE provides guidance through phone conversations and emails. However, the "History of Monitoring" document, which summarizes KDE subgrantee monitoring and technical assistance events as far back as the fall of 2017, only documents technical assistance sessions taking place during the first year of all subawards.

#### **RECOMMENDATION**

The Department recommends that KDE expand the scope of its technical assistance system beyond compliance and preparation for monitoring in the second year. The Department encourages KDE to explore structured "next steps" for established programs that have demonstrated and maintained compliance. It is recommended that KDE incorporate intentional strategies to support subgrantee organizational development (capacity) and ongoing processes of program quality improvement. The Department also recommends that KDE document the dates and content of all technical assistance events throughout the life of the subawards. By tracking the specific needs and interests of subgrantees, KDE can remain responsive to the emerging issues of individual programs and common interests for future support and resources.

## Title V, Part B, Subpart 2

### GOALS AND OBJECTIVES

### REQUIREMENT SUMMARY

An SEA must submit an RLIS application that identifies program objectives and outcomes for activities, including how the SEA will use funds to help all students meet the challenging State academic standards and a description of how the SEA will provide technical assistance to eligible LEAs. Each SEA that receives a grant under this subpart shall prepare and submit an annual report that describes the degree to which progress has been made toward meeting the objectives and outcomes described in the application, including having all students in the State meet the challenging State academic standards.

ESEA § 5223 (b); § 5224

### ISSUE

KDE's Rural and Low-Income School (RLIS) program objectives involve raising student achievement as measured by State assessments in reading/language arts and mathematics. Additionally, KDE has a plan in place for how it will provide technical assistance to RLIS subgrantees and how it will work toward achieving the RLIS program objectives, but KDE has not begun implementing these efforts. KDE had planned to identify a cadre of the lowest-performing ten percent of RLIS subgrantees in the Summer of 2020 and begin technical assistance activities intended to raise student achievement in those LEAs. This timeframe was only partially met due to the vacancy of KDE's Rural Education State Program Coordinator role. As stated during the review, KDE has collected data and identified the RLIS subgrantees for the cadre but KDE has not yet been able to implement the specified technical assistance activities, targeted webinars, and training events as stated in KDE's RLIS application.

The lack of a Rural Education State Program Coordinator creates the risk that KDE may not be able to make progress toward stated goals and objectives.

### RECOMMENDATION

Since the date of the performance review, KDE notified the Department of hiring for its vacancy. The Department recommends that KDE act expeditiously to fully implement the goals and objectives of its RLIS program and provide technical assistance to its RLIS subgrantees. Given the technical assistance, direct LEA support, and collaborative efforts in place to support the nearly 120 LEAs that receive RLIS funding in Kentucky, a Rural Education State Program Coordinator, or other dedicated staff, is essential to ensure effective technical assistance and progress toward meeting the objectives and outcomes described in KDE's RLIS application, including having all students in the State meet the challenging State academic standards.